ORDINANCE NO. 1115

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
REPLACING SAN ANSELMO MUNICIPAL CODE TITLE 10 (PLANNING AND ZONING)
CHAPTER 6 (RESIDENTIAL SECOND UNITS) WITH NEW CHAPTER 6 (ACCESSORY
DWELLING UNITS), AMENDING SECTIONS 10-3.201, 10-3.402, 10-3.405, 10-3.406, 10-
MUNICIPAL CODE TO ACHIEVE CONSISTENCY WITH 2015-2016 CALIFORNIA
SENATE BILL 1069 AND ASSEMBLY BILL 2299 PERTAINING TO THE
CONSTRUCTION OF ACCESSORY DWELLING UNITS, REPEALING TITLE 10,CHAPTER
5, (SALES OF RESIDENTIAL PROPERTY: REPORTS OF RESIDENTIAL BUILDING
RECORDS) AND ADDING THOSE PROVISIONS TO TITLE 9 (BUILDING), CHAPTER 8
ENTITLED SALES OF RESIDENTIAL PROPERTY: REPORTS OF RESIDENTIAL
BUILDING RECORDS, AND MODIFYING TABLE 3A TO CLARIFY ZONING
REQUIREMENTS FOR FITNESS CENTERS WITH CLASSES AS A PRIMARY USE.

WHEREAS, second units expand the opportunity for small, lower cost, housing units in San
Anselmo, while preserving the character of residential neighborhoods;

WHEREAS, the Town Council seeks to make its second unit regulations consistent with the
mandatory provisions of Senate Bill 1069 (Wieckowski) and Assembly Bill 2299 (Bloom), while
maintaining locally appropriate standards for the construction and occupancy of second units and
preserving the health, safety and general welfare of second unit residents; and

WHEREAS, in order to encourage development of new affordable units close to transit and services,
the Town seeks to expand the areas where second units are permitted with no discretionary review
and to permit accessory dwelling units on commercial zoning district sites that are developed with
single-family residences; and

WHEREAS, the Town seeks to move the regulations under Title 10, Chapter 5, related to sales of
residential property to Title 9 (Building) to clarify that the Town’s Building Department is
authorized to prepare such reports; and

WHEREAS, the Town seeks to implement the purpose of Ordinance No. 1069 by updating the
Town zoning regulations regarding fitness centers that have classes as a primary use; and

WHEREAS, on December 5, 2016, and January 23, 2017, the Planning Commission of the Town
of San Anselmo conducted a duly noticed public hearing on the proposed Zoning Ordinance
amendments, and considered all staff reports, attachments, testimony and recommended that the
Town Council modify the regulations as proposed; and

WHEREAS, the Town Council has found that the provisions of this ordinance are consistent with
the goals and policies of the Town’s General Plan and other adopted ordinances and regulations of
the Town; and
NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1: The Town Council finds and determines that the adoption of this ordinance, which is intended to modify existing local regulatory requirements to be consistent with State and local law, is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17, the adoption of an ordinance to implement Government Code section 65852.2. Similarly, the ministerial approval of accessory dwelling unit ("ADU") applications would not be a "project" for CEQA purposes, and environmental review would not be required prior to approving individual applications.

SECTION 2: Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 2 (Designation and Establishment of Districts), Section 10-3.201 (Purpose and Intent) is modified as follows:

The following sentence is added to the end of Subsection (a) (R-1-H Very Low Density Residential District), Subsection (b) (R-1-C Single-Family Residential-Conservation District) and Subsection (c) (R-1 Single-Family Residential District): "Accessory dwelling units are permitted as an accessory residential use that is consistent with the general plan and shall not be considered to exceed the allowable density."

Under Subsection (d) (R-2 Medium Density Residential District) “in this table” is replaced with “in this Title” and the sentence “Lots within the District will be developed with either duplex or triplex style development, although lots developed with a single-family detached residential unit and any associated accessory dwelling unit will also be permitted.” shall be replaced with “Lots within the District will be developed with either duplex or triplex style development, although lots developed with a single-family detached residential unit and any associated accessory dwelling unit will also be permitted.”

Under Subsection (e) (R-3 High Density Residential District) “in this table” is replaced with “in this Title” and the sentence “Lots within the District will be developed with either apartment or condominium style development which reflects a compatibility with the Town's predominantly residential lower density character.” shall be replaced with “Lots within the District will be developed with either apartment or condominium style development which reflects a compatibility with the Town's predominantly residential lower density character, although lots developed with a single-family detached residential unit and any associated accessory dwelling unit will also be permitted.”

The following sentence is added to the end of Subsection (g) (P Professional District), Subsection (h) (C-1 Neighborhood Commercial District”, Subsection (i) (C-2 Downtown Commercial District”, Subsection (j) (C-L Limited Commercial District) and Subsection (k) C-3 Commercial District: “Lots developed with a single-family detached residential use are permitted to have an accessory dwelling unit. An accessory dwelling unit is an accessory residential use that is consistent with the general plan and does not exceed the allowable density or expand or intensify the residential use.”

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SECTION 3: Title 10 Planning and Zoning, Chapter 3 Zoning, Article 3 Land Use Regulations, Table 3A is modified to delete the line for “Accessory Buildings;” add a line for “Fitness Center, Classes as Primary Use,” which are conditionally permitted in the C-1, C-2 and C-3 zoning districts; and change “Second Units” to “Accessory Dwelling Units” as follows (title row for informational purposes only and no modifications are made to any footnote references by this ordinance) with additions indicated by underline and deletions indicated by strike through text:

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICT</th>
<th>R-1-H</th>
<th>R-1-C</th>
<th>R-2</th>
<th>R-3</th>
<th>P</th>
<th>C-1</th>
<th>C-2</th>
<th>C-L</th>
<th>C-3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fitness Center, Classes as Primary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>C</td>
<td>C</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential, Accessory Dwelling</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Units Residential, Second Units</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION 4: Title 10 Planning and Zoning, Chapter 3 Zoning, Article 4. - Development Standards, Section 10-3.402 - Development Standards Table is modified to read as follows with additions indicated by underline and deletions indicated by strike through text:

The Development Standards Table, referred to as Table 4A, lists the minimum development standards for each Zoning District. Deviations from development standards set forth in the Development Standards Table, referred to as Table 4A, may only be permitted by (1) an exception; (2) a minor exception; or (3) design review or administrative variance, each of which are listed on the Minor Intrusions into Required Development Standards For Residential Properties Table, referred to as Table 4B; or (4) a variance by the Planning Commission as set forth in Section 10.3.1404(b) of this chapter of the San Anselmo Municipal Code.

The Residential Housing Opportunities (R-HO), Public Facilities (PF), Preliminary Planned Development (PPD), and Specific Planned Development (SPD) Districts are not included on Table 4A. The R-HO District is an overlay district and utilizes development standards for the underlying District. The PPD and SPD Districts are overlay districts and allow for the establishment of development standards suitable to a specific use or project site. The PF District does not include any development standards but allows for the use of development standards appropriate to the specific use or project site as determined by the Planning Commission or the Town Council.

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**SECTION 5:** Title 10 Planning and Zoning, Chapter 3 Zoning, Article 4 Development Standards, Section 10-3.405 Minor Intrusions into Required Development Standards for Residential Properties Table is modified to read as follows with additions indicated by underline and deletions indicated by strike through text:

The Minor Intrusions Into Required Development Standards for Residential Properties Table, referred to as Table 4B, lists: (a) exceptions, which require no discretionary action by the Planning Director nor Planning Commission; and (b) administrative variances, minor exceptions, which require discretionary action by the Planning Director; and (c) minor intrusions that require planning commission design review.

**SECTION 6:** Title 10 Planning and Zoning, Chapter 3 Zoning, Article 4 Development Standards, Section 10-3.406 “Setback and height exceptions” is modified to read as follows with additions indicated by underline and deletions indicated by strike through text:

The purpose and intent of allowing exceptions to the development standards is to permit minor intrusions into required setback areas. If, in the judgment of the Planning Director, the structure is not a minor intrusion due to its size, and location or potential use, the Planning Director shall require that the structure either adhere to the standards listed in the Development Standards Table, referred to as Table 4A, or obtain a variance from the Planning Commission, as set forth in Section 10-3.1404(b) of the San Anselmo Municipal Code.

**SECTION 7:** Title 10 Planning and Zoning, Chapter 3 Zoning, Article 4 Development Standards, Table 4B is modified to delete Note 3 and all references to Note 3 in the whole Table 4B. The remaining notes and references to the notes shall be renumbered accordingly. The text of Table 4B shall be modified as indicated below, with additions indicated by underline and deletions indicated by strike through text. Text from Table 4B that is not shown in this Section 10 is not deleted.

**MINOR INTRUSIONS INTO REQUIRED RESIDENTIAL DEVELOPMENT STANDARDS**

Table 4B**(1)(2)(3)**

<table>
<thead>
<tr>
<th>Feature</th>
<th>Front</th>
<th>Rear</th>
<th>Interior Side</th>
<th>Street Side</th>
<th>Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accessory Structure - Detached or Attached</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A. For properties with a rear property frontage on Center Boulevard or Red Hill Avenue (one of the following):</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. One, similar in type to gazebo, tool shed, or play structure, less than 200 square feet in area up to 10’ in height<strong>5</strong> above the ground surface subject to screen landscaping between the accessory structure and the</td>
<td>20’</td>
<td>4’</td>
<td>8’</td>
<td>8’</td>
<td>E</td>
</tr>
</tbody>
</table>

-4-
<table>
<thead>
<tr>
<th>Feature</th>
<th>Front</th>
<th>Rear</th>
<th>Interior Side</th>
<th>Street Side</th>
<th>Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>right of way, as approved by the Planning and Building Director. It is encouraged that the roof pitch design of accessory buildings be similar to that of the main dwelling; or</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. One, similar in type to gazebo, tool shed, or play structure, less than 200 square feet in area exceeding 10' in height, but no higher than 12' in height above the ground surface subject to screen landscaping between the accessory structure and the right of way, as approved by the Planning and Building Director. It is encouraged that the roof pitch design of accessory buildings be similar to that of the main dwelling; or</td>
<td>20'</td>
<td>6'</td>
<td>8'</td>
<td>8'</td>
<td>E</td>
</tr>
<tr>
<td>3. One, similar in type to gazebo, tool shed, or play structure, less than 200 square feet in area up to 10' in height above the ground surface subject to screen landscaping between the accessory structure and the right of way, as approved by the Planning and Building Director. It is encouraged that the roof pitch design of accessory buildings be similar to that of the main dwelling; or</td>
<td>20'</td>
<td>4'</td>
<td>0'</td>
<td>0'</td>
<td>MEDR</td>
</tr>
<tr>
<td>4. One, similar in type to gazebo, tool shed, or play structure, less than 200 square feet in area exceeding 10' in height, but no higher than 12' in height above the ground surface subject to screen landscaping between the accessory structure and the right of way, as approved by the Planning and Building Director. It is encouraged that the roof pitch design of accessory buildings be similar to that of the main dwelling.</td>
<td>20'</td>
<td>6'</td>
<td>0'</td>
<td>0'</td>
<td>MEDR</td>
</tr>
</tbody>
</table>

B. For all other properties:

<table>
<thead>
<tr>
<th>Feature</th>
<th>Front</th>
<th>Rear</th>
<th>Interior Side</th>
<th>Street Side</th>
<th>Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>One, similar in type to gazebo, tool shed, or play structure, less than 200 square feet in area (measured to exterior walls or surfaces) and 8' or less in height above the ground surface</td>
<td>20'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>E</td>
</tr>
</tbody>
</table>

**Carport, Garage**

<table>
<thead>
<tr>
<th>Feature</th>
<th>Front</th>
<th>Rear</th>
<th>Interior Side</th>
<th>Street Side</th>
<th>Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>One, new detached, one car, single story carport and garage with a maximum gable height of 12' (required on-site parking spaces shall be located as described in Section 10-3.504).</td>
<td>20'</td>
<td>5'</td>
<td>5'</td>
<td>5'</td>
<td>MEDR</td>
</tr>
</tbody>
</table>

**Enclosure of an Area Directly Below an Existing Deck**
<table>
<thead>
<tr>
<th>Feature</th>
<th>Front</th>
<th>Rear</th>
<th>Interior Side</th>
<th>Street Side</th>
<th>Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>To create additional living area.</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>MEDR</td>
</tr>
<tr>
<td>Raising of Structures (originally constructed without setback requirement and not having been granted an exception, minor exception or setback variance) a total of 2' above the existing building height (including the roof, walls, and foundation), not to exceed the height limitation of the applicable zoning district: Includes: Dwelling, Carport, Garage, and Accessory Building.</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>E</td>
</tr>
<tr>
<td>Including the roof, walls, and foundation, a total of 2' above the existing building height, not to exceed the height limitation of the applicable zoning district.</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>E</td>
</tr>
<tr>
<td>If requested to elevate a finished floor in a Flood Hazard Area, to replace a foundation, or for other hazard mitigation.</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>E</td>
</tr>
<tr>
<td>If requested for aesthetic or other non-hazard purposes.</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>0'</td>
<td>ME</td>
</tr>
</tbody>
</table>

Notes:

(1) All other structures that intrude into the minimum required setback areas shall require Planning Commission variance review unless a determination is made by the Planning Director that a particular structure is similar in kind to one of the above listed structures which are considered either an exception, minor exception or subject to administrative variance design review.

(2) For R-1, H, R-1 C, and R-1 properties located at or above 150 mean sea level elevation, design review shall take precedence over the above listed exceptions.

(3) For all residential properties, second unit ordinance conditions shall take precedence over the above listed exceptions.

(4) Fences, privacy walls, and solid opaque screen plantings located within twenty (20') feet of a front property line or within twelve (12') feet of a street side yard property line fronting a street are subject to a separate permit review by the Public Works Director. The Public Works Director's decision shall be based upon safety factors necessary to maintain good vehicular and pedestrian visibility at intersections of streets, sidewalks, and driveways, after consideration of the terrain and topography involved, and the volume of vehicular and pedestrian traffic. Fences, privacy walls, hedges and solid screen plantings exceeding eight (8') feet in height above grade, or those exceeding lesser heights as specified by the Public Works Director.

(5) Ground surface: ground level at the time of construction, unless otherwise determined per Section 10-3.404(c).

SECTION 8: Title 10 Planning and Zoning, Chapter 3 Zoning, Article 4 Development Standards, Table 4E Table of Maximum Sizes of Dwellings on Residential Properties Located Above 150 Mean Sea Level Elevation, Note 1 shall be modified as indicated below, with additions indicated by underline and deletions indicated by strike through text.
Note (1)
Adjusted Floor Area is defined as the gross exterior floor area (as measured from the exterior framing of the outside wall) in the main dwelling PLUS:
(a) Any garage space after the first 500 square feet;
(b) Any enclosed accessory buildings;
(c) Any potential living space with minimum dimensions of 8 feet by 10 feet and 7.5 feet head room; and
(d) Any accessory dwelling unit.

SECTION 9: Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 4 (Development Standards), Section 10-3.412 (Maximum Floor Area and Maximum Lot Coverage for Dwellings and Improvements on Single-Family Residential Properties Located Below 150 Mean Sea Level Elevation) is modified to change “Second Units” to “Accessory Dwelling Units”.

SECTION 10: Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 5 (Parking and Loading Regulations) is modified to read as follows with additions indicated by underline and deletions indicated by strike through text:

10-3.504 - Enlargement and alteration to dwelling units and conversion of garages, carports, and uncovered parking spaces.

(a) Any dwelling unit having less than the required number of vehicular parking spaces as required by the Parking Standards Table, referred to as Table 5A, may be enlarged provided that one (1) of the following conditions is satisfied:

(1) The required number, setbacks, siting, configuration, and size of off-street parking spaces as required by the Parking Standards Table, referred to as Table 5A, of the San Anselmo Municipal Code shall be provided prior to the first building department inspection as a condition of approval of the building permit for the enlargement, except that the parking spaces may be in tandem and within established setback areas; or

(2) The enlargement does not include a room suitable for use as a bedroom nor does the enlargement include the conversion of an existing room for use as a bedroom.

(b) No building permit shall be issued for any structural alteration or modification which converts any parking space either uncovered or within a garage or carport, having minimum dimensions of eight (8') feet in width by seventeen (17') feet in depth, shall be converted to a use other than for vehicular parking, unless the following conditions are satisfied:

(1) The site has the required number of on-site parking spaces as required by the Parking Standards Table, referred to as Table 5A, of the San Anselmo Municipal Code and the spaces comply with all provisions for setbacks, siting, configuration and size; or

(4)(2) There is available on the same lot the same number of parking spaces converted. For each converted parking space with minimum dimensions of eight (8') feet in width
by seventeen (17') feet in depth shall be replaced with one (1) legal parking space that complies with all provisions for setbacks, siting, configuration, and size, and that the required number, siting, configuration, and size of the replacement parking space(s) as required in Article 5 are provided prior to the first inspection as a condition of approval for the building permit; or—

(3) When a garage, carport, or covered parking structure is structurally altered or modified to create an accessory dwelling unit, each converted parking space shall be replaced with one (1) legal parking space that complies with all provisions for setbacks, siting and size prior to the first inspection for the building permit, but the spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts; and

(4) For residential development, the garage door shall remain in place and look functional, or the garage door shall be removed. If the door is removed, the project shall include architectural features (including siding, doors, windows, trim and accent details), and landscaping (such as a landscape strip to disconnect the driveway from the building wall) so it is not apparent that the structure was originally a garage.

SECTION 11: Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 4 (Development Standards), Table 5A (Parking Standards Table) is modified as follows (title row for informational purposes only and no modifications are made to any footnote references by this ordinance) with additions indicated by underline and deletions indicated by strike through text:

<table>
<thead>
<tr>
<th>RESIDENTIAL LAND USE</th>
<th>NUMBER OF REQUIRED ON-SITE PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Second Living Accessory Dwelling Units Located only on R-1, R-2, or R-3 zoned property</td>
<td>See Title 10, Chapter 6 One (1) space per second living unit, unless the unit is within one (1) mile of a transit stop</td>
</tr>
</tbody>
</table>

SECTION 12: Title 10 Planning and Zoning, Chapter 3 Zoning, Article 17 Definitions, Section 10-3.1701 “Purpose and intent” is amended to delete definitions for “Accessory way,” “Acreage, gross,” and “Acreage, net” and “Residential second unit – nonconforming” and to add and amend the following definitions to read as follows, with additions indicated by underline and deletions indicated by strike through text:

“Accessory dwelling unit. Refer to Title 10, Chapter 6, Section 10-6.103.”

"Attic" means an open space at the top of a dwelling situated wholly or partly within the roof.

"Fitness Center" includes exercise activity as the primary use. Classes as a primary use would fall under "private school."
"Kitchen." A room or space within a building used or intended to be used for cooking or preparation of food, which includes any of the following: stove, oven, range top, convection oven, cooking burners, microwave oven or refrigeration equipment. A separate or second kitchen does not exist if one (1) or more of the following applies: (a) a permanent interior access is provided throughout the living unit; and (b) configuration of appliances and the floorplan clearly indicate that the space is an office or guest room, and will not and cannot be used as a separate living unit, such as a living room, or a separate living room, room. Outdoor structures, not suitable for habitation (e.g., an unenclosed pool cabana, tool storage areas, workshops, and other improvements unsuitable for habitation) are not deemed second units. Interpretation of whether or not an area is or is not a separate kitchen shall be by the Planning Director pursuant to this section.

Residential second unit. Refer to "accessory dwelling unit." One (1) additional living unit on any one (1) lot or parcel within a residential zoning district R-1, R-2 or R-3 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.

"Residential unit" means a building, or portion of a building, designed for occupancy as living quarters by one (1) household and having no more than one (1) kitchen and at least one (1) bathroom. A residential unit may be either detached, attached, multi-family, or may be a manufactured structure. A dwelling-residential unit may be owned, either wholly or as part of a condominium or stock cooperative, or may be rented as an apartment. Also includes "dwelling unit."

School, private. "Private school" means a school operated by a private agency or organization which serves as an alternative to public education for kindergarten through twelfth (12th) grade, or as a technical training school, or a fitness center with classes as a primary use.

Second unit. Refer to "residential second unit accessory dwelling unit."

"Unenclosed" means a space with or without a permanent roof that is not enclosed by walls, windows or doors on at least two sides. Insect screening would not constitute enclosure.

**SECTION 13.** Deletion of Current Residential Second Unit Provisions: San Anselmo Municipal Code Title 10 (Planning and Zoning), Chapter 6 (Residential Second Units) is hereby deleted in its entirety from the San Anselmo Municipal Code.

**SECTION 14.** Adopting of Accessory Dwelling Unit Chapter: New Chapter 6 (Accessory Dwelling Units) is hereby added to Title 10 (Planning and Zoning) of the San Anselmo Municipal Code:

Chapter 6 - ACCESSORY DWELLING UNITS

Sections:
Article 1. – Purpose, Applicability, Definitions

10-6.101 – Purpose.

This Chapter provides regulations for developing accessory dwelling units. The purpose of permitting accessory dwelling units is to expand the opportunity for small, lower cost, housing units in San Anselmo, while preserving the character of residential neighborhoods.

10-6.102 - Applicability. An accessory dwelling unit may be constructed on a lot that meets all of the following minimum standards:

(a) Zoning district. A lot located within a single family or multifamily zoning district (R-1-C, R-1-H, R-1, R-2 or R-3) or any commercial zoning district (C-1, C-2, C-3, C-L or P).

(b) Existing primary dwelling unit. A lot that is presently developed with one primary dwelling. In addition, an accessory dwelling unit may be approved in connection with a building permit to construct a new primary dwelling. An accessory dwelling unit may not be constructed on a lot that is developed with more than one dwelling or commercial uses.

(c) Conforming parking. The parking spaces on the lot conform to the required parking dimensions, access, surface and number of spaces, Sections 10-3.502, 10-3.507, 10-3.509, 10-3.511, and Table 5A of this Code and the lot will continue to have conforming parking after development of the accessory dwelling unit. 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 fifty (50%) percent or more of the primary living unit or residential second unit should be destroyed. Thereafter, all residential second units shall conform to the provisions of this ordinance.

10-6.103 - Definitions.

In addition to the terms defined by Article 17 (Definitions), the following terms shall have the following meanings as used in this Chapter:

"Accessory dwelling unit" means a dwelling unit ancillary to a primary dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary dwelling unit is situated. An accessory dwelling unit also includes an efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Attached accessory dwelling unit" means an accessory dwelling unit that is constructed as a physical expansion (i.e., addition) of a primary dwelling unit, and also includes an existing garage attached to a primary dwelling unit that is legally converted (fully or partially) to an accessory dwelling unit, and construction of a new basement or story underneath a primary dwelling unit to accommodate an accessory dwelling unit.

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"Detached accessory dwelling unit" means an accessory dwelling unit that is constructed as a separate structure from the primary dwelling unit, and also includes an existing garage detached from the primary dwelling unit that is legally converted (fully or partially) to an accessory dwelling unit.

"Interior accessory dwelling unit" means an accessory dwelling unit that is legally created entirely within the existing living area of a primary dwelling unit or existing living area of an accessory structure.

"Existing garage" means a legally constructed attached or detached garage that is in existence and/or granted a certificate of occupancy prior to January 1, 2017.

"Existing living area" means the legally constructed living area of a primary dwelling unit or accessory structure that is in existence and/or granted a certificate of occupancy prior to January 1, 2017.

“Living area” means the interior habitable floor area of a dwelling unit, as measured to the outside surface of exterior walls, including basements and attics but does not include a garage or any accessory structure that was not developed for habitable space.

"Floorspace" means the gross floor area of a detached accessory dwelling unit as measured to the outside surface of exterior walls, including its living area, basement area whether conditioned or unconditioned, and any garage or other enclosed accessory structure attached to the detached accessory dwelling unit.

"Passageway" as defined in Government Code section 65852.2(i)(5), as amended, means a pathway that is unobstructed to the sky and extends from a street to the entrance of an accessory dwelling unit.

“Public transit stop” means a Golden Gate Transit and/or Marin Transit bus stop that is served by weekday bus service (through multiple routes) every 30 minutes between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m.

"Nonconforming accessory dwelling unit" for the purposes of this chapter shall mean:

(a) A residential unit approved as an accessory dwelling unit through the issuance of a Conditional Use Permit, or

(b) An accessory dwelling unit that has been occupied as such since 1963 and registered with the Town.

Article 2. - Standards for Accessory Dwelling Units

10-6.201 - Parking.

Off-street parking for accessory dwelling units shall be provided in compliance with the following provisions:
(a) Except as provided in subsection (b) and (c), one (1) permanently surfaced parking space shall be provided for each attached or detached accessory dwelling unit in accordance with Section 10.3.507 of this code. Said parking space may be tandem and within any of the setback areas, provided however that any such parking space within a public right-of-way must be approved by the Public Works Director to ensure that such parking location does not constitute a potential public safety hazard.

(b) No additional parking shall be required for interior accessory dwelling units.

(c) The parking requirement for an attached or detached accessory dwelling unit under subsection (a) of this section, shall not apply in the following instances:

1. The accessory dwelling unit is located within one (1) mile walking distance of a public transit stop.

2. The accessory dwelling unit is located within an architecturally and historically significant historic district.

3. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

4. When there is a pick up or drop off location for a car share vehicle (as defined by the California Vehicle Code) located within one block of the accessory dwelling unit.

(d) Demolition of existing covered parking and conversion of existing parking spaces to uses other than vehicle parking. See requirements at Article 5 Parking and Loading Regulations, Section 10-3.504(b)(3).

10-6.202 - Height, location, and setbacks.

Accessory dwelling units shall either be attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling. Accessory dwelling units shall satisfy the required building height and setback standards applicable to a primary dwelling unit as specified by the zoning district in which the lot is located except that:

(a) A detached accessory dwelling unit shall be a maximum of fourteen feet in height and is limited to a single, ground floor, story or basement. The height limit shall be measured from the Base Flood Elevation plus one foot of freeboard in Special Flood Hazard Areas on the adopted Town Flood Insurance Rate Map.

(b) No setback shall be required for an existing garage that is converted to an accessory dwelling unit. Any expansion of the structure shall comply with applicable setback requirements.

(c) No setback shall be required for an interior accessory dwelling unit.

10-6.203 - Lot coverage, floor area ratio, and density.
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. A maximum of one (1) residential second unit shall be permitted per residential lot containing a single-family dwelling.

Pursuant to state law, an accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

10-6.204 – Minimum and Maximum size.

Accessory dwelling units shall have at least 150 square feet of living area and shall not exceed 800 square feet in floor area. Accessory dwelling units may be smaller if located within a primary dwelling unit or in a detached structure that complies with all setback requirements in Table 3A. In no case shall the living area for an attached or interior accessory dwelling unit exceed fifty percent of the existing living area of the primary dwelling unit. Accessory dwelling units shall include no more than two bedrooms.

10-6.205 - Architectural design standards.

Accessory dwelling unit construction shall be of complimentary materials, colors, and style as the exterior of the primary living unit including roof, eaves, windows, accents, and doors.

Further, new accessory dwelling units at or above 150 mean sea level shall provide screening from off-site views. Screening may include landscaping and/or natural forms.

The following standards apply to accessory dwelling units located within required side and rear setbacks for the district in which the unit is located, pursuant to Table 3A:

(a) The entrance to the accessory dwelling unit shall minimize noise and privacy impacts for neighbors by facing the entrance towards the interior of the lot and/or away from neighboring development where possible, unless the accessory dwelling unit is directly accessible from an alley, public path, or public street.

(b) Any new windows that face an adjoining residential property shall be designed to protect the privacy of neighbors, such as by use of opaque glass or sill heights above eye level; alternatively, fencing or landscaping shall be required to provide screening.

10-6.206 - Exceptions to standards.

Exceptions to Sections 10-6.201 through 10-6.205 may be permitted subject to approval of a conditional use permit in accordance with Article 13 of this Title. However, the total area of floor space for a detached accessory dwelling unit shall not exceed 1,200 square feet. A setback of at least five feet is required from the side and rear lot lines for an accessory dwelling unit that is constructed above a garage.
10-6.207 - General Requirements and Restrictions

The following requirements and restrictions apply to accessory dwelling units:

(a) All accessory dwelling units shall satisfy all applicable general performance, site development, landscaping, and other standards and requirements in the Town Municipal Code and adopted Town Council resolutions including, but not limited to, Title 4, Chapter 13, Private Trees; Title 6, Chapter 8, Urban Runoff Pollution Prevention; Title 7, Chapter 12, Watercourses; and Title 9, Building Regulations.

(b) The unit shall not be intended for sale separate from the primary residence (including creation of a stock cooperative or similar common interest ownership arrangement) and may be rented.

(c) For sites within a Flood Hazard Area on the adopted Federal Emergency Management Agency Flood Insurance Rate Map, the finished floor of any new or legalized accessory dwelling unit shall be elevated at least one foot above the Base Flood Elevation as “new construction” under Title 7, Chapter 11, Protection of Flood Hazard Areas, even if the project would not be considered a “substantial improvement.” The applicant shall submit an Elevation Certificate based on construction drawings with the building permit plans and a final Elevation Certificate shall be required prior to project final.

(d) An accessory dwelling unit shall include separate exterior access from the primary dwelling unit and may include an interior connection. A passageway from the accessory dwelling unit to a public street may be created, but shall not be required by the Town.

(e) The Building Department and Ross Valley Fire Department shall confirm that side and rear setbacks are sufficient for fire safety.

Article 3. - Administration and Enforcement

10-6.301 - Administration.

Any person proposing to create or construct an accessory dwelling unit that complies with Sections 10-6.201 through 10-6.205 and 10-6.207, or has received an exception with a use permit, shall submit a building permit application to the Building Department with a site plan, elevations, color and materials samples, and any other information deemed necessary to administer this chapter, even if no construction is proposed. The Town shall consider the building permit application ministerially, without discretionary review or a hearing. The Town shall issue or deny the building permit application for an accessory dwelling unit within one hundred and twenty (120) days of submittal.

The Town Council may authorize by resolution a fee for conditional use permits and the ministerial review of accessory dwelling units.

10-6.302 – Prior conditions not applicable. This chapter supersedes any town conditions on existing accessory dwelling units that comply with Sections 10-6.201 through 10-6.205 and 10-6.207,
including owner occupancy or rent control, that were imposed as conditions of approval on accessory dwelling units that the town approved prior to the effective date of this Chapter if the conditions would not apply under current regulations. The Planning Director is authorized to void recorded deed restrictions that comply with this section at the request of a property owner.

SECTION 15. Title 10 (Planning and Zoning), Chapter 5 (Sales of Residential Property: Reports of Residential Building Records) shall be repealed and all provisions thereof moved to Title 9 (Building Regulations) as a new Chapter 8, with section numbering changed accordingly.

SECTION 16. This ordinance shall apply to any building permits received on or after its effective date.

SECTION 17: 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 18: Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Sections 2 through 15 be made a part of the San Anselmo Municipal Code and that the text may be renumbered or relabeled and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 19: This Ordinance shall go into effect thirty (30) days from its adoption, and shall be posted or published as required by State law.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on February 14, 2017, and was adopted at a regular meeting of the San Anselmo Town Council on February 28, 2017, by the following vote:

AYES: Coleman, McInerney, Greene, Wright
NOES: Brown
ABSENT: None
ABSTAIN: None

Kay Coleman, Mayor

Carla Kacmar, Town Clerk