

ORDINANCE NO. 1176

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
AMENDING TITLE 10 TO AMEND CHAPTER 3 SECTION 10-3.607, NONCONFORMING
STRUCTURES AND IMPROVEMENTS, SECTION 10-4.206, NONCONFORMING
STRUCTURES AND EXCEPTIONS TO STANDARDS, AND SECTION 10-3.405, MINOR
INTRUSIONS INTO REQUIRED DEVELOPMENT STANDARDS FOR RESIDENTIAL
PROPERTIES TABLE 4B TO ALLOW THE REPAIR AND/OR REPLACEMENT OF
FOUNDATIONS FOR LEGAL NONCONFORMING RESIDENTIAL STRUCTURES**

WHEREAS, the Town Council desires to help facilitate, encourage, and provide an efficient ministerial streamlined review process for property owners to improve their residential structures to address any public health, safety, and/or welfare deficiencies related to the repair and/or replacement of foundations for properties with legal nonconforming setbacks; and

WHEREAS, Section 10-3.607 of the San Anselmo Municipal Code provides regulations and procedures for addressing existing uses and existing buildings and improvements which are not in conformance with provisions of this chapter as of the date of its adoption or amendment and allows a nonconforming structure to be improved or reconstructed "in-kind" provided there are no changes to the dimension, design, or location; and

WHEREAS, the "in-kind" repair or replacement of foundations necessary to comply with the Town's current Building and Fire Codes is difficult, or sometimes not possible, without changing the dimension, design, and materials of a foundation and related structural improvements and therefore would require a discretionary Variance; and

WHEREAS, the proposed Ordinance Amendment will ministerially allow the repair or replacement of the foundations for nonconforming residential properties without the need for a discretionary Variance, specifically allowing:

1. Properties with legal nonconforming setbacks located within a Special Flood Hazard Area to repair or replace the foundation of a residential structure as necessary to meet current Building/Fire Code, and allow the overall height of the structure to be correspondingly increased to the extent necessary to comply with the Town's Flood Management Ordinance and FEMA requirements; and

2. Properties with legal nonconforming setbacks to repair or replace the foundation of a residential structure necessary to meet current Building/Fire Code, and allow the overall height of the structure to be correspondingly increased to the extent necessary to accommodate the repaired or new foundation; and

WHEREAS, the adoption of the proposed Ordinance Amendment in the public interest and is

consistent with the Town's General Plan Objective No. 16 "to protect the community from danger to life and property caused by flooding" and General Plan Policy 16.2, which requires the Town "To only allow development within the 100-year floodplain which is consistent with the Town's adopted Protection of Flood Hazard Areas and Water Course Ordinance"; and

WHEREAS, the Ordinance Amendment is consistent with the San Anselmo Climate Action Plan 2030 policies A-1 (Preparation and Response to Local Hazards), E-5 (Streamlined Permit Process), and W-3 (Waste Reduction); and

WHEREAS, the Ordinance Amendment is consistent with the Marin County Multi-Jurisdictional Local Hazard Mitigation Plan policies MLT-3 (Adopt, amend as needed, and enforce updated versions of state and federal regulations for Building and Fire Codes so that optimal standards are used in construction and renovation projects of public and private buildings and infrastructure), FLD-1 (Maintain participation in the National Flood Insurance Program and manage beyond minimum requirements as appropriate for local conditions. Consider improving Community Rating System (CRS) score if benefit exceeds cost for a given jurisdiction), and FLD-2 (Incorporate flood Planning and planning into local permitting and planning); and

WHEREAS, the Ordinance Amendment will allow and encourage property owners who own property in Special Flood Hazard Areas as defined by the Federal Emergency Management Agency to be able to comply with the Town's Community Rating System; a voluntary program that encourages and rewards communities for going beyond the minimum requirements of the FEMA's National Flood Insurance Program; and

WHEREAS, Section 10-3.607 of the San Anselmo Municipal Code provides regulations and procedures for addressing existing uses and existing buildings and improvements which are not in conformance with provisions of this chapter as of the date of its adoption or amendment and allows a nonconforming structure to be improved or reconstructed "in-kind" provided there are no changes to the dimension, design, or location; and

WHEREAS, on March 6, 2023, the Planning Commission conducted a duly noticed public hearing for the Ordinance Amendment and voted to recommend Town Council approval; and

WHEREAS, public notice of the Town Council hearing to consider the Ordinance Amendment was published in the Marin Independent Journal on March 31, 2023; and

WHEREAS, the Town Council held a public hearing on April 11, 2023, to consider the Planning Commission recommendation and introduce the draft Ordinance.

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

SECTION 1: California Environmental Quality Act. The Town Council finds and determines that the adoption of this Ordinance Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guideline section 15301 involving the minor alteration of existing residences involving negligible or no expansion of use beyond that already in existence; and CEQA Guideline section 15601(b)(3) because it can be seen with certainty that there is no possibility that the adoption of the Ordinance Amendment may have a significant effect on the environment.

SECTION 2: The above recitals are true and correct and incorporated as findings herein.

SECTION 3: Section 10-3.607(f)(1), Nonconforming uses and improvements, is hereby amended to read as follows:

- (1) Any nonconforming building or improvement may be maintained, repaired, enlarged, extended, or structurally altered provided the enlargement or alteration complies with the use, setback, height, lot coverage and other site development requirements of the zone in which the structure is located, as well as other development regulations applicable to the area in which the structure is located and/or a permitted exemption listed in Section 10-3.405 Table 4B.

SECTION 4: Section 10-4.206, Nonconforming Structures and Exceptions to standards, is hereby amended to add subsection (c) to read as follows:

- (c) The Town may permit exceptions as permitted in Section 10-3.405 Table 4B.

SECTION 5: Section 10-3.405, Minor Intrusions into Required Development Standards for Residential Properties Table, Table 4B, is hereby amended to add a new provision to address Foundation Repair and Replacement and read as follows:

Foundation Repair and Replacement					
	Front	Rear	Interior Side	Street Side	Review Required
1. Properties with legal nonconforming setbacks and located within a Special Flood Hazard Area as designated by the Federal Emergency Management Agency (FEMA) are permitted to repair or replace the foundation of a residential structure as necessary to meet current Building and/or Fire Codes. The property may be raised, and the overall height may be increased to the extent necessary to comply with Title 7, Chapter 11, Protection of Flood Hazard Areas of the San Anselmo Municipal Code and FEMA regulations, as amended from time to time.	No Change to Existing Setback	No Change to Existing Setback	No Change to Existing Setback	No Change to Existing Setback	<u>E</u>
2. Properties with legal nonconforming setbacks are permitted to repair or replace the foundation of a residential structure as necessary to meet current Building and/or Fire Codes. The property may be raised, and the overall height may be increased to the extent necessary to accommodate the repaired or new foundation.	No Change to Existing Setback	No Change to Existing Setback	No Change to Existing Setback	No Change to Existing Setback	<u>E</u>

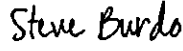
SECTION 6: Severability: To the extent allowed under State law, the Town Council hereby declares every section, paragraph, sentence, clause and phrase is severable. To the extent allowed under State law, if any section, paragraph, sentence, clause or phrase of this Ordinance is for any reason found to 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 7: Inclusion in the San Anselmo Municipal Code. It is the intention of the San Anselmo Town Council that the text in this Ordinance be made a part of the San Anselmo Municipal Code and that the text may be renumbered or re-lettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.


SECTION 8: Effective Date. This Ordinance Amendment shall go into effect thirty (30) days from its adoption. Prior to the expiration of fifteen (15) days of adoption, this Ordinance Amendment or a summary thereof pursuant to Government Code section 36933, shall be published at least once in a newspaper of general circulation, along with the names of the members of the Town Council voting for and against its adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on April 11, 2023, and was adopted at a regular meeting of the San Anselmo Town Council on April 25, 2023 by the following vote:

AYES:	Councilmember:	Kullaway, Fineman, Colbert, Burke, Mayor Burdo
NOES:	Councilmember:	None
ABSENT:	Councilmember:	None
ABSTAIN:	Councilmember:	None

DocuSigned by:

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STEVE BURDO
MAYOR

ATTEST:
DocuSigned by:

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SERGE AVILA
TOWN CLERK