

ORDINANCE NO. 1149

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO AMENDING TITLE 10 (PLANNING AND ZONING), CHAPTER 6 (ACCESSORY DWELLING UNITS), ARTICLES 1-3 TO BRING THE TOWN ACCESSORY DWELLING UNIT REGULATIONS INTO CONFORMANCE WITH 2019 STATE HOUSING BILLS, AND ADDING NEW ARTICLE 20 (OBJECTIVE DESIGN STANDARDS FOR RESIDENTIAL DEVELOPMENTS) TO ADDRESS HERITAGE TREE REMOVAL FOR HOUSING AND WINDOWS ADDED WITHIN SETBACKS

WHEREAS, Accessory Dwelling Units expand the opportunity for small, lower cost, housing units in San Anselmo; and

WHEREAS, the Town has approved 100% of its share of the Regional Housing Need Allocation for the 2015-2023 Housing Element cycle and almost half of the approved units have been Accessory Dwelling Units; and

WHEREAS, on October 9, 2019, California Governor Gavin Newsom signed three bills into law (SB 13, AB 68 and AB 881) that amend California Government Code Sections 65852.2 and 65852.22 and require the Town to modify local regulations to further facilitate development of Accessory Dwelling Units and Junior Accessory Dwelling Units; and

WHEREAS, the Town Council adopted Ordinance 1142 on November 26, 2019 and Ordinance 1143 on December 10, 2019 in order to implement the State legislation; and

WHEREAS, the Town Council desires to amend the local Accessory Dwelling Unit and Junior Accessory Dwelling Unit regulations to be consistent with the amended provisions of Government Code sections 65852.2 and 65852.22; and

WHEREAS at its meeting of June 23, 2020, the Town Council discussed its desire to promote development of deed restricted affordable housing and affirmatively promote fair housing and equity; and

WHEREAS, on July 6, 2020 and August 17, 2020, the Planning Commission conducted a duly noticed public hearing on the proposed Zoning Ordinance amendments, and considered all staff reports, attachments, testimony and found the proposed ordinance consistent with the General Plan and recommended that the Town Council adopt the proposed ordinance; and

WHEREAS, the Town Council held a duly noticed public hearing on August 25, 2020, to consider the Planning Commission recommendation and introduce the draft Ordinance; and 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.

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

SECTION 1: The Town Council finds and determines that there is no possibility that the adoption

of this ordinance will have a significant effect on the environment. The ordinance is intended to modify existing local regulatory requirements to be consistent with State and local law which encourage development of Accessory Dwelling Units. The ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17 as it implements the provisions of Government Code sections 65852.2 and 65852.22. Similarly, the ministerial approval of Accessory Dwelling Unit 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 is amended as provided in Exhibit 1 with strikethrough text indicating deleted text and underline text indicating new text.

SECTION 3: Title 10 Planning and Zoning, Article 5 Parking and Loading Regulations, Section 10-3.504 is amended to delete the following text in subsection 10-3.504(b)(4):

(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 4: Severability. To the extent allowed under State law, the Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. To the extent allowed under State law, 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 5: Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Exhibits 1 and 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 6: This Ordinance shall go into effect thirty (30) days from its adoption and shall be posted or published as required by State law.

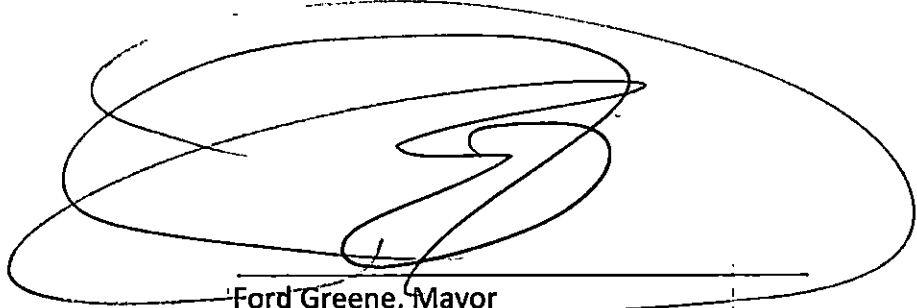
THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on August 25, 2020, and was adopted at a regular meeting of the San Anselmo Town Council on September 8, 2020, by the following vote:

AYES: Greene, Colbert, Wright, Fineman, Burdo

NOES: None

ABSENT: None

ABSTAIN: None

A large, stylized handwritten signature in black ink, enclosed within a large, hand-drawn oval. The signature is difficult to decipher but appears to be 'Ford Greene'.

Ford Greene, Mayor

A handwritten signature in black ink, written in a cursive style, reading 'Carla Kacmar'.

ATTEST: Carla Kacmar, Town Clerk

EXHIBIT 1

Chapter 6 - ACCESSORY DWELLING UNITS

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 the following minimum standards:

- (a) Zoning district. A lot located in any zoning district that allows for single family and multifamily development.
- (b) Existing or proposed primary dwelling unit. A lot that is presently developed with at least one (1) primary dwelling. In addition, an accessory dwelling unit may be approved in connection with a building permit to construct a new primary dwelling.

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 an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on the same lot as the proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation. 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.

“Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

“Junior accessory dwelling unit” is a unit that complies with the requirements of Government Code Section 65852.22, as amended from time to time.

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

"Multifamily dwelling" means a dwelling on a site with more than one unit that is not within a single-family residential district (R-1, R-1-H, R-1-C) or a specific planned development district (SPD or PPD) with underlying single-family residential zoning ("single family zoning district"). A site with more than one residential unit in a single-family zoning district shall be considered a single-family residence with accessory dwelling unit(s) that may be nonconforming in size, number, or other development standards.

"Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

"Passageway" as defined in Government Code Section 65852.2, as amended, means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of an accessory dwelling unit.

"Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

"Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

"Tandem parking" as defined in Government Code Section 65852.2, as amended, means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

Article 2. - Standards for Accessory Dwelling Units

10-6.201 – Permit required. The Town shall ministerially approve an application for a building permit to create any attached or detached accessory dwelling unit that meets the development requirements set forth in this chapter.

10-6.202 – Number of Accessory Dwelling Units Allowed. (a) One attached or detached accessory dwelling unit or one junior accessory dwelling unit is allowed per lot with a proposed or existing single-family dwelling. Alternatively, a lot with a proposed or existing single-family dwelling can have one detached accessory dwelling unit and one junior accessory dwelling unit. (b) Sites developed with a Multifamily Dwelling may have up to two detached accessory dwelling units. Sites developed with a Multifamily Dwelling may also have at least one accessory dwelling unit and up to 25 percent of the number of existing permitted Multifamily Dwelling units, rounded down to the nearest whole number, within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit will comply with state building standards for dwellings. For example, an existing 10-unit Multifamily Dwelling can convert existing non-living space into two accessory dwelling units and construct two detached accessory dwelling units.

10-6.203 - Parking.

Parking for accessory dwelling units on single-family or Multifamily Dwelling sites shall be provided in compliance with the following provisions:

- (a) Except as provided in subsection (b), one (1) permanently surfaced parking space shall be provided for each attached or detached accessory dwelling unit in accordance with Sections 10.3.507, 10-3.508 and 10-3.511 of this Code. Said parking space may be Tandem parking 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 fire or life safety hazard.
- (b) No parking shall be required for an accessory dwelling unit in any of the following instances:
 - (1) The accessory dwelling unit is located within one-half (1/2) mile walking distance of Public Transit .
 - (2) The accessory dwelling unit is located within an architecturally and historically significant historic district.
 - (3) The accessory dwelling unit is part of the proposed or existing primary residence (including an attached garage) or an accessory structure.
 - (4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - (5) 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 (1) block of the accessory dwelling unit.
- (c) 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).

10-6.204 - Height, location, and setbacks.

Accessory dwelling units shall either be attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary 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 newly constructed detached accessory dwelling unit shall be a maximum of sixteen (16) feet in height, measured to the predevelopment ground elevations. Accessory dwelling units newly constructed in Special Flood Hazard Areas on the adopted Town Flood Insurance Rate Map may be up to fourteen (14) feet in height, measured from the Base Flood Elevation plus one (1) foot of freeboard, or sixteen (16) feet in height, whichever is taller.
- (b) No setback or height limit shall be required for the following as long as the existing building envelope remains unchanged (except additions allowed to detached structures for ingress and egress in Section 10-6.206):
 - (1) An existing living area that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit; or
 - (2) An accessory structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit; or
 - (3) A structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit.
- (c) The Town shall require a setback of no more than four feet for a new accessory dwelling unit that does not fall under Subsection (b).

10-6.205 - 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. The Town shall not apply limits on lot coverage and floor area ratio for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other development standards.

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.

10-6.206 - Minimum and Maximum size.

The minimum size of an accessory dwelling unit shall be the minimum necessary to comply with all adopted and applicable building codes and shall not exceed eight hundred fifty (850) square feet in floor area or one thousand (1,000) square feet for an accessory dwelling unit that provides more than one bedroom. If there is an existing primary single-family dwelling over 1,600 square feet, the total floor area of an attached accessory dwelling unit shall not exceed fifty (50%) percent of the existing primary dwelling unit. 3

An accessory dwelling unit created within the existing space of a detached accessory structure may be expanded in compliance with all applicable regulations. The Town shall allow an existing detached accessory structure to be expanded up to 150 square feet if necessary to accommodate ingress and egress.

10-6.207 - Architectural design standards.

No heritage tree (as defined in Title 4, Chapter 13) shall be removed in conjunction with the construction of an accessory dwelling unit until a building permit has been issued for the accessory dwelling unit..

The following standards apply to newly constructed accessory dwelling units located within required side and rear setbacks for the district in which the unit is located under Development Standards Table 4A and not conversions of existing structures:

- (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, unless the accessory dwelling unit is directly accessible from an alley, public path, or public street.
- (b) Wall heights shall be limited to a maximum height of eight (8) feet on the interior and eleven and one half (11.5) feet on the exterior. Planning Department Staff shall develop written standards that illustrate how wall height will be measured for various roof forms.

10-6.208 - Exceptions to standards.

Exceptions to Sections 10-6.201 through 10-6.207 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 twelve hundred (1,200) square feet. The following design standards apply to units requesting a conditional use permit for an exception or design review:

- (a) 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.
- (b) New construction accessory dwelling units at or above one hundred fifty (150) mean sea level shall provide screening from off-site views unless not possible under Ross Valley Fire Department Vegetation Management Plan requirements. Screening may include landscaping and/or natural forms.
- (c) Landscaping shall be included to screen mechanical and structural elements of the accessory dwelling unit from off-site views, including, but not limited to, foundations, retaining walls, condensers, and transformers, provided that nothing in this provision shall require the accessory dwelling unit to be screened completely from view or require

any screening that would conflict with Ross Valley Fire Department Vegetation Management Plan requirements.

10-6.209 - General Requirements and Restrictions.

The following requirements and restrictions apply to accessory dwelling units:

- (a) All accessory dwelling units shall satisfy all Title 9 Building Regulations and any objective standards and objective requirements in the Town Municipal Code and adopted Town Council resolutions including, but not limited to Title 6, Chapter 8, Urban Runoff Pollution Prevention and Title 7, Chapter 12, Watercourses.
- (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. Rental of accessory dwelling units approved after January 1, 2020, shall be for a term longer than 30 days.
- (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 (1) 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 and safety.
- (f) The Town shall not require the correction of any nonconforming zoning condition as a condition of approval for an accessory dwelling unit.
- (g) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
- (h) The Town shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

Article 3. Junior Accessory Dwelling Units

10-6.401 Purpose. The purpose of this Article is to allow the creation of junior accessory dwelling units on lots zoned for single-family residences in accordance with California Government Code Section 65852.22, as amended from time to time.

10-6.402 Requirements for Junior Accessory Dwelling Units

The following requirements and restrictions apply to junior accessory dwelling units:

- (a) Limit of one junior accessory dwelling unit per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.
- (b) Must be contained entirely within the walls of the proposed or existing single-family residence, including within an attached garage but excluding detached structures.
- (c) Size must be 500 square feet or smaller, measured to interior walls.
- (d) Shall include:
 - (1) An efficiency kitchen, which shall include a cooking facility with appliances, and a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.
 - (2) A separate entrance from the main entrance to the proposed or existing single-family residence; and
 - (3) Sanitation facilities, which may be separate or shared with the existing structure.
- (e) Owner-occupancy is required in the single-family residence in which the Junior Accessory Dwelling Unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created Junior Accessory Dwelling Unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

10-6.403 Deed Restriction Required. A deed restriction shall be recorded prior to issuance of the building permit that restricts use of the junior accessory dwelling unit size and attributes that conforms with this Article.

10-6.404 Parking. No parking shall be required for the junior accessory dwelling unit as a condition of granting the permit. If a junior accessory dwelling unit is created within an attached garage, the Town can require existing garage parking to be replaced pursuant to Section 10-3.504.

10-6.405 Application of Fire or Life Protection Regulations. For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. The Town may apply requirements relating to fire and life protection within a single-family residence that contains a junior accessory dwelling unit that apply uniformly to all single-family residences within the zone, regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

Article 4. - Administration and Enforcement.

10-6.401 - Administration.

Any person proposing to create or construct an accessory dwelling unit or junior accessory dwelling unit that complies with Sections 10-6.201 through 10-6.206 and 10-6.208, 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 act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the Town receives a complete application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the Town may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the Town acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

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

10-6.402 - 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 for accessory dwelling units that comply with this chapter at the request of a property owner.

10-6.403 Requirements for Actions to Eliminate ADU Entrance or Permanent Provisions for Eating, Cooking, and Sanitation.

It is the Town's intent to preserve accessory dwelling units and discourage the conversion of accessory dwelling units for the use of the primary dwelling. To this end, the following are requirements that apply when taking actions that remove elements of an accessory dwelling unit.

- (a) A building permit shall be required to remove the separate entrance or permanent provisions for eating, cooking, and sanitation in an accessory dwelling unit.
- (b) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created by converting or

demolishing a garage, carport, or covered parking structure in conjunction with the construction of an accessory dwelling unit unless either: 1) the project includes restoring the garage for vehicle parking prior to the first inspection on the permit; or 2) 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.

- (c) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created with an exception to lot coverage and/or floor area ratio unless the project removes the additional lot coverage and/or floor area granted for the accessory dwelling unit prior to issuance of the permit or a variance is approved.
- (d) No building permit shall be issued to remove permanent provisions for eating, cooking, and sanitation or the separate entrance for an accessory dwelling unit created with side or rear yard setbacks that are less than required under the development standards Table 4A unless the project includes removing the area for the accessory dwelling unit where the setback or a variance was approved.

Article 20 Objective Design Standards for Residential Development.

10-20.020 Applicability. The provisions of this Article apply to all residential projects.

10-20.030 Objective Residential Design Standards.

- (a) For new construction within 4 feet of a side property line or 4 feet of a rear property line, 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.
- (b) Any tree 22 inches in diameter at breast height or larger removed for construction of a residential unit shall be replaced on-site with a 48" box tree.
- (c) An exception to this section may be permitted subject to approval of a conditional use permit in accordance with Article 13 of this Title.