

**TOWN OF SAN ANSELMO ORDINANCE NO. 1101**  
**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO**  
**ADOPTING TITLE 10 CHAPTER 11 (DENSITY BONUS) OF THE SAN ANSELMO**  
**MUNICIPAL CODE**

WHEREAS, the State of California recognizes the importance of developing affordable housing in the state and has developed a Density Bonus Law (California Gov. Code §§ 65915 *et seq.*) to promote such development; and

WHEREAS, the State Density Bonus Law mandates that cities shall offer certain density bonuses, incentives, and concessions, in exchange for the development of qualifying projects, provided enumerated criteria are met; and

WHEREAS, the Town's 2007-2014 Housing Element Policy H3.6 states that the Town will use density bonuses and other incentives to help achieve housing goals; and

WHEREAS, the Town's 2007-2014 Housing Element Program H3.D directs the Town to adopt regulations consistent with state Density Bonus Law; and

WHEREAS, the adoption of a Density Bonus Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061.b.3 of the CEQA Guidelines because adoption of this zoning ordinance is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and this project does not have the potential for causing a significant effect on the environment; and

WHEREAS, adoption of Density Bonus Ordinance is consistent with the Town of San Anselmo's General Plan.

NOW THEREFORE, the Town Council of the Town of San Anselmo does hereby ordain as follows:

SECTION 1 Title 10, Chapter 11 (Density Bonus) of the Town of San Anselmo Municipal Code is adopted to read as follows:

**10-11.01 Title and Purpose.**

- A. Title. This Chapter shall be known as the "San Anselmo Density Bonus Ordinance".
- B. Purpose. The purpose of this chapter is to provide for density bonuses and incentives to developers who comply with California Government Code Sections 65915 through 65918 (State Density Bonus Law) and to establish the standards and procedures for granting affordable housing density bonuses for housing developments, in an effort to promote the development of affordable units in the Town. This Chapter shall be

understood to be amended by operation of law in the event and to the extent the State Density Bonus Law is amended.

**10-11.020 Definitions.**

Unless otherwise specified in this chapter, the definitions found in State Density Bonus Law shall apply to the terms contained herein.

**10-11.030 Applicability.**

This chapter shall apply to all zoning districts that permit housing at a prescribed density by the General Plan Land Use Designation and/or zoning district. Where the density allowed under the zoning district is inconsistent with the density allowed under the Housing Element Land Use Designation, the Housing Element Land Use Designation density shall prevail.

**10-11.040 State Density Bonus and Incentives.**

A developer of a housing development in the Town may be permitted a density bonus and incentives in accordance with the provisions of California Government Code Sections 65915 through 65918 (State Density Bonus Law).

**10-11.050 Application Requirements and Review.**

- A. An application for a state density bonus, incentive or concession, waiver or modification of a development standard, or a revised parking standard, shall be submitted in writing with the first application for approval of a housing development and shall be processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the Town and the application shall include, at a minimum, the following information:
1. A site plan showing the total number and location of all proposed housing units and the number and location of proposed housing units which qualify the housing development for density bonus housing units;
  2. The manner in which the applicant shall satisfy the affordability requirements for the housing units that qualify the housing development for density bonus units;
  3. A description of any requested incentives and concessions, waivers or modification of development standards, or modified parking standards;
  4. For all incentives and concessions, except mixed use development, the application shall include evidence deemed sufficient by the Town that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. The Town may

require that an independent financial review be conducted at the expense of the applicant.

5. For waivers or modifications of development standards, the application shall include evidence deemed sufficient by the Town demonstrating all of the following the waiver or modification is necessary to make the housing units economically feasible and that the development standard from which a waiver or modification is requested will have the effect of precluding the construction of the housing development at the densities to which the applicant is entitled pursuant to this chapter.
  6. If a density bonus is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the conditions pursuant to Government Code Section 65915 (g)(2)(A through H) are met.
  7. If a density bonus or incentive or concession is requested for a child care facility pursuant to Government Code Section 65915 (h), the application shall show the location and square footage of the child care facility and provide evidence that the community lacks adequate child care facilities.
  8. A written acknowledgement that the project will be subject to a condition of approval and deed restriction to retain affordability of the affordable unit(s) for at least fifty five (55) years.
  9. Payment of fees set forth in a resolution adopted by the Town Council.
  10. If the density bonus is requested for a proposed housing development that would result in the removal or conversion of existing rental dwelling units, or if the property upon which the housing development is proposed has within the past five (5) years been occupied by rental dwelling units, the application shall include the following:
    - (a) A description of the housing units removed, converted, proposed to be removed or proposed to be converted;
    - (b) The income levels of the persons occupying each unit removed, converted, proposed to be removed or proposed to be converted;
    - (c) The rental rates charged for the immediately preceding five (5) years for each unit removed, converted, proposed to be removed or proposed to be converted.
- B. Review and Consideration. An application for a density bonus, incentive or concession, waiver or modification of a development standard, or revised parking standard shall be considered and acted upon by the Planning Director or Planning Commission based on its review authority for the housing development.
- C. Approval. Before approving an application for a density bonus, incentive or concession, or waiver or modification of a development standard, the Planning Director or Planning Commission shall make the following findings:

1. If the density bonus is based all or in part on a donation of land, the conditions of Government Code Section 65915 (g)(2)(A through H) are met.
2. If the density bonus, incentive or concession is based all or in part on the inclusion of a child care facility, that the conditions included in Government Code Section 65915 (h)(2)(A) and (B) are met.
3. If the incentive or concession includes mixed use development, the findings included in Government Code Section 65915 (k)(2) are met.
4. If a waiver or modification of a development standard is requested, the developer has demonstrated, for each requested waiver or modification, that the waiver or modification is necessary to make the housing units economically feasible and that the development standards from which a waiver or modification is requested will have the effect of precluding the construction of a housing development at the densities to which the applicant is entitled pursuant to this chapter or with the concessions and incentives permitted by this chapter.

D. The Planning Director or Planning Commission may deny a concession or incentive if it makes a written finding based upon substantial evidence of either of the following:

1. The concession or incentive is not required to provide for affordable rents or affordable housing costs as required by this chapter.
2. The concession or incentive would have a specific adverse impact upon public health or safety or the physical environment or on any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to lower, very low or moderate income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

E. The Planning Director or Planning Commission may deny a waiver or modification of a development standard only if it makes a written finding based upon substantial evidence of either of the following:

1. The waiver or modification would have a specific adverse impact upon health, safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to lower, very low or moderate income households. For purposes of this subsection, "specific adverse impact" means a significant, quantifiable, direct and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application was deemed complete.

2. The waiver or modification would have an adverse impact on any real property listed in the California Register of Historical Resources.
- F. If a density bonus or concession or incentive is based on the provision of child care facilities, the Planning Director or Planning Commission may deny the density bonus or concession or incentive if it finds, based on substantial evidence, that the Town already has adequate child care facilities.

Section 2. The adoption of this ordinance is exempt from the application of the California Environmental Quality Act (CEQA), Public Resources Code section 21000, *et seq.*, in accordance with Section 15061.b.3 of the CEQA Guidelines; and

Section 3. If any section or portion of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. This Ordinance shall be published once within fifteen (15) days after its passage and adoption in a newspaper of general circulation in the Town of San Anselmo.

Section 5. This Ordinance shall be in full force and effect thirty (30) days after the date of its adoption.

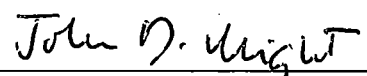
THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on the 9th day of December, 2014, and was adopted at a regular meeting on the 13th day of January, 2015 by the following vote:

AYES: Councilmembers: Coleman, Greene, Kelly, McInerney, Wright  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:

  
Joanne Kessel

For Barbara Chambers, Town Clerk

  
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John D. Wright, Mayor