

ORDINANCE NO. 1158

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO RE-ADOPTING ORDINANCE 1133, AS PARTIALLY AMENDED BY ORDINANCE 1150, TO AMEND TITLE 10 (PLANNING AND ZONING) CHAPTER 3 (ZONING) ARTICLE 4 (DEVELOPMENT STANDARDS) SECTIONS 10-3.411, 10-3.412, TABLE 4E, AND ARTICLE 15 (DESIGN REVIEW) SECTIONS 10-3.1504, 10-3.1505, AND ADDING NEW SECTION 10-3.1506, AND ARTICLE 16 (NOTICING: PUBLIC HEARINGS: ZONING APPLICATIONS) SECTIONS 10-3.1601 AND 10-3.1603 TO CLARIFY DESIGN REVIEW AND NOTICING REQUIREMENTS AND REQUIRE DESIGN REVIEW FOR ALL NEW SECOND AND THIRD STORY ADDITIONS

WHEREAS, second and third story additions can create major impacts on adjacent neighbors if not designed appropriately; and

WHEREAS, requiring design review for all new second and third story additions will promote better design of such additions, make the design review process more transparent to neighbors, and allows neighbors opportunity to comment on designs that may impact their property and the opportunity to request modifications to limit the impacts; and

WHEREAS, the Town has historically allowed certain design review applications to be considered administratively and without a public hearing and the Town seeks to clarify this historic practice and make other minor amendments to the existing zoning regulations to reflect historical staff interpretations; and

WHEREAS, on April 2, 2018, the San Anselmo Planning Commission conducted a public hearing and recommended that the Town Council require design review for all new second and third-story additions; and

WHEREAS, on September 17, 2018, the Planning Commission conducted a public hearing on the proposed Zoning Ordinance amendments, at which it considered all staff reports, attachments, and testimony and requested modifications to the proposed ordinance; and

WHEREAS, on December 3, 2018, the Planning Commission conducted a public hearing on the proposed Zoning Ordinance amendments, at which it considered all staff reports, attachments, and testimony and found the proposed ordinance consistent with the General Plan and recommended that the Town Council adopt the proposed ordinance; and

WHEREAS, on August 2, 2021, notice of the August 16, 2021, Planning Commission hearing, September 14, 2021, Town Council hearing and September 28, 2021, Town Council meeting was published in the *Marin Independent Journal*; and

WHEREAS, on August 16, 2021, the Planning Commission conducted a public hearing on the proposed Zoning Ordinance amendments, at which it considered all staff reports, attachments, and 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 conducted a public hearing on the proposed Zoning Ordinance amendments on September 14, 2021, at which it considered all staff reports, attachments, and testimony and 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

WHEREAS, the Planning Commission held a public hearing to discuss design review for paint color changes on Commercial sites on October 4, 2021, and recommended that the Town continue to require design review for paint color changes on Commercial district sites; and

WHEREAS, on October 22, 2021, notice of the October 26, 2021, Town Council hearing was published in the *Marin Independent Journal*, a newspaper of general circulation in the Town; and

WHEREAS, the Town Council conducted a public hearing on the proposed Zoning Ordinance amendments on October 26, 2021, at which it considered all staff reports, attachments, and testimony and 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 has determined that the ordinance is exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA). CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that adoption of this ordinance, which does not change the development potential for any property, has no possibility of having a significant effect on the environment. (14 Cal. Code Regs. § 15061(b)(3)).

SECTION 2. Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 4 (Development Standards) Section 10-3.411 (Table of Maximum Sizes of Dwellings on Residential Properties Located Above 150 Mean Sea Level Elevation), Table 4E is amended to delete Note (4) and replace it with the following text. The remainder of Table 4E remains unchanged.

(4) Dwellings built, enlarged, or expanded before February 26, 1991, which do not exceed the Maximum Adjusted Floor Area, may exceed this number by not more than 10% subject to Design Review approval under Article 15 of this chapter.

Dwellings built, enlarged, or expanded before February 26, 1991, which exceed the Maximum Adjusted Floor Area, may exceed this number by not more than 500 square feet subject to Design Review approval under Article 15 of this chapter.

SECTION 3. 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 amended to delete subsections d and e and replace them with the following new subsections d and e:

- d. **Maximum Adjusted Floor Area and Maximum Adjusted Lot Coverage.** Table 4F provides the maximum Adjusted Floor Area and maximum Adjusted Lot Coverage of structures and improvements on lots in the R-1 zoning district located below one hundred fifty (150) feet Mean Sea Level (flatland).
- e. **Maximum Adjusted Floor Area Exception.** The maximum Adjusted Floor Area may be exceeded on a lot by up to 325 square feet subject to Design Review approval pursuant to Article 15 of this chapter.

SECTION 4. Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 15 (Design Review), Sections 10-3.1504 (Review of design review) and 10-3.1505 (Projects subject to design review and required findings for design review) are deleted and replaced with the following Sections 10-3.1504, 10-3.1505 and new section 10-1506:

10-3.1504 - Review of design review.

Design review may be acted upon either by (1) the Planning Director administratively; or (2) after the Town Planning Commission conducts one or more public meetings on the design review.

The following identifies which design review applications shall be acted upon by the Planning Director and which design review applications shall be acted upon by the Planning Commission:

- (a) The Planning Director may approve the following applications:
 - (1) Any minor modifications to existing buildings, structures or improvements such as awnings, canopies, windows, doors, color changes, or other similar modifications.
 - (2) All additions in residential zoning districts, subject to such review by the Planning Commission as may be required by another section of this Code.

The Planning Director shall refer any of the above to the Planning Commission if, in the opinion of the Planning Director, review by the Commission is desirable.

Should a property require more than one planning application, and should any of those applications require Planning Commission review, then all planning applications associated with the property shall require Planning Commission review.

- (b) The Planning Commission shall review the following applications:
 - (1) All exterior improvements to be constructed in the Town, except for those listed in subsection (a) of this section.
 - (2) All exterior improvements to be constructed by public school districts and other governmental agencies to the extent permitted by law or by the agencies involved. Following such

review, the Commission shall submit a written report of its recommendations and comments to the body proposing to construct the improvement.

- (3) All exterior improvements to be constructed by the Town that have been referred to them pursuant to Section 10-3.1502. A report and recommendations as to those improvements to be constructed by the Town shall be advisory only.
- (4) Any request to exceed the maximum adjusted floor area under Section 10-3.412(e) or Table 4E.

Additions or repairs to any existing improvement shall not be subject to design review if the exterior thereof is not to be altered.

10-3.1505 - Projects subject to design review

The following projects are subject to design review.

- (a) Commercial, Professional, and Residential R-3 (four (4) or more units, churches, and convalescent homes):
 - (1) All new buildings; and
 - (2) All exterior modifications including changes to exterior paint colors and exterior finishes and new or replacement mechanical equipment.
- (b) Residential R-1-H: All exterior modifications including changes to exterior paint colors and exterior finishes but excluding new or replacement mechanical equipment located in compliance with required setbacks and within building envelope and that meet all applicable requirements of the Town Noise ordinance.
- (c) Residential R-1-C and R-1 lots that include any area at or above one hundred fifty (150) feet Mean Sea Level (hillside):
 - (1) New dwellings;
 - (2) Any second story or higher additions; and
 - (3) Any additions (which include deck and stairway structures, except those located on the uphill side of the dwelling) greater than five hundred (500) square feet in size. For purposes of determining additions, pre-existing development that will be replaced in kind, will not be counted toward the five hundred (500) square feet, where such replacement involves no material change in visual effect due to identical size and identical or similar materials, design, and colors. Additions constructed after February 26, 1991, will be looked at cumulatively, henceforth, so that when the five hundred (500)

square foot limit is triggered by the sum of all additions, design review will be required.

- (4) Any request to exceed the maximum dwelling size in Table 4E.
- (d) Residential R-1, R-2, and R-3 (three (3) or fewer units) lots below one hundred fifty (150) feet Mean Sea Level (flatland):
 - (1) New dwellings;
 - (2) Any second story or higher additions;
 - (3) Any request to exceed the maximum adjusted floor area under Section 10-3.412(e);
 - (4) Additions where the new construction will increase existing Adjusted Floor Area by fifty (50%) percent or more; and
 - (5) Additions in conjunction with the demolition of fifty percent (50%) or more of the existing exterior walls of a dwelling structure above the foundation. The Planning Director may develop written guidelines for what is included in exterior wall demolition, which shall be measured in square feet and shall include the square feet of windows and doors that are removed.

For purposes of making the above determinations, pre-existing development that will be replaced in kind shall not be counted where such replacement involves no material change in visual effect due to identical size and identical or similar design. Additions include decks, roof decks, and stairway structures. Demolition and a fifty (50%) percent building increase performed after March 24, 2009, will be looked at cumulatively, henceforth, so that when the limit is triggered by the sum of all the work performed, design review will be required.

- (e) Residential R-1 and R-2 design review for additions to existing dwellings and accessory structures originally and legally built less than eight (8) feet but not less than five (5) feet from the interior side property line.
- (f) All parking spaces created in required setbacks in association with conversion of a garage to an accessory dwelling unit pursuant to Section 10-3.504(b).
- (g) Any project subject to design review in the Minor Intrusions Into Required Residential Development Standards Table 4B.
- (h) All development within a Specific Planned Development District.

10-3.1506 - Required findings for design review.

Approval of design review, which may include the imposition of conditions, shall be made only after making the following findings. In making these findings, the

Planning Director or Planning Commission shall consider the size, proportions, use, type, and quality of materials; architectural features and ornamentation; night lighting; color application; signs; site placement of all features; existing and proposed landscaping and topography; existing and proposed open spaces and paved areas; screening devices; and other matters and elements deemed to be pertinent to the criteria set forth in this section. These findings are not intended to preclude innovative design.

- (a) Commercial, Professional, and Residential R-3 (four (4) or more units, churches, convalescent homes).
 - (1) Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area;
 - (2) Provides for protection against noise, odors, and other factors which may make the environment less desirable;
 - (3) Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or orderly development in such area;
 - (4) Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel;
 - (5) Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area; and
 - (6) Is consistent with the Town General Plan.
- (b) Residential R-1, R-2, and R-3 (three (3) or fewer units) sites below one hundred fifty (150) feet Mean Sea Level (flatland):
 - (1) Conformance to findings in Section 10-3.1506(a);
 - (2) Will not unreasonably impair access to light and air of structures on neighboring properties;
 - (3) Will not unreasonably affect the privacy of neighboring properties including not unreasonably affecting such privacy by the placement of windows, skylights and decks;
 - (4) Will be of a bulk, mass and design that complements the existing character of the surrounding neighborhood; and
 - (5) Will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.
- (c) Residential R-1-H, R-1-C, and R-1 design review for lots that include any area at or above one hundred fifty (150) feet Mean Sea Level (hillside).

- (1) Conformance to the findings required by Section 10-3.1506(b);
- (2) Adequacy of screening; and
- (3) Selection of architectural features and colors that enable the structure to blend with its environment and which results in a low visual profile.

For R-1-C, R-1 and R-3 properties, the level of compliance shall be less stringent than that required for R-1-H properties if the Planning Commission, in making its review, is able to quantify the extent of any reduced adverse impact the application has on the Town, as a whole.

- (d) Request to exceed maximum dwelling size in Table 4E (residential lots that include any area at or above 150 Mean Sea Level):
 - (1) Conformance to findings in Section 10-3.1506 (c) above;
 - (2) Will not be materially visible offsite;
 - (3) Is of a scale, intensity, and design that integrates with the existing character of the surrounding neighborhood; and
 - (4) Internal efficiency and/or space utilization problems exist.
 - (5) Required conditions if approval is granted to exceed the maximum dwelling size guidelines based on existing landscaping:
 - (i) A landscape plan shall be submitted showing location, type and size of existing landscapes screening, and
 - (ii) Any existing landscape screening, which is part of an approved landscape plan, shall be maintained. If said landscaping is lost due to natural disaster, the owner shall replace it per the plan. If said landscaping is removed or neglected for any reason other than a natural disaster, the owner shall replace it per the plan and may be subject to either an infraction or a misdemeanor.
- (e) Residential R-1 and R-2 design review for additions to existing dwellings and accessory structures originally and legally built less than eight (8) feet but not less than five (5) feet from the interior side property line:
 - (1) Conformance to findings in Section 10-3.1506(b) above; and
 - (2) Is of a scale, intensity, and design that complements the existing character of the surrounding neighborhood.
- (f) Professional and commercial (one thousand two hundred (1,200) square feet or more of gross floor area):
 - (1) Conformance to findings in Section 10-3.1506(a); and
 - (2) That the project will not be detrimental to the existing facade(s) of buildings constructed prior to January 1, 1960.

- (g) All parking spaces created in required setbacks in association with conversion of a garage to an accessory dwelling unit pursuant to Section 10-3.504(b). Plans must be designed with sensitivity so that public views and neighbors are not impacted by the loss of landscaping and views of parked vehicles.
 - (1) Visual effects have been mitigated with screening and landscaping, including plants, trees, berms, fencing or walls; and
 - (2) Findings required by Section 10-3.1506(a).
 - (3) Required Conditions:
 - (i) A building permit shall be required to remove the kitchen, separate entrance, or bathroom of the accessory dwelling unit. No building permit shall be issued to remove the kitchen, separate entrance, or bathroom in the accessory dwelling unit unless either: 1) the project includes restoring the garage for vehicle parking; 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.
 - (ii) The accessory dwelling unit shall not be used for occupancy for less than a 30-day term of tenancy.
- (h) Maximum Adjusted Floor Area Exception for lots below 150 Mean Sea Level pursuant to Section 10-3.412:
 - (1) Conformance to findings in Section 10-3.1506(b);
 - (2) The dwelling and/or improvements were built prior to November 9, 2009;
 - (3) The site will not exceed an Adjusted Floor Area of 5,000 square feet; and
 - (4) Employs mass-reducing techniques such that the additional square footage over the maximum Adjusted Floor Area is reasonably mitigated and does not result in overbuilding of the lot.

SECTION 5. Title 10 "Planning and Zoning," Chapter 3 "Zoning," Article 16 "Noticing: Public Hearings: Zoning Applications", Section 10-3.1601 "Public Hearing" and 10-3.1602 "Notice of public hearings" is deleted and replaced with the following:

10-3.1601 - Public hearings.

A public hearing shall be conducted as prescribed by the California Government Code, as may be amended from time to time, for the following:

- (a) Zoning ordinance amendments;
- (b) Preliminary Planned Districts;
- (c) Specific Planned Districts;
- (d) R-1-H Precise Development Plans;
- (e) Tentative maps;
- (f) Variances;

Public hearings shall be conducted by the Planning Commission or the Town Council, as appropriate to the specific discretionary action.

Any Design Review, Conditional Use Permit, Demolition Permit or Variance application to be considered by the Planning Commission shall be considered at a noticed public meeting.

10-3.1602 - Notice of public hearings and meetings.

Notice of all public hearings and meetings shall be given in accordance with the California Government Code, and shall include at least one of the following:

- (a) Notice shall be mailed or delivered at least ten (10) days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
- (b) Notice shall be mailed or delivered at least ten (10) days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide these facilities and services may be significantly affected.
- (c) Notice shall be mailed or delivered at least ten (10) days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within three hundred feet of the real property that is the subject of the hearing, unless a greater distance is specified by adopted Town Council policy. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph is greater than 1,000, notice may be given by placing a display advertisement of at least one-eighth (1/8) page in one newspaper of general circulation within the Town at least ten (10) days prior to the hearing.
- (d) A notice shall be posted at least ten (10) days prior to the public hearing in at least three (3) public places within the Town, including one public place in the area directly affected by the hearing.
- (e) The notice shall include, at a minimum, the date, time, and place of the public hearing, the identity of the hearing body or officer, a general explanation of the item to be considered, and a general description, in either text or diagram, of the location of the real

property, if any, which is the subject of the hearing.

SECTION 6. Title 10 (Planning and Zoning), Chapter 3 (Zoning), Article 16 (Noticing: Public Hearings: Zoning Applications), Section 10-3.1603 (Noticing of zoning applications that are acted upon by the Planning Director) is deleted and replaced with the following Section 10-3.1603:

10-3.1603 - Notice for Planning Director actions.

Public notice for the following actions by the Planning Director shall be provided as follows:

- (a) No public notice for any Exceptions for minor intrusions into required residential development standards in Table 4B;
- (b) No public notice for Design Review under Article 15 for minor modifications to existing buildings, structures or improvements such as awnings, canopies, windows, doors, color changes, or other similar modifications.
- (c) For all Minor Exceptions pursuant to Article 14.5, notice shall be mailed or delivered at least 10 days prior to the decision to the owner of any real property adjacent to the setback involved, as shown on the records of the Marin County Assessor or Tax Collector, unless the applicant submits written evidence of support for the application signed by the adjacent property owner(s).
- (d) For all other Planning Director Design Review decisions under Article 15, notice shall be provided at least ten (10) days prior to the decision in accordance with the California Government Code Section 65091. In addition, notice shall be mailed or delivered at least ten (10) days prior to the action to the Planning Commission.
- (e) For all Planning Director Conditional Use Permit decisions under Article 13, notice shall be provided at least ten (10) days prior to the decision in accordance with the California Government Code Section 65091, unless a greater distance is required by written Town Council policy. In addition, notice shall be mailed or delivered at least ten (10) days prior to the action to the Planning Commission.

SECTION 7. 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 8. Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in Sections 2 through 6 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 9. Effective Date. This Ordinance shall go into effect thirty (30) days from its adoption and shall be posted or published as required by State law. This ordinance shall apply to any building permit application received on or after its effective date except building permit applications for projects that have a valid discretionary planning approval issued prior to the effective date of the ordinance, in which case the project may be completed in compliance with the discretionary approval so long as a building permit is obtained prior to expiration of the approval.


THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on October 28, 2021, and was adopted at a regular meeting of the San Anselmo Town Council on November 9, 2021, by the following vote:

AYES: Colbert, Fineman, Burdo, Burke, Greene
NOES: None
ABSENT: None
ABSTAIN: None



Brian Colbert, Mayor

ATTEST


Carla Kacmar, Town Clerk