

TOWN OF SAN ANSELMO

ORDINANCE NO. 988

AN ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING
TITLE 1, CHAPTER 4 AND TITLE 10, CHAPTER 1,
SECTION 10-1.05 OF THE SAN ANSELMO MUNICIPAL CODE
RELATING TO ADMINISTRATIVE APPEALS AND OFFICIAL REVIEWS

The Town Council of the Town of San Anselmo does hereby
ordain as follows:

Section 1

Chapter 4 of Title 1 is hereby replaced and revised to read
as follows:

**CHAPTER 4 APPEALS AND OFFICIAL REVIEWS OF ADMINISTRATIVE
DECISIONS**

**Sec. 1-4.01 Right Of Appeal And Review Of Administrative
Decisions**

Except as otherwise specifically provided in this Code or in
State law, any person taking exception to any administrative
determination or interpretation made by an official of the Town
pursuant to any of the provisions of this Code or State law, may
appeal said decision by filing with the town clerk a written
appeal, setting forth the specific grounds thereof.

Any administrative determination or interpretation made by
an official may be called up for planning commission review by
any member of the planning commission, if the subject of the
determination or interpretation is within the jurisdiction of the
planning commission, or by any member of the town council in any
case.

**Sec. 1-4.02 Time Within Which An Appeal Or Review Must
Be Filed**

A written appeal shall be filed with the Town Clerk within
ten (10) calendar days after receipt of written notice of the
administrative decision which is being appealed.

Any notice of review shall be in writing and filed with the
Town Clerk within ten (10) calendar days of the notice of the
decision to be reviewed. The notice of review shall only state
that the planning commissioner, in the case of a review to the
planning commission, or the town councilmember, in the case of a
review to the town council, believes the administrative determi-
nation or interpretation should be reviewed. No fee shall be
required in filing a notice of review.

Once an appeal or a notice of review has been timely filed, withdrawal of the appeal or the notice of the review by the appellant or official filing the notice of review shall not divest the planning commission nor the town council, as the case may be, of jurisdiction to consider and act upon the appeal or the notice of review if the planning commission or the town council determines that the public interest would be best served in hearing the matter.

Sec. 1-4.03 Hearing; Notice

Upon receipt of an appeal or a notice of review, the town clerk shall endeavor to set the matter for hearing not later than thirty (30) calendar days after the appeal or notice of review has been filed, before the planning commission, if the subject matter of the determination or interpretation is within the jurisdiction of the planning commission, or if the notice of review was filed by a planning commissioner. The town clerk shall set the matter before the town council within the same thirty (30) day time limit, if the appeal should go directly to the town council or if the notice of review was filed by a member of the town council. The town clerk shall give at least ten (10) calendar days notice of the hearing.

The thirty (30) day time limit referred to above is directory and shall become mandatory only when State law governing a specific type of action so requires.

In the case of an appeal, the appellant shall show cause, based on the grounds specified in the appeal, why the administrative determination or interpretation being appealed from should not be sustained.

The planning commission or town council hearing, as the case may be, may be continued from time to time. At the conclusion of the hearing the findings made on the appeal or on the notice of review shall be final unless the matter was initially set before the planning commission and is appealed to the town council as provided in Sec. 10-1.05.

Section 2

Sec. 10-1.05 is hereby replaced and revised to read as follows:

Sec. 10-1.05 Appeals And Reviews Of Planning Commission Decisions

With respect to appeals, provisions of this section shall prevail over any other conflicting sections of this Code which relate to processing of appeals under Title 10.

(a) *Intent*

Any action of the planning commission may be appealed to the town council by any person. Any member of the town council may call up any decision of the planning commission for review by the town council by employing the procedures described in this section.

(b) *Filing, Form And Fee*

i. Any appeal permitted under this section shall be filed with the town clerk within ten (10) calendar days of the date of the decision of the planning commission.

ii. A notice of appeal shall specifically state the reasons upon which the appeal is based, including but not limited to:

(1) Whether the determination, decision or interpretation is in accordance with Title 10;

(2) Whether the determination, decision or interpretation is in error or constituted an abuse of discretion;

(3) Whether the determination, decision or interpretation was not supported by the record or the facts presented to the decision makers;

iii. The appeal shall be accompanied by the required fee as set by town council resolution.

iv. A notice of review shall be in writing and filed with the Town Clerk within ten (10) calendar days of the date of the decision of the planning commission. The notice of review shall state only that the town councilmember filing a notice of review believes the planning commission determination should be reviewed by the town council. No fees shall be required in filing a notice of review.

(c) Once an appeal or a notice of review has been timely filed, withdrawal of the appeal or the notice of review by the appellant or the town

councilmember filing the notice of review, shall not divest the town council of jurisdiction to consider and act upon the appeal or the notice of review if the town council determines that the public interest is best served in hearing the matter.

- (d) Completeness of an application for an appeal. The planning director shall review the application of an appeal for completeness. If the application is found not to be complete, the planning director shall notify the appellant within five (5) days after the application of the additional information needed to make the application complete. The applicant shall have ten (10) calendar days from the service of said notice to provide additional information on the appeal. At the end of the ten (10) calendar days, all information provided by the applicant regardless of completeness shall be forwarded to the town council for consideration at the hearing. The gathering of additional information can occur concurrently with setting and noticing the hearing.
- (e) Stay of planning commission action. The filing of an appeal or notice of review shall automatically stay the subject planning commission action until the appeal or review has been determined.
- (f) In all cases, the town clerk shall endeavor to set the hearing date of an appeal or notice of review not later than thirty (30) calendar days after the appeal or notice of review has been filed. With respect to an appeal, the town clerk shall consult with the planning director regarding the completeness of the application and shall set a date which will allow the applicant the appropriate time to provide additional information on the appeal.

The directory time limit referred to above shall become mandatory only when State law associated with a specific type of action so requires.

- (g) Noticing. With respect to an appeal, the planning department shall notice the appeal according to the applicable sections of all State and local laws, rules and regulations. With respect to a notice of review, the planning department shall give at least ten (10) calendar days notice of the hearing.

- (h) Resolution. Upon conclusion of the hearing whether of an appeal or by virtue of a notice of review, including any continued hearing, the town council shall determine the appeal or the review based upon the testimony and documents produced before it and any site visits. The town council may sustain, modify, reject, or overrule any recommendations or rulings of the planning commission and may make such findings and determinations as are consistent with State law, this Code and other applicable rules and regulations.

This Ordinance was introduced at a regular meeting of the Town Council on the 23rd day of September, 1997 and adopted thereafter at the regular meeting of the Town Council on October 14, 1997 by the following vote:

Councilmembers:

AYES: Breen, Chignell, Overberger, Kroot

NOES: (None)


ABSTAIN: (None)

ABSENT: Hodgens



Mayor, Town of San Anselmo

ATTEST:



Town Clerk