

TOWN OF SAN ANSELMO

Ordinance No. 872

AN ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING
TITLE 10 OF THE SAN ANSELMO MUNICIPAL CODE

THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES HEREBY
ORDAIN AS FOLLOWS:

SECTION 1: Section 10-3.1908(a)(4) of the San Anselmo
Municipal Code is amended to read as follows:

10-3.1908(a)(4) Such real property was under one
ownership at the time of the adoption of Ordinance
No. 190.

SECTION 2: Section 10-3.1908(b) is hereby repealed.

SECTION 3: Article 27 of Chapter 3 of Title 10 of the
San Anselmo Municipal Code is hereby added to read as follows:

ARTICLE 27 - MERGER OF PARCELS

- 10-3.2700 Purpose
- 10-3.2701 Definitions
- 10-3.2702 General
- 10-3.2703 Requirements for merger on or after January 1, 1984
- 10-3.2704 Effective date of merger
- 10-3.2705 Notice of intent to determine status
- 10-3.2706 Request for hearing
- 10-3.2707 Procedure for hearing
- 10-3.2708 Determination when no hearing is requested
- 10-3-2709 Non-merger
- 10-3.2710 Notice of non-merger.
- 10-3.2711 Parcels merged prior to January 1, 1984
- 10-3.2712 Criteria for unmerger
- 10-3.2713 Application and determination of unmerger
- 10-3.2714 Notification to owner

10-3.2700 Purpose. This chapter is enacted for the
purpose of amending the existing merger ordinance of the Town
of San Anselmo (previously Section 10-3.1908a(4) to bring it
into compliance with Section 66451.11 et seq. of the
California Government Code. The Town of San Anselmo had a
merger ordinance in existence prior to January 1, 1984.

10-3.2701 Definitions. When used in this chapter the
following terms shall have the following meanings:

(a) "Contiguous" means touching or adjoining at more than
one point. Property shall be considered contiguous even if it
is separated by roads, streets, utility easements or railroad
rights-of-way;

(b) "Merger" means the joining of two or more contiguous parcels or units of improved or unimproved land, which are held by the same owner or owners, into one building site pursuant to this title. Parcels or units may include land division or subdivision lots, assessor's tax parcels, or lots created by deed;

(c) "Minimum parcel size" means the minimum size to permit development under established zoning, subdivision or other Town codes. Minimum size includes lot area required by an applicable slope ordinance or policy;

(d) "Same Owner". Contiguous parcels or units of land are considered to be held by the same owner if one owner holds at least a fractional share in two or more contiguous parcels.

10-3.2702 General. Except as provided for in this chapter, two or more contiguous parcels or units of land shall not merge by virtue of the fact that such contiguous parcels are held by the same owner if they were created in one of the following manners:

(a) Pursuant to the provisions of the State Subdivision Map Act;

(b) Pursuant to San Anselmo Municipal Code, Title 10;

(c) Pursuant to any prior Town ordinance regulating the division of land; or

(d) Were not subject to such provisions at the time of their creation. If such creation has occurred, no further proceeding under the provisions of this title shall be required to permit sale, lease or financing of such contiguous parcels or units of land.

10-3.2703 Requirements for merger on or after January 1, 1984. When any one of two or more contiguous parcels or units of land, which are held by the same owner or owners, does not conform to the standards for minimum parcel size under the applicable zoning designation, the contiguous parcels shall merge if all the following requirements are satisfied:

(a) At least one of the affected parcels is undeveloped by any structure for which a building permit was issued or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit of land.

(b) With respect to any affected parcel, one or more of the following conditions exist:

(1) Comprises less than 5,000 square feet in area at the time of the determination of merger.

(2) Was not created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Does not meet current standards for sewage disposal and domestic water supply;

(4) Does not meet slope density standards.

(5) Has no legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Its development would create health or safety hazards.

(7) Is inconsistent with the General Plan other than minimum lot size or density standards.

For purposes of determining whether contiguous parcels are held by the same owner, ownership shall be determined as of the date that the Notice of Intent to Determine Status is recorded pursuant to Section 10-3.2705.

Subsection (b) shall not apply if on or before July 1, 1981, one or more of the contiguous parcels or units of land is enforceably restricted open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue & Taxation Code.

(c) For the purposes of determining slope density standards, contiguous parcels or units of land held by the same owner exceeding fifteen percent (15%) average natural slope shall be considered merged unless it is determined by the Public Works Director all affected parcels or units of land meet, or by lot line adjustment can meet, the following area and width requirements:

<u>Natural Ground (Slope Percent)</u>	<u>Minimum Area (Square Feet)</u>	<u>Minimum Average (Lot Width (Feet))</u>
15	7,500	60
16	8,000	72
17	8,500	74
18	9,000	76
19	9,500	78
20	10,000	80
21	10,500	82
22	11,000	84
23	11,500	86
24	12,000	88
25	12,500	90

Natural Ground (Slope Percent) (continued)	Minimum Area (Square Feet) (continued)	Minimum Average (Lot Width (Feet)) (continued)
26	13,000	92
27	13,500	94
28	14,000	96
29	14,500	98
30	15,000	100
31	15,500	
32	16,000	
33	16,500	
34	17,000	
35	17,500	
36	18,000	
37	18,500	
38	19,000	
39	19,500	
40	20,000	

The Public Works Director may require a topographical survey of the property if, in his opinion, such a survey is necessary to determine conformance with the area and width requirements set forth in this subsection.

The requirements of this subsection (c) shall not apply to any legally created division of land for which a map was recorded after January 1, 1961.

10-3.2704 Effective date of merger. A merger of parcels or units of land becomes effective on the date a Notice of Merger is filed for record with the recorder of the County of Marin. A Notice of Merger shall specify the names of the record owner or owners and shall particularly describe the real property that is the subject of the merger.

10-3.2705 Notice of intent to determine status. Prior to recording a Notice of Merger, the Public Works Director or Town Council shall cause to be mailed by certified mail to the then current record owner of the property a Notice of Intention to Determine Status, notifying the owner that the affected parcels may be merged pursuant to standards specified in Title 10 of the San Anselmo Municipal Code, advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice shall also inform the owner or owners that the Public Works Director or Town Council is authorized to make a determination of merger or non-merger in accordance with San Anselmo Municipal Code section 10-3.2708 in the event a request for hearing is not filed within 30 days pursuant to San Anselmo Municipal Code section 10-3.2706. The Notice of Intention to Determine Status shall be filed for record with the County Recorder of the County of Marin on the date that notice is mailed to the property owner.

10-3.2706 Request for hearing. At any time within 30 days after recording of the Notice of Intention to Determine Status, the owner of the affected property may file with the Public Works Director a request for a hearing on determination of status.

10-3.2707 Procedure for hearing. Upon receiving a request for a hearing on determination of status, the Director shall fix a time, date and place for a hearing to be conducted by the Town Council and shall so notify the property owner by certified mail. The hearing shall be conducted not less than 30 days following the Public Works Director's receipt of the property owner's request for hearing, but may be postponed or continued with the mutual consent of the Public Works Director and the property owner. At the hearing the property owner shall be given the opportunity to present any evidence that the affected property does not meet the standards for merger specified in Title 10 of the San Anselmo Municipal Code. At the conclusion of the hearing, the Town Council shall make a determination the affected parcels are to be merged or not to be merged and shall so notify the owner of its determination. A determination of merger shall be recorded within 30 days after conclusion of the hearing as provided for in Section 10-3.2705.

10-3.2708 Determination when no hearing is requested. If within the 30-day period specified in Section 10-3.2706 the owner does not file a request for hearing on determination of status, the Public Works Director may, at any time thereafter, make a determination the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided in Section 10-3.2704 no later than 90 days following the mailing of notice required by Section 10-3.2707.

10-3.2709 Non-merger. The Town Council or Public Works Director, as applicable, may make a determination of non-merger, whether or not the affected property meets the standards of Section 10-3.2703 provided the following findings are affirmatively made:

(a) The parcels were created by a parcel or final map in accordance with the San Anselmo Municipal Code in effect at the time of their creation.

(b) The non-merger and subsequent development of the individual parcels would not be contrary to the public health, safety or welfare.

10-3.2710 Notice of non-merger. If, in accordance with Sections 10-3.2707, 10-3.2708 or 10-3.2709 the Public Works Director or Town Council determines that the subject property shall not be merged, it shall cause to be recorded in the manner specified in Section 10-3.2704 a Release of the Notice

of Intention to Determine Status, recorded pursuant to Section 10-3.2705 and shall mail a clearance letter to the then current owner of record.

10-3.2711 Parcels merged prior to January 1, 1984. In the case of parcels or units of land merged prior to January 1, 1984, for which no Notice of Merger was recorded, the following procedure shall apply:

(a) The Public Works Director shall no later than January 1, 1986, record a Notice of Merger;

(b) At least 30 days prior to recording a Notice of Merger, the Public Works shall advise the owner of the affected parcels, in writing, of the intention to record the notice and specify a time, date and place at which the owner may present evidence to the Town Council why such notice should not be recorded;

(c) No Notice of Merger shall be recorded if the parcel would be deemed not to have merged pursuant to the criteria specified in Section 10-3.2712.

10-3.2712 Criteria for unmerger. Any parcel or unit of land for which a Notice of Merger had not been recorded on or before January 1, 1984, shall be deemed not to have merged if on January 1, 1984:

(a) The parcel meets each of the following criteria:

(1) Comprises at least 5,000 square feet in area.

(2) Was created in compliance with applicable laws and ordinances in effect at the time of its creation.

(3) Meets current standards for sewage disposal and domestic water supply.

(4) Meets the lot slope ^{ability} density standards.

(5) Has legal access which is adequate for vehicular and safety equipment access and maneuverability.

(6) Development of parcel would create no health or safety hazards.

(7) The parcel would be consistent with the General Plan or any applicable plan, other than a minimum lot size or density standards.

(b) And, with respect to such parcel, on or before July 1, 1981, one or more of the contiguous parcels or units of land is not enforceably restricted as open-space land pursuant to a contract, agreement, scenic restriction, or open-space easement, as defined and set forth in Section 421 of the Revenue & Taxation Code.

10-3.2713 Application and determination of unmerger.
Upon application made by the owner and payment of any requested fees, the Town Council or Public Works Director, as applicable, shall make a determination the affected parcels have merged or, if meeting the criteria of Section 10-3.2712 are deemed not to have merged. As part of an application for a determination on merger, an owner may request a public hearing. If a public hearing is requested, the Town Council shall make the determination on merger. If no public hearing is requested, the Director shall make the determination on merger. In either event, the Public Works Director shall provide 30 days' written notice to the owner of the affected parcels of the date and place of the hearing or decision on the determination of merger.

10-3.2714. Notification to the owner. The owner of the affected parcels shall be notified as follows:

(a) Upon a determination that the parcels meet the standards specified in Section 10-3.2712, the Public Works Director shall issue to the owner and record with the County Recorder a notice of the status of the parcels which shall identify each parcel and declare that the parcels are unmerged pursuant to this Title.

(b) Upon a determination that the parcels have merged and do not meet the criteria specified in Section 10-3.2712, the Public Works Director shall issue to the owner and record with the County Recorder, a Notice of Merger as provided in section 10-3.2704.

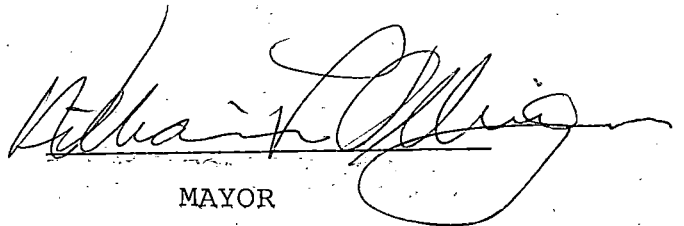
Introduced at a regular meeting of the San Anselmo Town Council on the 25th day of June, 1985, and

PASSED AND ADOPTED at a subsequent meeting of the San Anselmo Town Council on the 9th day of July, 1985, by the following vote:

AYES: Councilmembers Wooliever, Capurro, Cordingley, Toal, Ollinger

NOES: None

ABSENT: None


MAYOR

ATTEST:

Caroline Foster
CAROLINE FOSTER, Town Clerk