

ORDINANCE NO. 1038

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO, CALIFORNIA, AMENDING THE SAN ANSELMO MUNICIPAL CODE BY ADDING CHAPTER 4-19 TO REQUIRE COMPLIANCE WITH A SECURITY PLAN AND PAYMENT OF COSTS BY BUSINESSES THAT PLACE AN UNDUE BURDEN ON POLICE PROTECTION SERVICES

WHEREAS, the Town of San Anselmo desires to provide a safe and pleasant environment for the residents and businesses of San Anselmo; and

WHEREAS, providing an adequate level of police protection services is an important part of this effort; and

WHEREAS, the Town Council desires to ensure the Town is provided with adequate levels of police protection in all areas at all times by reducing inordinate demands created by certain types of businesses.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does hereby ordain as follows:

SECTION 1. FINDINGS.

In adopting this Ordinance, the Town Council makes the following findings:

1. The provision of police protection comprises more than 27% of the Town's Budget in the current fiscal year; and
2. The Town of San Anselmo is facing substantial revenue reductions due to the State of California's ongoing fiscal crisis; and
3. These revenue reductions make the careful deployment of police protection resources more important than ever before; and
4. Events at several businesses in San Anselmo have demonstrated that some businesses and types of businesses can, as a result of the style of management of the business, result in public safety problems that require inequitable and inordinate allocations of police services to protect the public safety; and
5. Deployments of police personnel to address issues at these establishments have required in some cases more than forty (40) sworn public safety personnel over a period of several hours, resulting in shortages of police protection in other parts of San Anselmo; and
6. The San Anselmo Police Department has determined that the types of problems requiring police services may have been avoided or reduced by the presence of private security personnel at these establishments and/or by other changes in operation; and
7. The Town currently lacks any ordinance which requires the implementation of a security plan and the payment of costs for failure to implement a security plan to address known or potential public safety problems; and

8. The Town Council finds that this Ordinance is enacted in order to mitigate the imminent threat posed to the public peace, health, safety and general welfare by the continued allocation of police resources to protect the public safety at specified businesses and the consequent reduction in police protection in other areas of San Anselmo. In this regard, the findings set forth in this Ordinance are incorporated herein by reference;
9. The adoption of this amendment to the Municipal Code is consistent with the goals, policies, and implementation programs specified in the Town's General Plan.

SECTION 2. AMENDMENTS TO THE SAN ANSELMO MUNICIPAL CODE.

Chapter 19 of Title 4 of the Town of San Anselmo Municipal Code is hereby added to read as shown below:

**CHAPTER 19
ON-SITE SECURITY REQUIREMENT**

Sections:

- 4-19.01 Purpose
- 4-19.02 Definitions
- 4-19.03 Security Plan May Be Required For Specified Businesses
- 4-19.04 Chief of Police May Determine That a Security Plan is Required
- 4-19.05 Notice and Enforcement Process
- 4-19.06 Payment Required from Businesses That Do Not Comply with this Chapter
- 4-19.07 Notice of Planned Event Required
- 4-19.08 Appeal
- 4-19.09 Regulations Nonexclusive – Remedies Cumulative
- 4-19.10 Severability
- 4-19.11 No Mandatory Duty of Care

4-19.01 Purpose.

The high cost of police protection, and the potential for certain businesses which operate in a way which threatens public safety by causing an inordinate increase in the demand for police services, requires that the Town implement measures to ensure that residents and businesses in San Anselmo do not receive inadequate levels of police services as the result of the allocation of resources to serve businesses which are operated in a negligent or irresponsible manner. This Chapter provides for implementation of measures to ensure that the public's safety is protected, and that the Town is reimbursed for the cost of providing services to businesses, which operate with a demonstrated disregard for safety.

4-19.02 Definitions.

The following definitions shall be used in this Chapter:

Business shall mean any business, whether for profit or not for profit, including retail, office, industrial, warehousing, and other types of non-residential land uses.

Chief of Police shall be the Chief of Police of the San Anselmo Police Department, or his or her designated representative.

Call for Service shall be any request, which results in the dispatching of uniformed police officers to a location, regardless of the source of the request.

Incident shall be any occurrence at a place of business, which results in a Call for Service.

Normal and Reasonable police protection is defined as that police protection which would occur with the use of normally scheduled police resources.

Private Security Officer shall be as defined in Section 7582.1(e) of the State of California Business and Professions Code.

Private Security Operator and **Private Security Service** shall be as defined in Section 7582.1(a) of the State of California Business and Professions Code.

4-19.03 Security Plan May Be Required For Specified Businesses.

The Town of San Anselmo may require that individual businesses or the management of larger centers provide a security plan, including but not limited to, on-site security provided by a Private Security Operator or Private Security Service, in order to protect the public safety and to reduce the added costs to the Town which result from a need for police protection which exceeds that which would be considered normal and reasonable.

4-19.04 Chief of Police May Determine That a Security Plan is Required.

The Chief of Police may decide, based on either the number of calls for service or on the severity of an individual incident or incidents requiring police response, that a business or business center is subject to the requirements of this Chapter. The Chief of Police's decision may be appealed as provided in this Chapter.

4-19.05 Notice and Enforcement Process.

a) When the Chief of Police determines that a business or business center is subject to this Chapter he/she shall notify the business owner or business center management in writing. The notice shall specify the calls and/or incidents upon which the determination is based. The notice shall require the business owner or business center management to provide to the Chief of Police a plan for improving the operation, design, hours of operation, etc., of the business or

business center to address the public safety issues identified. The plan shall also include a method of and a commitment to implementation at the business and/or center. The written notice shall include a deadline for response of not less than seven (7) or more than fourteen (14) calendar days. The business owner or business center manager may submit a written request for extension of the time for the response; the Chief of Police may, in writing, grant an extension of the time in which a response is required.

b) The Chief of Police shall review the plan from the business owner or business center management and determine if the suggested plan for improving operation, design, etc., is sufficient to address the identified public safety issues. If the Chief of Police determines that the suggested plan is sufficient to address the identified safety issues, the Chief of Police shall approve the plan and no further action will be taken, provided that the suggested plan is implemented.

c) If the Chief of Police determines that the proposed plan is not sufficient to address the identified safety issues, or if no response is received, the Chief of Police shall develop a plan to address the identified safety issues. This plan may include any reasonable changes in the design, operation, hours of operation, etc., as necessary, and may specifically include a requirement for the provision at no cost to the Town of onsite Private Security Officers employed by a Private Security Operator or Private Security Service. The Chief of Police shall notify the business or business center in writing of the plan, and shall specify a reasonable deadline for compliance.

4-19.06 Payment Required from Businesses Which Do Not Comply with this Chapter.

Businesses or business centers may be charged by the Town for the cost of all calls for service to the location if they fail to comply with this Chapter by: (1) failing to respond to the initial notice from the Chief of Police, or (2) failing to comply with any plan approved or imposed by the Chief of Police pursuant to this Chapter. The rate of charge shall be determined by the Town based on direct and indirect personnel, equipment, and other costs for response to calls for service to the location.

4-19.07 Notice of Planned Event Required.

In the event a business owner or business center manager fails to notify the Chief of Police of a planned event within ten (10) calendar days of said event, the Chief of Police shall make a determination, based on the information available to him/her at the time he/she becomes aware of said event, as to the necessity and scope of police response. The Chief of Police shall then take necessary steps to insure public safety by providing police services to the event in question. All costs associated with the police response under this subsection shall be the responsibility of the business owner or business center manager and shall include all direct and indirect personnel, equipment and other costs associated with the response to calls for service to the location.

4-19.08 Appeal.

Appeal(s) of decisions of the Chief of Police pursuant to this Chapter shall be determined by the Town Administrator in writing, but without a personal hearing before the Town Administrator.

In determining the appeal, the Town Administrator shall consider the decision of the Chief of Police which shall be supported by substantial evidence. Decisions by the Town Administrator, pursuant to this Chapter, may be appealed to the Town Council. All reasons to be asserted in support of an Appeal shall be submitted to the Town Clerk in writing not less than ten (10) calendar days after the receipt of the written decision by of the Town Administrator.

The Town Administrator shall decide the appeal in writing within 10 business days after the matter has been submitted by the business or business center. The Town Council shall endeavor to hear any appeal no later than the second regular meeting after the filing of the appeal from the Town Administrator's decision. The Town Council shall determine the appeal as soon as possible. No business or business center shall be required to implement a security plan while an appeal is pending.

4-19.09 Regulations Nonexclusive – Remedies Cumulative.

The provisions of this Chapter requiring payment for security are not intended to be exclusive. Compliance with this Chapter shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as provided by local ordinance, regulation or State law. The remedies herein are cumulative with all other available remedies.

4-19.10 Severability.

If any section, subsection, subdivision, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Town Council hereby declares that it would have passed each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

4-19.11 No Mandatory Duty of Care.

This Chapter is not intended to and shall not be construed or given effect in a manner that imposes upon the Town or any officer or employee thereof a mandatory duty of care towards persons and property within or outside of the Town so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

INTRODUCED at the regular meeting of the Town Council on the 25th day of May, 2004 and PASSED AND ADOPTED by the Town Council of the Town of San Anselmo on this 8th day of June 2004.

AYES: Chignell, Kilkus, Kroot, Thornton
NOES: (None)
ABSENT: Breen
ABSTAIN: (None)



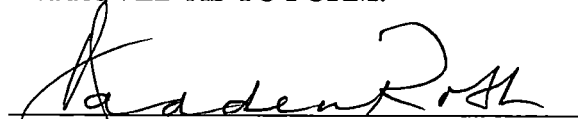
PAUL CHIGNELL, MAYOR of the
TOWN OF SAN ANSELMO

ATTEST:

APPROVED AS TO FORM:



BARBARA CHAMBERS
TOWN CLERK



HADDEN ROTH
TOWN ATTORNEY