

TOWN OF SAN ANSELMO

ORDINANCE NO. 706

AN ORDINANCE AMENDING THE SAN ANSELMO MUNICIPAL CODE TO PROVIDE  
FOR THE ESTABLISHMENT AND REGULATION OF RESIDENTIAL SECOND UNITS

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

Title 10 of the San Anselmo Municipal Code is hereby amended to add Subsection (h) to Section 10-3.503 to read as follows:

(h) The establishment and/or renting of a residential second unit as provided in Chapter 6 of this Title.

Title 10 of the San Anselmo Municipal Code is further amended to add Chapter 6 entitled "Residential Second Units: Regulations; Rent Guarantees," to read as follows:

Article 1. Purpose; Definitions

Section 10-6.101 Findings.

Residential second units have long been a part of San Anselmo's housing stock. Many served as the original dwellings of people who later built larger homes. Some served as summer cottages, and some were built to ease the critical housing shortage during World War II. Still other second units were built to house family members or servants. Many residential second units came into being without benefit of building permits or acceptance by town officials. Continued uncontrolled development of second units will conflict with the density and environmental quality goals of the General Plan. Since over-development will downgrade the aesthetic quality of the town, strong but reasonable policy criteria need to be established. These criteria, subject to careful administration, will permit a limited number of second units as a means of preserving a stable heterogeneous community with a balanced social and economic mix. Preserving San Anselmo's social balance through second units is less damaging to the community than other methods such as the building of apartment houses or housing projects. In addition, a critical shortage of low and moderate income housing exists in the Town excluding lower income persons, and therefore it is necessary to impose reasonable rent guarantees so long as this shortage continues.

Rent guarantees to be imposed as aforesaid implement Section 65302 of the Government Code of the State of California which requires the adoption of a housing element by the Town pursuant to regulations established under Health & Safety Code Section 37401 consisting of standards and plans for the provisions for housing, including adequate provisions for the housing needs of all economic segments of the community.

Section 10-6.102 Definition.

The term "residential second unit" for the purposes of this chapter shall mean a duplex or multi-family use within a single-family residential district. (The uses permitted in Section 10-3.503(g) are not within the meaning of this Chapter). The criterion for defining a second unit shall be the existence of separate cooking facilities, not merely the addition of bathrooms or bedrooms to single-family units. A residential second unit may be established by:

- (1) Revision of a single-family unit whereby cooking facilities are not shared in common;
- (2) Conversion of an attic, basement, garage or other previously uninhabited portion of a single-family unit;
- (3) Addition of a separate unit onto the existing single-family unit;
- (4) Creation of a separate structure on the lot or parcel in addition to the existing single-family unit.

Article 2. Registration of Existing Legal Residential Second Units.

Section 10-6.201 Registration.

Within one hundred eighty (180) days of the effective date of this chapter, the owner of each existing residential second unit which was constructed in conformity with law (including residential second units which have become legally non-conforming by reason of later enactment of zoning ordinances, rules or regulations) shall register said unit with the Planning Department. No fee shall be required for registration.

Section 10-6.202 Application for Registration.

The application for registration shall be made by the owner in writing and shall contain the following:

1. The name of the owner or owners.
2. The address of the unit.
3. The assessor's parcel number.
4. The floor space of the unit.
5. The dimensions of the lot.
6. By attachment, evidence of the date of the establishment of the unit.
7. By attachment, evidence of continuity of use as a second unit.
8. Signature under penalty of perjury.

Section 10-6.203 Issuance of Certificate of Registration.

Upon filing of an application in proper form, following such investigation and inspection as the Planning Director deems necessary, and following

correction of any hazards to life revealed by such inspection, a Certificate of Registration shall be issued by the Planning Director.

Section 10-6.204 Duration of Certificate of Registration.

The Certificate of Registration shall be of unlimited duration, subject however to the provisions of Title 10, Chapter 3, Article 23.

Section 10-6.205 Registration Period

No application for registration shall be allowed after the initial one hundred eighty (180) days. However, any person who would otherwise qualify under this Article may thereafter apply for a use permit under Article 3 of this Chapter; such an application (or subsequent issuance of a use permit) shall not act as a bar to any legal remedies of Town for a violation of any provisions of this Chapter.

Article 3. Use Permits for Legalizing All Other Existing Residential Second Units.

Section 10-6.301 Use Permits.

Within one hundred eighty (180) days of the effective date of this Chapter, the owner of each existing residential second unit which was not constructed in conformity with law (and did not subsequently become a legal non-conforming use) shall apply to the Planning Commission for a use permit. Each application for a use permit shall be accompanied by payment of a fee as specified in Section 10-3.2002.

Section 10-6.302 Application for Use Permit.

The application for a use permit shall be made by the owner in writing and shall contain the following:

1. The name of the owner or owners.
2. The address of the unit.
3. The assessor's parcel number.
4. The floor space of the unit.
5. A scale drawing showing the lot dimensions, the location of the unit and the location of all vehicular parking.
6. By attachment, evidence of the date of establishment of the unit.
7. The consent of the applicant to physical inspection of the premises prior to issuance of the use permit, at the time of any change in tenancy, and at any other time upon reasonable notice.
8. A statement that the applicant will execute a rent guarantee contract with the Town as provided in Article 6.

9. Name and address of resident agent if any.

Section 10-6.303 Issuance of Use Permit; Findings Necessary.

Upon filing of an application in proper form, and following inspection and report of the Planning Director, the Planning Commission shall in accordance with procedures set forth in Sections 10-3.2003 and 10-3.2006 issue a use permit if all of the following findings with respect to the unit in question are made:

1. Falls within the maximum number of second residential units authorized by resolution of the Town Council for the single family residential use area in which the unit is located.

2. Is located on an Assessor's Parcel on which the owner of record maintains his principal residence, unless the owner by reason of age or incapacity is no longer able to reside on the premises. In such case, the owner shall in writing appoint a resident of the Town as his agent, authorized to act in his stead for all purposes under this Chapter.

3. Does not encroach upon required setbacks, or cover land in excess of the coverage specified in Section 10-3.504, or necessitate vehicular parking within required set-backs, unless a variance shall have been granted as provided in Article 21 of Chapter 3.

4. Meets all applicable Codes in effect at the time of the establishment of the unit.

5. Has been made the subject of a rent guarantee contract between applicant and Town pursuant to Article 6.

6. Does not cause excessive noise, traffic, parking or overload of public facilities.

7. Otherwise conforms to the affirmative findings required in Section 10-3.2004.

Section 10-6.304 Building Permit.

A building permit shall be required in conjunction with the issuance of a use permit under Section 10-6.303 only if repair or rehabilitation work is necessary under Section 10-6.303(4) above.

Section 10-6.305 Grace Period for Accommodation to Owner on Premises Requirement.

A use permit may be issued without the finding specified in Section 10-6.303(2), provided the use permit is conditioned upon the owner of record establishing and maintaining his principal residence on the Assessor's Parcel on which the unit is located within twelve (12) months of the issuance of the permit.

Section 10-6.306 Application Period.

No application for a use permit under this Article shall be allowed after the initial one hundred eighty (180) days. However, any person who would otherwise qualify under this Article may thereafter apply for a use permit under Article 4 of this Chapter; such an application (or subsequent issuance of a use permit) shall not act as a bar to any legal remedies of Town for a violation of any provisions of this Chapter.

Article 4. Use Permits for New Residential Units.

Section 10-6.401 Use Permits.

As of the effective date of this Chapter, a new residential second unit shall be permitted only if a use permit is first obtained.

Section 10-6.402 Application for Use Permit.

An application for a use permit for a new residential second unit may be made only by the owner of the property upon which the unit is proposed to be located. Each application shall be accompanied by payment of a fee as specified in Section 10-3.2002. The application shall be in writing and shall contain the information and requirements specified in Section 10-6.302, except subsection 6 thereof.

Section 10-6.403 Issuance of Use Permit: Findings Necessary.

Upon filing of an application in proper form, and following inspection and report of the Planning Director, the Planning Commission shall in accordance with procedures set forth in Sections 10-3.2003 and 10-3.2006 issue a use permit if all of the findings specified in Section 10-6.303 are made, as well as a finding that all current Codes are met.

Article 5. Other Conditions of Use Permits.

Section 10-6.501 Use Permits Personal to Applicant; Multiple Permits Prohibited.

Any use permit issued under Article 3 or Article 4 of this Chapter shall be personal to the applicant and shall not be transferable or assignable to any other person or legal entity whether or not such person or legal entity owns a contractual or property interest in the particular property. No more than one use permit under this Chapter may be held by any person or legal entity at any one time.

Section 10-6.502 Duration of Use Permits.

In addition to the provisions of Section 10-6.501, every use permit granted under Article 3 or Article 4 of this Chapter shall be for a period not to exceed five (5) years from date of issuance unless sooner revoked pursuant

to Section 10-3.2005. A use permit may be renewed by the Planning Commission for succeeding periods not to exceed five (5) years, subject to reinspection of the premises.

Article 6. Rent Guarantee Provisions

Section 10-6.601 Contract Required.

Prior to issuance of a use permit under Article 3 or Article 4 of this Chapter, the applicant shall have executed a contract with the Town under which the applicant is obligated to rent the unit at a rental rate within a scale established by resolution of the Town Council, and further obligated to rent only to persons whose incomes meet a low income definition established by resolution of the Town Council. The contract shall provide that the applicant shall furnish to the Planning Department:

1. Reasonable proof of the income level of the tenant or tenants.
2. Proof of actual rent paid.
3. Notification in advance of any change in tenancy.
4. Notification in advance of any proposed transfer or disposal of the unit or of the property upon which it is located.

Section 10-6.602 Grace Period for Accommodation to Income Definition.

In the case of a use permit issued pursuant to Article 3, if the unit is occupied at the time of issuance of the use permit by a tenant whose income exceeds the level specified in the income definition established by resolution of the Town Council, and if such tenant has occupied the unit for ninety (90) days or more, the rent guarantee agreement shall provide a grace period of twelve (12) months for replacement of such tenant by a tenant whose income level falls within the established definition.

Article 7 Enforcement.

Section 10-6.701 Violations; Nuisance.

Failure to comply with any provision of this Chapter shall constitute a violation of Section 1-2.01, and any condition permitted to exist in violation of this Chapter shall constitute a public nuisance which may be summarily abated.

Dated: June 8, 1976

Woodrow V. Capurro  
WOODROW V. CAPURRO, MAYOR

Caroline Foster  
CAROLINE FOSTER, TOWN CLERK

The foregoing ordinance was read and introduced at a regular meeting of the San Anselmo Town Council held on May 25, 1976, and was thereafter at a regular meeting of the Town Council held on June 8, 1976, duly passed and adopted by the following vote:

AYES: Councilmen Reed, Colteaux, Signorelli, Toal, Mayor Capurro

NOES: Councilmen None

ABSENT: Councilmen None

Caroline Foster  
CAROLINE FOSTER, TOWN CLERK