

**TOWN OF SAN ANSELMO
ORDINANCE NO. ____**

**AN ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING THE ZONING
ORDINANCE TITLE 10 OF THE SAN ANSELMO MUNICIPAL CODE REGARDING
RESIDENTIAL SECOND UNITS**

The Town Council does ordain as follows:

Section 1. Chapter 6 of Title 10 of the San Anselmo Municipal Code is hereby amended to read as follows:

Chapter 6

RESIDENTIAL SECOND UNITS

Sections:

Article 1. Applicability, Findings, Definitions

- 10-6.101 Findings**
- 10-6.102 Applicability**
- 10-6.103 Definitions**

Article 2. Standards for Second Units

- 10-6.201 Parking**
- 10-6.202 Height and Location**
- 10-6.203 Setbacks**
- 10-6.204 Lot Coverage/ Floor Area Ratio**
- 10-6.205 Maximum Size of Second Unit**
- 10-6.206 Architectural Design Standards**
- 10-6.207 Exceptions to Standards**
- 10-6.208 Building Permits/Codes**
- 10-6.209 Residence Requirements**

Article 3. Administration and Enforcement

- 10-6.301 Violations**
- 10-6.302 Severability**
- 10-6.303 Administration**

Article 4. Affordability

- 10-6.401 Second Unit Rent Limitation**

Article 1. Applicability, Findings, Definitions

10-6.101 Findings

The Town Council of San Anselmo finds as follows:

- (a) Public residential roadways within San Anselmo are predominantly narrow and insufficient to allow extended parking within such streets. Further, parking along public roadways negatively impacts traffic safety and emergency vehicle access to residences. Any additional traffic generated by the creation of residential second units exacerbates this situation. Therefore, the parking requirements of this chapter are necessary to maintain the public health, safety, and welfare.**

- (b) Objectives 9 and 10 of the Land Use Element of the San Anselmo General Plan set forth policies necessary to protect, maintain, and enhance natural characteristics of hillsides and lands above 150 mean sea level elevation. Further, objective 11 of the same Land Use Element sets forth policies necessary to preserve, maintain, and enhance the quality of life in residential neighborhoods. The size, setback, parking, height, lot coverage, floor area ratio, design review, and other provisions of this Title set forth specific thresholds and requirements necessary to implement such General Plan objectives.**

The standards for residential second units herein are hereby determined to be consistent with other provisions of this Title and necessary to implement General Plan objectives.

- (c) This ordinance is consistent with the provisions provided in Section 65852.2 of the California Government Code.**

10-6.102 Applicability

The provisions of this ordinance shall apply to all residential second units hereinafter approved or constructed.

Nonconforming residential second units in existence at the time of this ordinance adoption shall be allowed to continue until such time as the properties containing such nonconforming units expand or enlarge any building area, or until such time as 50% or more of the primary living unit or second unit should be destroyed. Thereafter, all residential second units shall conform to the provisions of this ordinance.

No more than one residential second unit per lot or parcel shall be permitted under the provisions of this chapter.

10-6.103 Definitions

“Residential Second Unit” for the purposes of this chapter shall mean one additional living unit on any one lot or parcel within a residential zoning district containing a single-family dwelling. Such residential second unit is further defined as any building or portion thereof whereby bathroom and kitchen facilities are not shared in common with the primary living unit. Outdoor structures not suitable for habitation (e.g., pool cabanas, workshops, and other improvements unsuitable for habitation) are not deemed living units.

“Primary Living Unit” for the purposes of this chapter shall mean an existing single-family dwelling on any lot or parcel which contains a residential second unit and is occupied 9 out of 12 months annually.

“Kitchen” for the purposes of this chapter shall mean any portion of a structure with any combination of the following: sink (other than that appurtenant to a bathroom), food storage and preparation areas, refrigerator, or cooking appliances including a stove, microwave oven, convection oven, cooking burners, or similar appliances which may reasonably be used for the preparation of food.

“Nonconforming residential second unit” for the purposes of this chapter shall mean:

- (a) a residential unit approved as a second unit through the issuance of a Conditional Use Permit, or
- (b) a residential second unit that has been occupied as such since 1963 and registered with the Town.

“Low Income Household” for the purposes of this chapter shall mean a household earning 80% or less of the Marin County Area Median Income as determined by the United States Department of Housing and Urban Development (HUD).

The Planning Director shall make interpretations and determinations of second units in accordance with all provisions herein.

Article 2. Standards for Second Units

10-6.201 Parking

One permanently surfaced parking space shall be provided for each residential second unit in accordance with section 10.3.507 of this code. Said parking space may be in tandem and within the setback areas, provided however that any such parking space shall not be within five (5) feet of a public right-of-way unless determined by the Public Works Director that such parking location does not constitute a potential public safety hazard.

In addition to the above and pursuant to required findings of this chapter, the primary living unit parking requirements shall conform to sections 10-3.507, 10-3.509, 10-3.511, and 10-3–Table 5A of this code as a condition of any residential second unit approval.

10-6.202 Height and Location

Residential second units may be within the primary living unit or within a separate building upon the same lot as the primary living unit.

If within the primary living unit, the second unit may be located in any existing habitable area. If added to the existing primary living unit, the second unit shall not constitute a second story or any story above.

Residential second units constructed as a separate building or added to an accessory building shall be limited to a single story with a maximum building height of eighteen (18) feet. Further, such second units shall not have a plate height greater than the first floor primary living unit plate height, nor shall the roof slope be steeper than the primary living unit roof.

10-6.203 Setbacks

Front, side, and rear yard setback requirements for residential second units shall be the same as the setback requirements for any new primary dwelling unit within such residential district unless such second unit is wholly contained within existing habitable space of the primary living unit.

10-6.204 Lot Coverage/Floor Area Ratio

For the purposes of determining maximum lot coverage and floor area ratio requirements, residential second unit square footage shall be calculated as a part of the primary living unit, and subject to the limitations provided in this Title.

10-6.205 Maximum Size of Second Units

Residential second units shall not exceed seven hundred and fifty (750) square feet in floor area or 30% of the primary living unit floor area, whichever is less; provided however that no second unit shall be required to be smaller than an efficiency unit [one hundred fifty (150) square feet] as determined by the California Health and Safety Code.

In addition to the above requirements, residential second units at or above 150 mean sea level shall not exceed five hundred (500) square feet in floor area.

10-6.206 Architectural Design Standards

Residential second unit construction shall be of the same materials, color, and style as the exterior of the primary living unit including roof, eaves, windows, accents, and doors.

Further, new residential second units at or above 150 mean sea level shall provide screening from all off-site views. These units shall be screened such that they are not materially visible off-site at the time of completion of the second unit. Screening may include landscaping and/or natural forms.

If landscaping is utilized as required screening, such landscaping shall have an automatic irrigation system and be maintained in perpetuity. A deed restriction shall be required assuring landscaping maintenance.

10-6.207 Exceptions to Standards

Exceptions to Sections 10-6.201(parking), 10-6.203(setbacks), 10-6.204 (lot coverage/floor area) may be permitted subject to approval of a variance in accordance with Article 14 of this Title.

Exceptions to Sections 10-6.202(height & location), 10-6.205(maximum size), 10-6.206(design), or 10-6.209(residence requirements) may be permitted subject to approval of a conditional use permit in accordance with Article 13 of this Title.

10-6.208 Building Permits/Codes

In addition to the provisions herein, residential second unit construction shall be subject to all requirements of Title 9 of this code (Building Regulations).

10-6.209 Residence Requirements

Approval of a residential second unit is conditioned upon the owner of record maintaining his or her principal residence upon the same parcel as the location of the second unit.

Article 3. Administration and Enforcement

10-6.301 Enforcement

Failure to comply with any provision of this chapter shall constitute a violation of Section 1-2.01 of Chapter 2 of Title 1 of this Code, and any condition permitted to exist in violation of this chapter shall constitute a public nuisance, which may be summarily abated.

10-6.302 Severability

If any section, subsection, sentence, clause, phrase or portion of this chapter for any reason is held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

10-6.303 Administration

The Planning Director of the Town of San Anselmo, hereinafter referred to as Director, shall administer this chapter.

Any person proposing to construct a residential second unit shall provide to the Director an application, site plan, elevations, color and materials samples, and any other information deemed necessary by the Director to administer this chapter.

The Town Council has authorized a fee for Administrative Design Review for the review of projects. Such fee is applicable for the review of proposed projects authorized by this chapter.

Article 4. Second Unit Rent Limitation

10-6.401

Tenant rent of residential second units shall not exceed 30% of total income of a Low Income Household.

Existing rent limitations for nonconforming residential second units may be amended to conform to the rent limitations herein at the option of owners of such nonconforming units.

Section 2. Note (1)(c), Table 4E, Chapter 3, Title 10 of the San Anselmo Municipal Code is hereby deleted. Note (1)(d), Table 4E, Chapter 3, Title 10 of the San Anselmo Municipal Code is hereby designated as Note (1)(c), Table 4E, Chapter 3, Title 10.

Section 3. The Residential Second Units row of Table 3A, Chapter 3, Title 10 of the San Anselmo Municipal Code is hereby amended as follows:

	<u>R-1H</u>	<u>R-1C</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>P</u>	<u>C-1</u>	<u>C-2</u>	<u>C-L</u>	<u>C-3</u>
Residential Second Units	P(6)	P(6)	P(6)	P(6)	P(6)	-	-	-	-	-

Footnote (6): Residential Second Units shall be subject to Chapter 6 of this Title

Section 4. Section 10-3.1305(d) of the San Anselmo Municipal Code is hereby deleted.

Section 5. This project has been determined to be exempt from CEQA under the provisions of Section 15282(i) of the California Code of Regulations Title 14, Chapter 3 (CEQA Guidelines) regarding the implementation of Section 65852 of the Government Code

pertaining to residential second units. The Town Administrator and others as appropriate are hereby authorized to file a Notice of Exemption in accordance with Section 15062.

Introduced at a regularly scheduled meeting of the Town Council of the Town of San Anselmo on June 10, 2003, and PASSED AND ADOPTED by the Town Council at a regularly scheduled meeting on June 24, 2003 by the following roll call vote:

AYES: Kilkus, Breen, Thornton

NOES: Chignell

ABSTAIN: Kroot

Peter Kilkus, Mayor

ATTEST:

Debra Stutsman, Town Clerk