

**TOWN OF SAN ANSELMO
STAFF REPORT**

For the Meeting of June 8, 2021

TO: Town Council

FROM: Elise Semonian, Planning Director
Megan H. Acevedo, Town Attorney

SUBJECT: Introducing Temporary COVID-19 Rent Freeze Ordinance

RECOMMENDATION

That the Town Council introduce by title only and waive further reading of the attached Temporary Moratorium on Rent Increases for Qualified Tenants Residing in Certain Residential Units Due to the Financial Impacts of the COVID-19 Pandemic.

BACKGROUND AND DISCUSSION

A. Town Council Discussions Related to Tenant Protections.

On February 23, 2021,¹ the Council received a staff report on the existing tenant protection programs that are available in Marin County. At the April 13, 2021,² Council meeting, the Council reviewed and discussed a tenant protection gap analysis provided by staff. On May 11, 2021,³ the Council discussed potential temporary tenant protections and provided direction to staff. Specifically, the Council requested that staff return with an ordinance imposing a rent freeze for San Anselmo tenants financially impacted by the COVID-19 pandemic.

The Council also asked staff to prepare an urgency ordinance that would establish an eviction moratorium for nonpayment of rent due to COVID-19 financial hardship. However, the urgency ordinance will be needed only if SB 91 is not extended before June 30, 2021.⁴ At its June 8 meeting, the County will consider an urgency ordinance prohibiting evictions in unincorporated parts of the County.⁵ Town staff plans to return with a similar urgency ordinance on June 22.

¹ View the February 23, 2021, meeting and materials here: https://sananselmo-ca.granicus.com/GeneratedAgendaViewer.php?view_id=1&clip_id=507

² View the April 13, 2021, meeting and materials here: https://sananselmo-ca.granicus.com/GeneratedAgendaViewer.php?view_id=1&clip_id=540

³ View the May 11, 2021, meeting and materials here: https://sananselmo-ca.granicus.com/MediaPlayer.php?view_id=1&clip_id=565&meta_id=77164

⁴ On February 11, 2021, the State enacted Senate Bill 91, which was discussed in detail in the February 23 and May 11 staff reports.

⁵ See Marin County's proposed urgency ordinance at https://marin.granicus.com/MetaViewer.php?view_id=33&event_id=2152&meta_id=1124002

B. Proposed Rent Freeze Ordinance.

A majority of the Council expressed an interest in a rent increase moratorium that would be in effect through December 31, 2021, for tenants that have been financially impacted by the COVID-19 pandemic.⁶ As of the April 27, 2021, thirty San Anselmo residents had received rental assistance from the County of Marin for a total of \$60,094. On June 3, the County provided the following update related to relief granted to San Anselmo residents:

	Total	Granted	Waiting	Closed (ineligible, etc.)	Dollar Amount Paid
CDBG/MCF/local funds (March 2020 – ongoing)	47	32	3	12	\$78,890
State/Treasury funds (March 2021 – ongoing)	46	9	37	-	\$41,000
San Anselmo Total Requests	93	41	40	12	\$119,890

According to the most recent pre-COVID U.S. Census data, approximately 24% of the Town households are renter-occupied with median gross rent at \$1,930. Approximately 41% of Town renters are paying more than 30% of their income on housing, which is considered “overpayment,” including 340 low-income households.⁷ The existing financial hardship born by these households has likely increased during the COVID-19 pandemic, especially for those who lost jobs or were forced to leave the workplace due to child care needs and/or illness.

Per the Council’s request, the attached proposed ordinance implements a rent freeze across all nonexempt units for tenants who provide their landlords with a Declaration of COVID-19-Related Financial Distress. The Declaration is the same as that required by SB 91; therefore, tenants who provide a declaration to their landlords will be protected from eviction and will have their rent frozen until December 31, 2021. The Ordinance also provides landlords with the option of a “fair return” hearing, which allows an impacted landlord to petition the Town for a rent increase, despite the rent freeze. The landlord has the burden to present evidence establishing that the increase is necessary to provide the landlord with a fair rate of return. The attached ordinance will go into effect thirty days after adoption.

FISCAL IMPACT

⁶ As discussed in previous staff reports related to tenant protection, State law currently limits annual rent increases to 5% plus the cost of living, up to 10%, though some properties are exempt from those provisions.⁶ (Tenant Protection Act of 2019, Cal. Civ. Code §§ 1947.12(a)-(c), (h), 1947.12(d)). In Marin, this figure is currently 6.1% (5% base + 1.1% CPI), meaning that rent cannot be increased by more than 6.1% within a 12-month period on residential units subject to the TPA. The TPA does not preempt local rent control rules if they are consistent with the Costa-Hawkins Rental Housing Act (Cal. Civ. Code § 1954.50 et seq.) and have more restrictive annual increases than the TPA. (Cal. Civ. Code § 1947.12(d)(3)). Under Costa Hawkins, local rent control measures generally do not apply to single family homes and condominiums and rental housing constructed after February 1, 1995.

⁷ See [February 23, 2021 staff report](#) for more details.

For fair return hearings, there may be costs associated with use of an outside hearing officer. If a Town staff member is appointed to serve as the hearing officer, the cost will be in staff time. If an independent hearing officer is utilized, there will be a cost associated with that service. For example, the Town may contract with an Administrative Law Judge through the California Department of General Services at a rate of \$318/hour.⁸ However, there may be opportunities to work with other local agencies to decrease this cost by sharing staff or contractor services for these hearings.

CEQA AND CONSISTENCY WITH CLIMATE ACTION PLAN 2030

Introduction and adoption of a temporary rent freeze ordinance is not a “project” under the California Environmental Quality Act, because it does not involve an activity which has the potential to cause a direct or reasonably foreseeable indirect physical change in the environment. (Cal. Pub. Res. Code § 21065). The draft ordinance does not relate to provisions of the Climate Action Plan.

Respectfully submitted,



Elise Semonian
Planning Director

Megan H. Acevedo
Town Attorney

Attachment 1 – Proposed Ordinance

⁸ See <https://www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Contract-for-Administrative-Law-Judge-Services>