

TOWN OF SAN ANSELMO

ORDINANCE NO. 738

AN ORDINANCE OF THE TOWN OF SAN ANSELMO AUTHORIZING PENALTIES AND THE ABATEMENT OF NUISANCES AND MAKING THE EXPENSE OF ABATEMENT A LIEN AGAINST THE PROPERTY ON WHICH A NUISANCE IS MAINTAINED AND A PERSONAL OBLIGATION OF THE PROPERTY OWNER.

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

I. Chapter 2 of Title 1 of the San Anselmo Municipal Code is hereby repealed and a new Chapter 2 is enacted as follows:

CHAPTER 2. PENALTY PROVISIONS AND ABATEMENT
OF PUBLIC NUISANCES

Section 1.2.01. Violations a misdemeanor or infraction

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code shall be guilty of a misdemeanor or infraction. Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not more than Five Hundred and no/100ths (\$500.00) Dollars or by imprisonment in the ~~Town Jail or~~ County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.

Section 1-2.02. Prohibited acts: Including causing, permitting or suffering

Whenever in this Code any act or omission is made unlawful,

it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

Section 1-2.03. Public Nuisance Defined

A nuisance is hereby defined as being any act which is declared to be a nuisance by the provisions of Title 1 of Part 3 of the Civil Code of the State of California, or by any other provision of the laws of the State of California, or by any ordinance or code provision of the Town of San Anselmo. In addition, a nuisance is hereby declared to include any thing, building, structure, act or condition on the property lying within or adjacent to the Town of San Anselmo which renders any property within the Town of San Anselmo dangerous or harmful to persons who may occupy or go upon such property within the Town of San Anselmo.

Section 1-2.04. Notice and Hearing

Whenever any such nuisance exists, in addition to the penalties provided in section 1-2.01, any officer or employee of the Town of San Anselmo may give notice in the manner hereinafter stated directing the owner (as said owner is shown by the last equalized assessment roll) of said property to appear before the Town Council at a stated time and show cause why such nuisance shall not be abated by removal, rehabilitation, demolition, or repair. The notice shall describe the property by reference to its assessor's parcel number and shall describe the nuisance alleged to exist thereon. The notice shall be posted conspicuously on the property and a copy thereof shall be mailed, postage prepaid, addressed to the owner at the

address shown on the last equalized assessment roll. Such posting and mailing shall be completed not later than seven (7) days prior to the date that the matter is to be heard by the Town Council.

Section 1-2.05. Council Action: Hearing & Resolution

At the time fixed in the notice, the Council shall proceed to hear evidence relating to the nuisance. The Council may continue the hearing from time to time. If the owner fails to appear at the time fixed for the hearing, or at any time to which the hearing may be continued, such failure to appear shall not deprive the Council of its jurisdiction to determine the matter. At the conclusion of the hearing, the Town Council may adopt a resolution declaring said condition to constitute a nuisance and directing the owner to abate the same by removal, rehabilitation, demolition or repair within a reasonable period. In determining the period for abatement of said nuisance, the Town Council may consider, among other things, the imminence of the danger involved. In its resolution, the Town Council may direct that any officer or employee of the Town of San Anselmo shall abate the nuisance in the event that the owner fails to abate the same within the period prescribed by the Council.

Section 1-2.06. Abatement

In the event that the owner fails to abate the nuisance as directed by the Town Council, and the Town is required to abate the same, the expense of abatement thereof shall constitute a personal obligation of the property owner and the

Town Council may assess the cost of such abatement as a special assessment against the land. Prior to making such assessment, the Town Council shall give notice in writing to the owner of the property at his address shown on the last equalized assessment roll of the time when the Council will meet to consider making such assessment. The notice shall be mailed, postage prepaid, at least seven (7) days prior to the date of said hearing. Any such special assessment shall be certified by the Town Council to the tax collector of the County of Marin and shall be collected at the same time in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be application to such special assessment.

Section 1-2.07 Summary Abatement

Notwithstanding the foregoing, when any nuisance constitutes an immediate hazard or threat to the safety of person or property, the Town may summarily abate the nuisance. In such event, the provisions of Section 1-2.04 hereof shall not apply, but the Town Council may nevertheless proceed to make the cost of such abatement a special assessment against the property as provided in Section 1-2.06 hereof, and the expense of abatement of such nuisance shall constitute a personal obligation of the property owner.

Section 1-2.08. Sale of Materials.

When it appears to the Building Inspector that lumber or any other

material contained in any building or structure to be razed or removed pursuant to Council resolution may have salvage value, the lumber or other material shall be sold by the Building Inspector at public auction either before or after said building or structure has been razed or removed and the amount received from the sale shall be deducted from the expense of razing or removing the same. If abatement is to be done pursuant to private contract wherein credit has been allowed to the Town by the contractor for the salvage value of the lumber or other material, no public auction shall be required.

Section 1-2.09. Limitation on Actions

No action shall be brought in any court to restrain the execution of or to set aside or otherwise challenge any proceeding taken by the Town Council in abating a public nuisance unless the complaint or petition has been filed and served on the Town Clerk within thirty (30) days after passage of the resolution ordering abatement of the said public nuisance.

Section 1-2.10. Inoperative Vehicles

The removal of abandoned, wrecked, dismantled or inoperative vehicles from private or public property shall be governed by the provisions of Article 17 of Chapter 5 of Title 3 of the San Anselmo Municipal Code.

II. The caption of Article 6 of Chapter 3 of Title 3 and the following sections therein are repealed and amended to read as follows:

Article 6. Weeds, Rubbish, Debris and Garbage

Section 3-3.601. Real property to be kept free of obnoxious material.

No person owning, occupying, leasing or having control of any lot, parcel or premises in the Town shall maintain, suffer, allow or permit to be deposited or remain thereon, or between the boundary line of said lot, parcel or premises and the curb line of any adjoining street or public place, any garbage, waste, debris, growing plants which are a fire menace, plant trimmings or cuttings, dead or down plant growth, or the like, unless covered with at least six inches (6") of soil, provided, however, cold ashes may be placed as mulch on soil.

Sections 3-3.602, 3-3.603, 3-3.604, 3-3.610, 3-3.611 and 3-3.612 are repealed.

Section 3-3.605. Storage of Waste Matter and Inflammables

Every person in the Town making, using or having the charge or control of shavings, hay, straw, sacks, bags, litter, garbage, waste or other debris or any other combustible waste or fragments shall, at the close of each day, cause the same to be securely stored or disposed of so as to be safe from fire, provided, however, wood shavings, hay or straw may be placed to a depth not exceeding six inches (6") as mulch on soil. All receptacles for waste, rags, paper, rubbish and other substances liable by spontaneous combustion, or otherwise, to cause fire must be made of non-inflammable material, and all said receptacles shall be kept in such a place to be easily seen and removed should the contents of said receptacle ignite.

No explosive, inflammable compound or combustible material of any kind shall be kept, stored or placed under any stairway of any building, or under any building, or used in such place or manner as to obstruct and render egress hazardous in case of fire.

III. Section 5-2.104 is amended to read as follows:

It shall be the duty of the Street Superintendent to ascertain whether any creek is being obstructed, to remove any and all such obstructions to creeks in accordance with the provisions of section 1-2.07 of this code. The Street Superintendent may enter on any private property in the Town for this purpose and may widen, straighten and deepen the channel of any creek in the Town to such an extent as to provide a channel that will carry all water normally flowing in said creek during seasonal rains.

Sections 5-2.106, 5-2.107, 5-2.108, 5-2.109 and 5-2.110 are repealed.

IV. Section 7-5.01(c) is amended to read as follows:

(c) "Parkway space" shall mean the space in the sidewalk area whereon there is no concrete sidewalk or driveway paving wherein there may be planted grass, flowers, shrubs, trees, and other growth.

A new Section 7-5.12 is added to read:

Section 7-5.12 Parkway Space

Any planting or growth ^{in a parkway space} shall be maintained by the person owning, occupying, or having charge and control of the premises in front of which such sidewalk area exists and shall be permitted only under the following conditions and regulations:

(a) Branches of trees shall not be permitted to extend lower than seven (7') feet above the surface of the sidewalk area or to extend lower than fifteen (15') feet above the surface of the portion of the street used for vehicular traffic, whether planted in the parkway space or upon private property.

(b) Flowers, shrubs, and other growth, with the exception of trees, in the parkway space shall not be permitted to exceed eighteen (18") inches in height.

(c) Flowers, shrubs, hedges and other growth growing upon private property abutting any sidewalk area shall not be permitted to extend out, over, across, or upon any portion of the sidewalk area except at the minimum height permitted in subsection (1) of this subsection.

(d) Any condition caused or permitted to exist in violation of the provisions of subsections (a), (b), and (c) of this section shall, pursuant to the provisions of Section 1-2.03 of Chapter 2 of Title 1 of this Code, constitute a public nuisance. The person owning, occupying or having control of the premises affected shall, within fifteen (15) days' notice to abate such nuisance, accomplish

the abatement by appropriate pruning and trimming, and, upon failure so to do within such time, the Department of Public Works may summarily abate the nuisance by appropriate trimming and pruning. The abatement expense to the City shall constitute a lien on the affected real property, and the amount thereof shall be added to the next succeeding tax bill on such real property. The City shall fix and confirm the expenses by following the procedure set forth in Section 1-2.06 of this Code.

V. Sections 9-1.403 through 9-1.409 are repealed. The caption of Article 4 of Chapter 1 of Title 9 and sections 9-1.401 and 9-1.402 are amended as follows:

Article 4. Dilapidated and Dangerous Buildings of Structures

Section 9-1.401. Definition

For the purposes of this article, a building or structure constituting a menace to public safety and constituting a public nuisance is hereby defined as follows:

(a) Any building or other structure within the Town so constructed or situated as to endanger the safety of persons or other buildings or property in the vicinity for any reason; or

(b) Any building or other structure in the Town which, by reason of rot, weakened joints, walls, floors, underpinning, roofs, ceilings, insecure foundation or other cause, has become so dilapidated or deteriorated from old age or neglect as to constitute a menace to persons or property.

Section 9-1.402. Notice to abate nuisance.

Whenever the Building Inspector shall find any building or structure within the Town in a condition defined in section 9-1.401, the procedures set forth in sections 1-2.04 through 1-2.08 of this Code shall be followed.

Dated: August 9, 1977.



PIETER TOAL
Mayor

ATTEST:



CAROLINE FOSTER, Town Clerk

* * *

The foregoing Ordinance was read and introduced at a regular meeting of the San Anselmo Town Council held on July 26, 1977, 1977, and was thereafter at a regular meeting of the Town Council held on August 9, 1977, duly passed and adopted by the following vote:

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

NOES: None

ABSENT: None



CAROLINE FOSTER, Town Clerk