

## Town of San Anselmo Housing Element Update

**ERRATA** — Preliminary Draft Housing Element (Dated December, 2009)  
*Based on Comments from the December 21, 2009 Planning Commission Meeting*

### ERRATA Dated December 23, 2009

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H1.A **Create a Permanent Housing Element Implementation Commission.** The Town will create a permanent Housing Element Implementation Commission (HEIC) to work with the staff, the community and non-profits to implement Housing Element programs and to be available for future updates of the Housing Element. Responsibilities of the HEIC include:

- a. Participate in the annual review of the Housing Element.
- b. Develop an annual work program to assist in implementing Housing Element programs for review with the Town Council.
- c. Review options for funding affordable housing.
- d. Make recommendations to the Planning Commission and Town Council on strategies for housing opportunity sites and for funding.
- e. Provide follow-up on housing opportunity sites and funding based on directions provided by the Town Council, including working with the community, San Anselmo Theological Seminary, School District, non-profits and property owners.
- f. Conduct community outreach and provide community information materials through an open and non-advocacy process.
- g. Engage property owners in identifying opportunities for the construction of affordable housing.
- h. Pursue unique opportunities where the Town can participate in the construction of affordable housing, either on Town-owned sites, or through funding or regulatory means. (For example, the HEIC will review Town--owned sites and recommend a program for development for review with the Town Council).

<i>Responsibility:</i>	Town Manager; Town Council
<i>Financing:</i>	General Fund
<i>Objectives:</i>	Assistance in implementing Housing Element programs
<i>Timeframe:</i>	2010

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H1.D **Provide Information on Housing Programs.** The Town will promote the availability of Marin County programs for housing construction, homebuyer assistance, rental assistance, and housing rehabilitation through the following means: (a) Creating a link on the Town's website that describes programs available in the Town of San Anselmo and provides direct links to County agencies that administer the programs; (b) Including

contact information on County programs in Town newsletters and other general communications that are sent to residents; (c) Maintaining information on programs at the Town's public counter; (d) Training selected Town staff to provide referrals; and, (e) Distributing information on programs at public locations (library, schools, etc.).

Examples of specific information would include:

- (1) Fair Housing Laws
- (2) Rehabilitation loan programs
- (3) Housing Authority information
- (4) Housing programs
- (5) Code enforcement
- (6) Homebuyer assistance
- (7) Information about affordable housing

*Responsibility:* HEIC, Planning Division of the Planning and Building Department; Town Manager

*Financing:* General Fund

*Objectives:* Review and obtain materials by September 2010; distribute and post materials, conduct staff training by December 2010; annually update as needed thereafter

*Timeframe:* Ongoing posting and distributing of information

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- H1.E Community Outreach When Implementing Housing Element Programs.** Coordinate with local businesses, housing advocacy groups, neighborhood groups, and the Chamber of Commerce and participate in the Marin Consortium for Workforce Housing in building public understanding and support for workforce, special needs housing and other issues related to housing, including the community benefits of affordable housing, mixed use and pedestrian-oriented development. The Town will notify a broad representation of the community when housing strategies or implementing programs are discussed by the Planning Commission or City Council. Specific actions should be linked to the preparation and distribution of material as identified in Programs H1.C and H1.D. Specific outreach activities include:
- a. Maintain the Housing Element mailing list and send public hearing notices to all interested public, non-profit agencies and affected property owners.
  - b. Post notices at Town Hall, the library, and the post office.
  - c. Publish notices in the local newspaper.
  - d. Post information on the Town's website.
  - e. Conduct outreach (workshops, neighborhood meetings) to the community as Housing Element programs are implemented.
  - f. Assure that HEIC meetings are publicized and provide opportunities for participation from housing experts, affordable housing advocates, special needs populations, and the community as a whole.

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Manager  
*Financing:* General Fund  
*Objectives:* Conduct outreach and distribute materials (see Program H1.D)  
*Timeframe:* Consistent with implementing programs

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**H2H1.H Establish an Affordable Housing Fund.** Establish an Affordable Housing Fund to increase below market rate affordable housing opportunities in San Anselmo. Specific uses of the fund, operating procedures/criteria, sources of funding, decisions on accepting funding or donations, actions tied to obtaining funds, etc., would be developed by the HEIC and staff, and approved by the Town Council. Potential sources of funds could include, but would not be limited to:

- a. Marin Workforce Housing Trust
- b. Marin Community Foundation
- c. Federal Grants
- d. Transportation Authority of Marin
- e. In-lieu fee payments under inclusionary requirements, including consideration of in-lieu fees beginning at 2 unit for-sale developments — assuring that the payment of in-lieu or housing impact fees are reasonable and not punitive.
- f. Voluntary donations (such as bequeaths, trusts, donations of land and buildings, etc.).
- g. Affordable Housing Impact Fee on larger single-family homes. (For example, consider Marin County's sliding scale housing impact fee on larger homes over 2,000 square feet in size).
- h. Inter-Jurisdictional Housing Trust Fund (with Ross and Fairfax) that could include housing impact fees, in-lieu fees, co-funding one nexus study for a housing impact, and the accumulation of any other housing-related monies for use in a mutually beneficial way to meet each jurisdiction's RHNA through a combination of contributions to the Fund and units created.

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Attorney; Town Manager; Town Council  
*Financing:* Staff time.  
*Objectives:* Accumulation of funds for affordable housing  
*Timeframe:* 2011

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**H2.D Amend Zoning to Protect Existing Housing.** The Town will amend the Zoning Ordinance to reflect the Housing Element policy of prohibiting or limiting the loss of existing residential units or the conversion of existing residential units to commercial or

office space. A study will be conducted to determine an approach to address residential displacement impacts covering, at a minimum, the following:

- a. Consistency with the Ellis Act — The Ellis Act allows property owners of rental housing to "go out of business."
- b. Regulations Used in Other Communities.
- c. Consideration of a modified replacement fee on a per unit basis, ~~or~~ replacement of a portion of the units, relocation assistance, etc.

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council

*Financing:* General Fund

*Objectives:* Protection of existing rental housing

*Timeframe:* 2011

**H2.E Implement Effective Design Review and Study Building Heights.** The Town will continue to conduct design review to assure excellence of design in new development. The Town will also investigate a very limited number of locations where 3-story building heights can provide housing opportunities on Greenfield Avenue and San Anselmo Avenue. The study will evaluate the following:

- a. Limited locations where 3-story buildings may be appropriate that will avoid unreasonably affecting the privacy or views of surrounding properties.
- b. Consideration of adopting building height exception procedures or other procedures related to building height ~~limit exceptions based on design merit (such as measuring building heights from the flood plain).~~
- c. Establishment of building height exceptions criteria ~~or overlay zoning~~ linked with encouraging affordable housing ~~that meets local needs.~~
- d. Standards to encourage ~~d~~ shared common spaces in order to reduce the size of individual living units and increase community interaction (such as co-housing, live-work housing opportunities, or other types of housing that create shared spaces).
- e. Linkage with the Program H3.B (Adopt Standards for an "Affordable Housing Overlay Zone").

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council

*Financing:* General Fund

*Objectives:* Study of possible 3-story building locations

*Timeframe:* 2011

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**H3.9 Inclusionary Housing or Housing Impact Fee Approach.** To increase affordable housing construction, the Town will require residential developments involving five-two (52) or more units to provide units for very low, low and moderate income housing on a sliding scale, ~~or~~ an in-lieu fee, or housing impact fee related to the size of the new main

~~dwelling on the particular site.~~ The units provided through this policy are intended for permanent occupancy and must be deed restricted, including but not limited to single family housing, multi-family housing, condominiums, townhouses, or land subdivisions. In addition, the Town will require larger non-residential developments, as job generators, to participate in addressing housing needs in the community.

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~~H3.10 **Income Levels and Options for Meeting Inclusionary Requirements.**<sup>1</sup> Inclusionary zoning requirements will target very low and low income rental units and moderate income ownership units.~~

~~g. The primary intent of the inclusionary requirement is the construction of new units on site.~~

~~g. The focus is on multi-family housing developments with deed restrictions to support long periods of affordability.~~

~~g. Second priority for meeting inclusionary requirements is the construction of units off-site or the transfer of land and sufficient cash to develop the number of affordable units required.~~

~~g. If these options are not practical, then other alternatives of equal value such as in-lieu fees, transfer of land and/or dedication of units, or rehabilitation of existing units may be considered.~~

~~g. Fees paid in lieu of providing units on site shall be of a value proportionally equivalent to the number of units required to be provided. The amount of the fee shall be established by a schedule that is periodically reviewed and updated by the Town Council.~~

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**H3.A Review Development Standards to Encourage for Infill Housing.** Review and consider modifying the following development standards based on the most up-to-date empirical studies to allow exceptions and incentives for infill housing located close to transit and services.

a. **Variable Density Standards.** Establish unit densities for studio and one-

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<sup>1</sup>~~In *Palmer/Sixth Street Properties LP v. City of Los Angeles*, decided on July 22, 2009, the California Court of Appeal for the Second District held that a condition of approval requiring 60 affordable units in a 350-unit rental project violated the Costa Hawkins Act, which allows landlords to establish the initial rental rate for a new unit. The Court also invalidated the City's in-lieu fee for the affordable rental units. The Court's expansive holding calls into question affordable housing and inclusionary requirements for new rental units. *Palmer* applies only to affordable housing requirements for new rental units and not to requirements for ownership units. In addition, Costa Hawkins does not apply where the owner has agreed to provide affordable rents by contract in exchange for a financial contribution or one of the many incentives contained in state density bonus law (including regulatory and density incentives). However, communities with inclusionary ordinances should carefully review their provisions regarding affordable rental units to ensure that they do not conflict with Costa Hawkins. ("Law Alert," Goldfarb Lipman Attorneys, July 31, 2009).~~

- bedroom units based on “density unit equivalents” or the size of the unit.<sup>2</sup>
- b. **Reduced Parking Standards for Senior and Affordable Housing.** Provide reduced parking standards to support affordable and senior housing development.<sup>3</sup>
  - c. **Flexible Parking Strategies.** Provide for more flexible parking requirements that help to facilitate infill, affordable, transit-oriented and mixed use development, while at the same time avoiding off-site parking impacts. Examples include joint use parking, off-site parking (currently allowed), allowances for reduced standards depending upon location (such as near transit), parking stall dimensions, “grandfathering” non-compliant buildings and uses, etc.
  - d. **Floor Area Ratio.** Amend the Zoning Ordinance to assure consistency between the General Plan and Zoning, and consider exempting residential uses from allowing greater FAR requirements (e.g. treating residential uses as additive to the FAR) when housing is provided over commercial uses.
  - e. **Expedited Review and Fee Waivers or Reductions.** Consider expedited review of desired housing developments and waivers or reductions of development fees where feasible.

*Responsibility:* **HEIC;** Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council

*Financing:* General Fund

*Objectives:* Provide flexibility in the application of development standards fitting the location and type of development, consistent with community goals

*Timeframe:* 2011-2012

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**H3.B Adopt Standards for an “Affordable Housing Overlay Zone.”** Amend the San Anselmo Zoning Ordinance to establish specific standards and incentives for the affordable housing overlay zone. Specifies-Specific standards include densities, development standards incentives, parking, building heights, specified level of affordability, etc.<sup>4</sup>

<sup>2</sup> The City of Santa Barbara’s Variable Density Program applies to multi-family housing in the City’s R-3, R-4 and commercial zoning districts. It establishes “density unit equivalents” to encourage more small units and to discourage developers from developing only large units, and is intended to more appropriately reflect actual impacts of development as compared to a more generalized standard that calculates density based on dwelling units per gross acre regardless of the size or character of the dwelling unit. For example, a Studio unit is equal to 0.50 unit; One Bedroom unit equals 0.66 unit; Two Bedroom unit equals 1.00 unit; and Three or More Bedroom units equal 1.50 unit.

<sup>3</sup> In the Bay Area, only 66 percent of low income households own cars, and an even lower percentage (53 percent of low-income workers) drive alone to work (Public Policy Institute of California, Research Brief, Issue 91). Many cities reduce parking requirements for affordable housing developments. According to the Marin County Inventory of Affordable Housing (2008), residents in income-restricted affordable rental units own fewer vehicles per household than Marin County residents as a whole. Information on vehicle ownership was provided for 924 households. Of these, 42 percent did not have a personal car. Just over half own one vehicle, and only seven percent own two or more vehicles. In Marin County as a whole, only five percent of all households do not have a personal vehicle, 35 percent own one car, and 60 percent own two or more vehicles.

<sup>4</sup> The Town of Corte Madera offers a good example where a committee identified “high potential sites” linked to the Town’s Affordable Housing Overlay zoning. The Affordable Housing Overlay zone removes barriers to housing

<b>Responsibility:</b>	<b>HEIC;</b> Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council
<b>Financing:</b>	General Fund
<b>Objectives:</b>	Provide flexibility in the application of development standards for affordable projects
<b>Timeframe:</b>	2011

**H3.C Revise Inclusionary Housing Regulations and/or Establish Housing Impact Fees.**<sup>5</sup>

Amend the Zoning Ordinance to require residential developments involving ~~five~~ two (2) or more units to provide 150% or more of the units for very low, low and moderate income housing, ~~or pay~~ an in-lieu fee, or pay a housing impact fee. ~~In addition, establish~~ This program will include requirements for participation in housing for smaller projects (down to 2 units in size). The ordinance should also include specific definitions for affordability tied to Area Median Income (AMI), and would cover participation from larger non-residential developments. Inclusionary requirements and/or housing impact fees will be based on the following considerations:

- a. Inclusionary zoning requirements or housing impact fees will address the need very low and low income rental units and moderate income ownership units.
- b. The primary intent of the inclusionary requirement is the construction of new units on-site.
- c. The focus is on multi-family housing developments with deed restrictions to support long periods of affordability.
- d. Second priority for meeting inclusionary requirements is the construction of units off-site or the transfer of land and sufficient funding to develop the number of affordable units required.
- e. If these options are not practical, then other alternatives of equal value such as in-lieu fees, housing impact fees, transfer of land and/or dedication of units, or rehabilitation of existing units may be considered.
- f. Fees paid in-lieu of providing units on site or housing impact fees shall be of a value proportionally equivalent to the number of units in the project. The amount of the fee shall be established by a schedule that is periodically reviewed and

development. The recently built San Clemente Place, providing 79 affordable one-, two- and three- bedroom apartments on a 2.74 acre infill site was developed using the Affordable Housing Overlay zoning. The apartments rent to households earning between approximately \$12,000 and \$73,000. Corte Madera's Affordable Housing Overlay Zone received HUD's Robert L. Woodson Jr. Award.

<sup>5</sup> In *Palmer/Sixth Street Properties LP v. City of Los Angeles*, decided on July 22, 2009, the California Court of Appeal for the Second District held that a condition of approval requiring 60 affordable units in a 350-unit rental project violated the Costa-Hawkins Act, which allows landlords to establish the initial rental rate for a new unit. The Court also invalidated the City's in lieu fee for the affordable rental units. The Court's expansive holding calls into question affordable housing and inclusionary requirements for new rental units. *Palmer* applies only to affordable housing requirements for new rental units and not to requirements for ownership units. In addition, Costa-Hawkins does not apply where the owner has agreed to provide affordable rents by contract in exchange for a financial contribution or one of the many incentives contained in state density bonus law (including regulatory and density incentives). However, communities with inclusionary ordinances should carefully review their provisions regarding affordable rental units to ensure that they do not conflict with Costa-Hawkins. ("Law Alert," Goldfarb Lipman Attorneys, July 31, 2009).

updated by the Town Council.

g. Target incomes for units will be as follows: Very Low Income units, 40% of AMI; Low Income units, 65% of AMI; and Moderate Income Units, 100% of AMI.

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council  
*Financing:* General Fund  
*Objectives:* Provide consistency with Housing Element policy  
*Timeframe:* ~~2011~~2014

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### H3.E **Modify Second Dwelling Unit Development Standards and Permit Process.**

Continue to allow second dwelling units,<sup>6</sup> and consider the following second unit development requirements in the Zoning Ordinance, assuring consistency with State law requirements:

- a. Allow second units in the R-2 district on properties too small to be developed with a duplex.
- b. Remove the owner-occupancy requirement.
- c. Reduce or eliminate per unit fees in recognition of the small size and low impacts of second dwelling units.
- d. Eliminate deed restrictions for rent control of second units in recognition that they provide a significant source of housing throughout the community and they will be affordable because of their small size.
- e. Allow lot coverage and other standards to be modified through an “exceptions” process so that a variance is not needed.

f. Allow tandem parking.

*Responsibility:* HEIC; Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council  
*Financing:* General Fund  
*Objectives:* 5 new second units by 2014 (1 per year) — all low income  
*Timeframe:* 2012

H3.F **Work with Non-Profits and Property Owners on Housing Opportunity Sites.** Work with non-profits and property owners to seek opportunities for an affordable housing development on either the Sunnyhills site or the former Redhill School site. Undertake the following actions to encourage development of multi-family, affordable housing at Housing Opportunity Sites:

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<sup>6</sup> A study conducted as part of the Marin Countywide Housing Element Workbook (2009) concluded that many new second units will be affordable to lower income individuals, regardless of whether they are deed restricted. Some units are made available free of charge to employees or relatives, helping meet the need for extremely low income households. In other cases, second units are often rented, below the market price typically charged for larger apartments.

- a. Meet with non-profit housing developers (EAH, others) and property owners to identify housing development opportunities, issues and needs.
- b. Select the most viable site.
- c. Undertake community outreach in coordination with the potential developer and property owner.
- d. Consider allowing the affordable housing overlay zone (when adopted) to be applied to High Potential Housing Opportunity Areas, as well as areas in the Downtown.
- e. Complete site planning studies, continued community outreach, and regulatory approvals in coordination with the development application. (Consider planned development zoning to provide more flexibility in development standards to better fit the location, surrounding uses and site characteristics.)
- f. Facilitate development through regulatory incentives, reducing or waiving fees, fast track processing, and assistance in development review.

*Responsibility:* **HEIC**; Planning Division of the Planning and Building Department; Town Attorney; Planning Commission; Town Council

*Financing:* General Fund

*Objectives:* Development of affordable housing

*Timeframe:* 2011

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The San Anselmo Housing Element is built around preserving and enhancing residential neighborhoods, sustaining the community's character and environmental resources, and fulfill unmet housing needs. The implementing programs in the Housing Element, as described in the previous section, are intended to address these concerns. In reviewing the list of programs it is important to recognize two other concerns: (1) there is limited staffing and budget resources to undertake all of the programs listed immediately; and (2) some programs require other funding or actions to occur first.

This section covers all of the implementing programs described in the Housing Element, and represents the Town's commitment to take an active leadership role in assuring the implementation of the programs described. It is also the Town's intent to: (1) encourage public review and effective participation in all aspects of the planning process; and (2) assure annual review of the Housing Element in order to periodically revise and update this Action Plan as necessary to keep it effective.

Pages 40-42 (Implementation Summary Table)

Modify Implementation Summary Table based on changed dates in the programs above.