

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO REPEALING AND REPLACING SAN ANSELMO MUNICIPAL CODE TITLE 9 (BUILDING REGULATIONS) CHAPTER 19 (GREEN BUILDING REQUIREMENTS) TO ADOPT AMENDMENTS TO THE CALIFORNIA GREEN BUILDING STANDARDS CODE TO REFLECT LOCAL CONDITIONS AND AMENDING SECTION 9-20.05 OF THE SAN ANSELMO MUNICIPAL CODE TO BRING DIVERSION REQUIREMENTS IN LINE WITH THE GREEN BUILDINGS STANDARDS CODE**

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**WHEREAS**, green building is a practice of design, construction and maintenance techniques that have been demonstrated to have a significant positive effect on energy, water and resource conservation, waste management and pollution generation and on the health and productivity of building occupants over the life of the building; and

**WHEREAS**, on November 24, 2010, the Town Council adopted a Green Building Ordinance, which was codified in San Anselmo Municipal Code Title 9, Chapter 19; and

**WHEREAS**, on November 12, 2019, the Town Council adopted by reference the California Construction Codes, including the 2019 California Green Building Standards Code (CALGreen) (Title 24 Part 11); and

**WHEREAS**, on October 8, 2019, the County of Marin adopted amendments to CALGreen to reflect local conditions in the County (“County Green Building Ordinance”); and

**WHEREAS**, the San Anselmo Planning Commission recommended adoption of the County Green Building Ordinance at its meeting of November 4, 2019; and

**WHEREAS**, the Town Council desires to adopt the County Green Building Ordinance, as its provisions are appropriate for the Town and will allow for uniform Green Building requirements in Marin jurisdictions; and

**WHEREAS**, adoption of the County Green Building Ordinance is consistent with Measure E-4 of the Town’s Climate Action Plan 2030; and

**WHEREAS**, adoption of the County Green Building Ordinance is consistent with San Anselmo General Plan Circulation Element Policy 17.1 (Zero Emission Vehicle readiness) and the Town’s Electric Vehicle Strategy adopted February 12, 2020.

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

**SECTION 1. Environmental Review**

The proposed amendments are categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Adoption of the ordinance will not result in cumulative adverse environmental impacts or any other potentially significant impact described in CEQA Guidelines Section 15300.2.

**SECTION 2. Findings**

Pursuant to Section 17958.5, 17958.7 and 18941.4 of the California Health and Safety Code, the Town of San Anselmo determines and that the modifications to the 2019 California Green Building Standards Code Chapters 3, 4 and 5, as set forth in this subchapter, are reasonably necessary because of San Anselmo's local topographical and environmental conditions. Specifically, the steep terrain, narrow roads, proximity to the San Andreas and Hayward seismic faults, and the potential flooding of the San Anselmo Creek are unique conditions that require special consideration whenever construction is proposed within the Town. Additionally, due to the high temperatures, humidity, rainfall, wind, and the lack of water supply for domestic use and fire suppression, the Town is susceptible to wildfires resulting from climate change.

### **SECTION 3. Repeal and Replace Title 9 (Building Regulations) Chapter 19 (Green Building Requirements).**

San Anselmo Municipal Code Title 9, Chapter 19 is hereby repealed and replaced with the following in its entirety.

#### **9-19.01 Purpose.**

The purpose of this chapter is to meet or exceed all applicable mandatory measures of the 2019 California Green Building Standards Code (Title 24, Part 11) of the California Code of Regulations and to enhance the long-term public health and welfare by contributing to the overall reduction of greenhouse gas emissions and improving the environmental and economic health of the county through the efficient design, construction, operation, maintenance and deconstruction of buildings and site development by incorporating green building practices and materials. The green building provisions referenced in this chapter are designed to achieve the following objectives:

- (1) Increase energy efficiency in buildings;
- (2) Reduce consumption of fossil fuels in San Anselmo;
- (3) Encourage water and resource conservation;
- (4) Reduce waste generated by construction projects;
- (5) Reduce long-term building operating and maintenance costs;
- (6) Improve indoor air quality and occupant health;
- (7) Contribute to meeting state and local commitments to reduce greenhouse gas emissions; and
- (8) Satisfy all applicable mandatory measures of the 2019 California Green Building Standards

Code (Title 24, Part 11) of the California Code of Regulations.

#### **9-19.020 California Green Building Standards Code – Local Amendments**

As outlined in San Anselmo Municipal Code Section 9-1.101(j) the Town has adopted the 2019 edition of the California Green Building Standards Code known as California Code of Regulations, Part 11 of Title 24 (herein referred to as CALGreen Code), with exceptions, additions, and deletions as provided in this subchapter. Requirements are outlined by project type in Table 1 of this ordinance.

The provisions of this subchapter shall constitute local amendments to the cross-referenced provisions of the 2019 CALGreen Code, and shall be deemed to replace the cross-referenced sections of said Code with the respective provisions set forth in this chapter.

Section 202 of Chapter 2 of the 2019 CALGreen Code is hereby amended as underlined.

**Electric Vehicle Charging Stations (EVCS).** One or more electric vehicle charging spaces served by electric vehicle charger(s) or other charging equipment allowing charging of electric vehicles. For purposes of determining compliance with accessibility requirements, when the permitted length of time a vehicle may occupy an electric vehicle charging station differs from the permitted duration of stay in publicly accessible parking spaces in the same parking area, electric vehicle charging stations are not considered parking spaces. When the permitted duration of stay in a space served by electric vehicle

charger(s) is the same as other publicly accessible parking spaces in the same parking area, EVCS may be considered parking spaces. The EVCS need not be reserved exclusively for electric vehicle charging.

Section 301.1 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.1 Scope.** Buildings shall be designed to comply with applicable requirements of San Anselmo Green Building Requirements beginning at San Anselmo Municipal Code Chapter 9-19.010 and shall also include the green building measures specified as mandatory in the application checklists contained in this code.

Section 301.1.1 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.1.1 Additions and alterations.** The mandatory provisions of Chapter 4 shall be applied to additions and alterations of existing residential buildings ~~where the addition or alteration increases the building's conditioned area, volume, or size,~~ in accordance with applicable requirements of San Anselmo Municipal Code Chapter 9-19. The requirements shall apply only to and/or within the specific area of the addition or alteration.

Section 301.3 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.3 Nonresidential additions and alterations.** The provisions of individual sections of Chapter 5 apply to newly constructed buildings, and building additions and alterations of 1,000 square feet or greater, and/or building alterations with a permit valuation of \$200,000 or above (for occupancies within the authority of California Building standards Commission). Code sections relative to additions and alterations shall only apply to the portions of the building being added or altered within the scope of the permitted work.

Section 4.106.4.2 of Chapter 4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 4.106.4.2 New multifamily dwellings.** If residential parking is available, ~~ten (10) percent of the total number of parking spaces on a building site~~ the number of spaces designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section 4.106.4.3.1 of Chapter 4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 4.106.4.3.1 Number of required EV Spaces.** The number of required EV spaces shall be based on the number of spaces designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140 ~~total number of parking spaces provided for all types of parking facilities in accordance with Table 4.106.4.3.1.~~ Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section 5.106.5.3 of Chapter 5 of the 2019 CALGreen Code is hereby amended as underlined:

**Section 5.106.5.3 Electric Vehicle Charging.** [N] Construction shall comply with Section 5.106.5.3.1 or Section 5.106.5.3.2, using the space requirements designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140, to facilitate future installation of electric vehicle supply equipment (EVSE). When EVSE(s) is/are installed, it shall be in accordance with the *California Building Code*, the *California Electrical Code* and as follows:

Section 5.106.5.3.3 of Chapter 5 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 5.106.5.3.3 EV charging space calculation.** [N] ~~Table 5.106.5.3.3~~ Table 1 of San Anselmo Municipal Code Section 9-19.140 shall be used to determine if single or multiple charging space requirements apply for the future installation of EVSE.

Section A4.106.8.2 of Appendix A4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section A4.106.8.2 New multifamily dwellings.**

**Tier 1.** ~~Fifteen (15) percent of the total number of parking spaces on a building site~~ The number of spaces designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140, provided for all types of parking facilities, but in no case less than one, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section A4.106.8.3 of Appendix A4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section A4.106.8.3 New hotels and motels.**

**Tier 1. Number of required EV spaces.** The number of required EV spaces shall be based on the number of spaces designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140 ~~parking spaces provided for all types of parking facilities in accordance with Table A4.106.8.3.1~~ provided for all types of parking facilities, but in no case less than one, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section A5.106.5.3 of Appendix A5 of the 2019 CALGreen Code is hereby amended as underlined:

**Section A5.106.5.3 Electric vehicle (EV) charging.** Construction shall comply with Section A5.106.5.3.1 or Section A5.106.5.3.2, using the space requirements designated for the project type as outlined in Table 1 of San Anselmo Municipal Code Section 9-19.140, to facilitate future installation of electric vehicle supply equipment (EVSE). When EVSE(s) is/are installed, it shall be in accordance with the *California Building Code*, the *California Electrical Code* and as follows:

**Table A5.106.5.3.1 Tier 1.** ~~Table A5.106.5.3.1~~ Table 1 of Chapter 19.04.140, Marin County Code shall be used to determine the number of multiple charging spaces required for future installation of EVSE. Refer to Section 5.106.5.3.2 for design space requirements.

**9-19.020 - Applicability.**

The provisions of this chapter shall apply to all construction or development projects defined below as a "covered project."

**9-19.030 - Definitions.**

For the purposes of interpreting this chapter and the associated standards for compliance, the following terms are defined as follows. When the definitions below differ from those contained elsewhere in this title, the provisions of this chapter shall apply. These definitions are additional to those outlined in Chapter 2 of the CALGreen Code.

- (1) "2019 State Energy Code" refers to the requirements outlined in the 2019 edition of the California Energy Code known as California Code of Regulations, Part 6 of Title 24.
- (2) "All-electric" refers to a building where electricity is the only permanent source of energy for water -heating, space-heating, space cooling, cooking and clothes-drying and there is no gas meter connection.
- (3) "CALGreen" refers to the California Green Building Standards Code, as included in Title 24, Part 11 of the California Code of Regulations
- (4) "CALGreen Mandatory" means those measures that are required for all covered projects. Residential mandatory measures are contained in CALGreen Chapter 4. Nonresidential mandatory measures are contained in CALGreen Chapter 5.

- (5) "CALGreen Tier 1" refers to required prerequisite and elective measures in addition to the CALGreen mandatory measures, as outlined in CALGreen Appendix A4.601.4 for residential projects and CALGreen Appendix A5.601.2 for nonresidential projects. Where Tier 1 is required for covered projects that are not new construction, energy efficiency requirements beyond those outlined in CALGreen Mandatory are not required.
- (6) "Covered project" means a development project for which one or more building permits are required for new construction, additions, and/or remodels as set forth by the standards for compliance outlined in Section 19.04.140 and in Table 1.
- (7) "Efficiency EDR Compliance Margin" is the difference in the EDR of Standard Efficiency and the EDR of Proposed Efficiency for a building.
- (8) "EV Capable" refers to a parking space with conduit installed and allocated 208/240V 40-amp panel capacity for future EV charging stations.
- (9) "EV Ready" refers to the installation of a full circuit with minimum of 40-Amp 208 or 240 Volt capacity per EV Space, including listed raceway, sufficient electrical panel service capacity, overcurrent protection devices, wire, and suitable listed termination point such as a receptacle. The termination point shall be in close proximity to the proposed EV charger location.
- (10) "Limited mixed-fuel" is a building where natural gas and/or propane are only used for cooking and fireplaces.
- (11) "Mixed-fuel " is a building where both natural gas and/or propane and electricity are used.
- (12) "Modified parking lot" shall be those for which paving material and curbing is removed.
- (13) "Qualified green building rater" means an individual who has been trained and certified as a CALGreen Inspector, LEED AP, GreenPoint rater, PHIUS Consultant, or has similar qualifications and certifications if acceptable to the chief building official.
- (14) "Total EDR Compliance Margin" is the difference in the EDR of the Total Standard Design and the EDR of the Total Proposed building. This incorporates the Efficiency EDR compliance margin as well as the EDR points associated with photovoltaics and flexibility such as battery storage.

#### **9-19.040 - Standards for compliance.**

The San Anselmo Green Building Requirements define compliance thresholds for different projects that are covered by this ordinance. These standards are outlined below in Table 1.

<b>Table 1: Requirements by Project Type and Size</b>			
<b>Project Type and Size</b>	<b>Green Building Requirements</b>	<b>Energy Efficiency Requirements</b>	<b>Electric Vehicle Requirements</b>

Single and Two-Family New Construction	CALGreen Tier 1	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p><u>OR</u></p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 3, demonstrated on Title 24 energy reports</p> <p><u>OR</u></p> <p>“Mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 3 and a Total EDR Compliance Margin of 10, demonstrated on Title 24 energy reports.</p> <p>See SAMC § 9-19.030 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	Comply with CALGreen Measure A4.106.8.1
Single and Two-Family Additions and Alterations less than 1,200 square feet	CALGreen Mandatory	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	If the project is upgrading the main electrical service panel, comply with CALGreen Measure A4.106.8.1
Single and Two-Family Additions and Alterations 1,200 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	
Multifamily New Construction 3 stories or less	CALGreen Tier 1	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p><u>OR</u></p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 0.5, demonstrated on Title 24 energy reports</p> <p><u>OR</u></p> <p>“Mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 0.5 and a Total EDR Compliance Margin of 10, demonstrated on Title 24 energy reports.</p> <p>See Section SAMC § 9-19.030 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	Build one electric vehicle charging space <sup>1</sup> per dwelling unit, as defined in SAMC § 10-3.1701 complying with technical requirements referenced in A4.106.8.2.1

Multifamily New Construction 4 stories or greater		<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p><u>OR</u></p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with a compliance margin of 5%, demonstrated on Title 24 energy reports</p> <p><u>OR</u></p> <p>“Mixed-fuel”, prewired for future induction cooking, with a compliance margin of 10%, demonstrated on Title 24 energy reports.</p> <p>See SAMC § 9-19.030 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	
Multifamily Additions and Alterations less than 1,200 square feet	CALGreen Mandatory	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	<p>If the service panel is modified, add designated electrical capacity for 20% of onsite parking spaces to be EV Capable<sup>1</sup>.</p> <p>When parking lot surface is modified (paving material and curbing removed), add conduit to all exposed parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity for parking spaces to the maximum extent that does not require an upgrade to existing electrical service.</p>
Multifamily Additions and Alterations 1,200 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	

Nonresidential New Construction	CALGreen Tier 1	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p>OR</p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 5%, demonstrated on Title 24 energy reports</p> <p>OR</p> <p>“Mixed-fuel”, prewired for future induction cooking, with a compliance margin of 10%, demonstrated on Title 24 energy reports.</p> <p>See Section 19.04.130 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	<p>Build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable<sup>1</sup></p> <p>OR</p> <p>Build 20% of spaces to be EV Ready<sup>1</sup> and install EV Chargers in 5% of spaces, but in no case less than two EV Chargers.</p>
Nonresidential Additions and Alterations less than 3,000 square feet	CALGreen Tier 1, Less Section A4.2 (energy efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	<p>If the service panel is modified, add designated electrical capacity for 20% of onsite parking spaces to be EV Capable<sup>1</sup>.</p> <p>When parking lot surface is modified (paving material and curbing removed), add conduit to all exposed parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity for parking spaces to the maximum extent that does not require an upgrade to existing electrical service.</p>
Nonresidential Additions and Alterations 3,000 square feet or greater	CALGreen Tier 1, Less Section A4.2 (energy efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	

<sup>1</sup> Electrical service capacity shall be able to deliver a minimum 40 amperes at 208 or 240 volts multiplied by 20% of the total number of EV panelboard(s) shall have sufficient space to install a minimum of one 40-ampere dedicated branch circuit and overcurrent protective device a minimum of 20% of the total number of EV Spaces. The circuits and overcurrent protective devices shall remain reserved exclusively for EV Load management system may be necessary in order to provide EV charging at more than 20% of EV Spaces.

The following conditions also apply:

- (a) Cumulative new construction or remodels over any one-year period shall be considered as a single covered project, and subject to the highest compliance threshold based on the cumulative project size or valuation.



(b) For the purposes of this ordinance, the definition of a demolition is as follows: for buildings, removal or substantial modification of fifty percent (50%) or more of the market value of the structure before the improvement or repair is started. This states that any existing building that is demolished to this level will be required to comply with the green building standards outlined in this chapter for new construction.

(c) Mixed use (residential and commercial) projects must comply either with the applicable covered project requirements for the respective residential and commercial portions of the project, or may propose to utilize a mixed use rating system, subject to approval by the chief building official.

(d) All buildings submitted for permit must meet all applicable requirements of the 2019 California Energy Code (Title 24, Part 6) California Code of Regulations and referenced standards, or subsequently adopted state energy standards, as well as all applicable requirements of the 2019 Green Building Energy Standards, California Code of Regulations, Title 24, Part 11, or subsequently adopted state green building standards.

#### **9-19.050 - Incentives for compliance.**

In addition to the required standards for compliance, the Town Council may establish by resolution, financial or application processing incentives and/or award or recognition programs to encourage higher levels of green building compliance for a project.

#### **9-19.060 - Administrative procedures.**

The procedures for compliance with the provisions of this chapter shall include, but not be limited to the following:

(a) *Project design.* Applicants for a covered project are strongly encouraged to involve a qualified green building rater in the initial design phases of the project in advance of submittal of an application to determine applicable green building compliance thresholds and the most cost effective and appropriate means of achieving compliance.

(b) *Planning applications.* If a discretionary planning application is required for a covered project, applicants should be prepared to identify expected green building measures to be included in the project to achieve the compliance thresholds. Applicants should identify any anticipated difficulties in achieving compliance and any exemptions from the requirements of this chapter that may be requested.

(c) *Building plan check review.* Upon submittal of an application for a building permit, building plans for any covered project shall include a green building program description and completed checklist. The checklist shall be incorporated onto a separate full-sized plan sheet included with the building plans. Evidence that the project, as indicated by the project plans and green building program description, will achieve the standards for compliance outlined in Section 9-19.040, shall be provided prior to issuance of a building permit.

(d) *Changes during construction.* During the construction process, alternate green building measures may be substituted, provided that documentation of the proposed change and the project's continued ability to achieve the standards for compliance to the chief building official shall be provided.

(e) *Final building inspection.* Prior to final building inspection and occupancy for any covered project, evidence that project construction has achieved the required compliance set forth in the standards for compliance outlined in Section 9-19.040 shall be provided. The chief building official shall review the documentation submitted by the applicant, and determine whether the project has achieved the compliance threshold as set forth in the standards for compliance outlined in Section 9-19.040. If the chief building official determines that the applicant has met these requirements, the final building inspection may proceed.

(f) *Conflict with other laws.* The provisions of this chapter are intended to be in addition to and not in conflict with other laws, regulations and ordinances relating to building construction and site development. If any provision of this chapter conflicts with any duly adopted and valid statutes or

regulations of the federal government or the state of California, the federal or state statutes or regulations shall take precedence.

#### **19.04.170 - Exemptions.**

- (a) The provisions of this chapter shall not apply to:
  - (1) Buildings which are temporary (such as construction trailers).
  - (2) Building area which is not or is not intended to be conditioned space.
  - (3) Any requirements of this chapter which would impair the historic integrity of any building listed on a local, state or federal register of historic structures, as determined by the chief building official and as regulated by the California Historic Building Code (Title 24, Part 8). In making such a determination, the chief building official may require the submittal of an evaluation by an architectural historian or similar expert.
- (b) As outlined in Title 24, Part 11 of the California Code of regulations, the electric vehicle charging provisions of this chapter, applicants may be exempted from the electric vehicle charging requirements on a case-by-case basis where the local enforcing agency has determined EV charging and infrastructure are not feasible based upon one or more of the following conditions:
  - (1) Where there is no commercial power supply.
  - (2) Where there is evidence substantiating that meeting the requirements will alter the local utility infrastructure design requirements on the utility side of the meter so as to increase the utility side cost to the homeowner or the developer by more than four hundred dollars per dwelling unit.
- (c) *Hardship or infeasibility exemption.* If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this chapter, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.
  - (1) *Application.* The applicant shall identify in writing the specific requirements of the standards for compliance that the project is unable to achieve and the circumstances that make it a hardship or infeasible for the project to comply with this chapter. The applicant may not petition for relief from any requirement of the 2019 California Energy Code (Title 24, Part 6) and referenced standards, or the 2019 California Green Building Standards (Title 24, Part 11) of the California Building Standards Code. Circumstances that constitute hardship or infeasibility shall include, but are not limited to the following:
    - a. There is a conflict between the provisions of the applicable green building rating system and the California Building Standards Code, other state code provisions, other requirements of this title or conditions imposed on the project through a previously approved planning application;
    - b. There is a lack of commercially available green building materials and technologies to comply with the green building rating system;
    - c. That the cost of achieving compliance is disproportionate to the overall cost of the project;
    - d. That physical conditions of the project site make it impractical to incorporate necessary green building measures or achieve the standards for compliance;
    - e. That compliance with certain requirements would impair the historic integrity of buildings listed on a local, state or federal list or register of historic structures as regulated by the California Historic Building Code (Title 24, Part 8).
  - (2) *Granting of exemption.* If the chief building official determines that it is a hardship or infeasible for the applicant to fully meet the requirements of this chapter and that granting the requested exemption will not cause the building to fail to comply with the 2019 California Energy Code (Title 24, Part 6) and referenced standards, or the 2019 California Green Building Standards (Title 24, Part 11) of the California Building Standards Code, the chief building official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. In making this

determination, the chief building official shall consider whether alternate, practical means of achieving the objectives of this chapter can be satisfied, such as reducing comparable energy use at an off-site location within the county. If an exemption is granted, the applicant shall be required to comply with this chapter in all other respects and shall be required to achieve the threshold of compliance determined to be achievable by the chief building official.

(3) *Denial of exception.* If the chief building official determines that it is reasonably possible for the applicant to fully meet the requirements of this chapter, the request shall be denied and the applicant shall be notified of the decision in writing. The project and compliance documentation shall be modified to comply with the standards for compliance.

(4) *Appeal.* Any aggrieved applicant or person may appeal the determination of the chief building official regarding the granting or denial of an exemption or compliance with any other provision of this chapter. An appeal of a determination of the chief building official shall be filed in writing and processed in accordance with the provisions of Section 10-1.06 of this code.

**SECTION 4. Repeal and Replace San Anselmo Municipal Code Section 9-20.05 with the following:**

**9-20.05 - Diversion Requirements.**

Diversion requirements for a Project and for a Certified C&D Recovery Facility shall be a minimum of sixty-five percent (65%) by weight of the total construction and demolition debris, or the current required diversion as described in the California Green Building Standards Code (Cal. Code Regs., Title 24 Part 11) Mandatory Residential and Non-Residential Measures, whichever is higher, generated by a project via reuse or recycling, unless the applicant has been granted an exemption pursuant to the California Green Building Standards Code, in which case the diversion requirement shall be the maximum feasible diversion rate established by the waste management plan official for the project.

**SECTION 5. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or unlawful.

**SECTION 6. Effective Date.** This ordinance shall take effect and be in force thirty (30) days after the date of its passage, provided that the additional energy efficiency requirements of this Ordinance cannot be enforced by the Town until it has further been approved by the California Energy Commission (Cal. Pub. Res. Code §25402.1(h)(2)). Within fifteen (15) days following its passage, the ordinance shall be published with the names of those town council members voting for and against the ordinance and the town clerk shall post in the office of the town clerk a certified copy of the full text of the adopted ordinance along with the names of the members voting for and against the ordinance. Prior to the effective date, a copy of this Ordinance shall be filed with the California Building Standards Commission complete with local findings for each local amendment to the California Building Standards Code, as required by Cal. Health and Safety § 17959.

The foregoing ordinance was introduced at a regular meeting of the San Anselmo Town Council on the 14<sup>th</sup> day of April, 2020 and was adopted at a regular meeting on the \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

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Ford Greene, Mayor

ATTEST

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Carla Kacmar, Town Clerk