

ORDINANCE NO. 1131

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO  
ADDING NEW CHAPTER 13 TO TITLE 10 (PLANNING AND ZONING) TO PROHIBIT  
DISCRIMINATION BASED ON SOURCE OF INCOME

WHEREAS, in San Anselmo it is unlawful to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income; and

WHEREAS, the Town of San Anselmo is committed to providing and preserving fair and affordable housing for all income levels; and

WHEREAS, the Town of San Anselmo wants to increase the availability of housing to all income levels and eliminate any limitations in the provision of housing, including discrimination based on a person's source of income; and

WHEREAS, the Marin Housing Authority, which administers the housing voucher programs including the Housing Choice Voucher Program, also known as "Section 8," and the Veterans Affairs Supportive Housing Voucher Program reports a shortage of landlords participating in the program; and

WHEREAS, this shortage may reflect discrimination against tenants with housing vouchers; and

WHEREAS, discrimination against housing voucher holders significantly reduces the stock of rental housing that is available to them; and

WHEREAS, California Government Code §12921 prohibits housing discrimination based on source of income as defined by §12955(p)(1), which does not protect Housing Choice Voucher holders as established by case law (*SABI v. Sterling*, 183 Cal.App.4<sup>th</sup> 916 (2010)); and

WHEREAS, California and federal law further requires the Town to identify impediments to providing affordable housing and to develop strategies for removing those impediments; and

WHEREAS, in order to fulfill its commitment to fair housing, to increase affordable housing opportunities, and to fulfill its legal obligations it is necessary to prohibit housing discrimination based on source of income.

NOW, THEREFORE, BE IT RESOLVED, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

**SECTION 1.** This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council hereby finds that under Section 15061(b)(3) of the CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA

because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

**SECTION 2.** Title 10 (Planning and Zoning) is amended to add a new Chapter 13 as follows:

Chapter 13  
INCOME-BASED RENTAL HOUSING DISCRIMINATION

Sections

10.13.010	Housing
10.13.020	Civil injunctive relief
10.13.030	Civil liability
10.13.040	Criminal penalty
10.13.050	Definition

10.13.010 - Housing.

- (a) Prohibited Activity. It is unlawful for any person to do any of the following as wholly or partially based on source of income:
1. To interrupt, terminate, or fail or refuse to initiate or conduct any transaction in real property, including, but not limited to, the rental thereof; to require different terms for such transaction; or falsely to represent that an interest in real property is not available for transaction;
  2. To include in the terms or conditions of a transaction in real property any clause, condition or restriction;
  3. To refuse or restrict facilities, services, repairs or improvements for any tenant or lessee;
  4. To make, print, publish, advertise or disseminate in any way, or cause to be made, printed or published, advertised or disseminated in any way, any notice, statement or advertisement with respect to a transaction in real property, or with respect to financing related to any such transaction, which unlawfully indicates preference, limitation or discrimination based on source of income.
  5. For purposes of this subsection, "source of income" means all lawful sources of income or rental assistance program, homeless assistance program, security deposit assistance program or housing subsidy program. Source of income includes any requirement of any such program or source of income or rental assistance.
- (b) Prohibited Economic Discrimination. It is unlawful for any person to use a financial or income standard for the rental of housing that does either of the following:
1. Fails to account for any rental payments or portions of rental payments that will be made by other individuals or organizations on the same basis as rental payments to be made directly by the tenant or prospective tenant;
  2. Fails to account for the aggregate income of persons residing together or proposing to reside together or an aggregate income of tenants or prospective tenants and their cosigners or proposed cosigners on the same basis as the aggregate income of married persons residing together or proposing to reside together.

(c) Exceptions.

1. Nothing in this chapter shall be construed to apply to the rental or leasing of any housing unit in which the owner or any member of his/her family occupies one of the living units and (1) it is necessary for the owner to use either a bathroom or kitchen facility common with the prospective tenant, or (2) the structure contains fewer than three dwelling units.
2. Nothing in this chapter shall be deemed to permit any rental or occupancy of any dwelling unit or commercial space otherwise prohibited by law.

10.13.020 - Civil injunctive relief

Any aggrieved person may enforce the provisions of this chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by town counsel, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

10.13.030 - Civil liability

Any person who violates any of the provisions of this chapter or who aids in the violation of any provisions of this chapter is liable for, and the court must award to the individual whose rights are violated, three times the amount of special and general damages, or, in the case of unlawful discrimination in the rental of a unit, three times the amount of one month's rent that the landlord charges for the unit in question. The court may award in addition thereto not less than two hundred dollars (\$200.00) but not more than four hundred dollars (\$400.00), together with attorney's fees, costs of action, and punitive damages. Civil actions filed pursuant to this section must be filed within one year of the alleged discriminatory acts.

10.13.040 - Criminal penalty

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall be guilty of a misdemeanor or infraction as provided in Section 1-2.01 of the Town Municipal Code (Violations, misdemeanors, infractions or nuisances).

10.13.050 - Definition

The word "person" as used in this chapter means any individual, firm, corporation, or other organization or group of persons however organized.

**SECTION 3. Severability.** The Town Council hereby declares every section, paragraph, sentence, cause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

**SECTION 4. Inclusion in the San Anselmo Municipal Code.** It is the intention of the San Anselmo Town Council that the text in Section 2 be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

**SECTION 5.** Effective date. This Ordinance shall go into effect thirty (30) days from its adoption.

**THE FOREGOING ORDINANCE** was introduced at a regular meeting of the San Anselmo Town Council on November 27, 2018, and was adopted at a regular meeting of the San Anselmo Town Council on December 11, 2018 by the following vote:

**AYES:** Wright, Brown, Coleman, Greene, Colbert  
**NOES:** None  
**ABSENT:** None  
**ABSTAIN:** None

  
Matt Brown, Mayor

ATTEST:  
  
Carla Kacmar, Town Clerk



*[Handwritten signature]*

