

ORDINANCE NO. 962

AN ORDINANCE OF THE COUNCIL OF THE
TOWN OF SAN ANSELMO ADOPTING A STORM
WATER MANAGEMENT AND DISCHARGE
CONTROL PROGRAM

WHEREAS, the 1987 Amendments to the Federal Clean Water Act, as implemented by Environmental Protection Agency regulations adopted November 16, 1990, make necessary the adoption of plans and programs for storm water management meeting specified criteria; and

WHEREAS, Section 402(p) of the Clean Water Act (33 U.S.C. 1251 et seq.), as amended by the Water Quality Act of 1987, requires that all large and medium sized incorporated municipalities, and those municipalities that, as the State determines, contribute to a violation of a water quality standard or are significant contributors of pollutants to waters of the United States, must:

- (a) "effectively" prohibit non-storm water discharges into the storm drains; and
- (b) require controls to reduce the discharge of pollutants from storm water systems to waters of the United States to the maximum extent practicable ("MEP"); and

WHEREAS, the Town of San Anselmo seeks to comply with all provisions of state and Federal law; and

WHEREAS, the California Regional Water Quality Control Board, San Francisco Bay Region, has included in its Water Quality Control

Plan for the San Francisco Bay Basin ("Basin Plan"), specific urban runoff pollution prevention measures to be implemented by the Town of San Anselmo; and

WHEREAS, in order to implement the Federal regulatory requirements described above, the Town of San Anselmo participates in countywide urban runoff pollution prevention efforts through the Marin Street Light Acquisition Joint Powers Authority (MSLAJPA); and

WHEREAS, the MSLAJPA, acting on behalf of Marin County's municipalities, including the County of Marin, directed preparation of a Baseline Urban Runoff Control Plan, including specific Measures to be implemented by the municipalities; and

WHEREAS, the implementation of pollutant control measures described in the Basin Plan and in the Baseline Urban Runoff Control Plan in furtherance of these purposes is exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code as provided in categorical exemption classes 1, 4, 5, 7, 8, 9, and/or 21 of the CEQA Guidelines (Title 14, California Code of Regulations Sections 15301-15329); and

WHEREAS, this ordinance has been duly processed with proper public notice and applicable environmental review; and

WHEREAS, the Town Council has conducted legally noticed public hearings and has provided all interested parties an opportunity to be heard on these issues; and

WHEREAS, the Town Council has considered the Baseline Urban Runoff Control Plan and finds that said Baseline Urban Runoff Control Plan complies with the requirements of applicable Federal and state law, and further that said Program contributes to the comprehensiveness of the Town of San Anselmo's General Plan and provides an acceptable plan for the conservation of water resources within the Town of San Anselmo and protection of the health, safety and general welfare of its citizens;

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

SECTION 1. Chapter 8, entitled "Urban Runoff Pollution Prevention" is hereby adopted and added to the Town of San Anselmo Municipal Code, to read as follows:

ARTICLE I

TITLE, PURPOSE AND GENERAL PROVISIONS

5-8:1. Title

This Chapter shall be known as the "Town of San Anselmo Urban Runoff Pollution Prevention Ordinance" and may be so cited.

5-8:2. Purpose and Intent

The purpose of this Chapter is to ensure the future health, safety, and general welfare of Town of San Anselmo citizens by:

- (a) minimizing discharges other than storm runoff to storm drains or watercourses;
- (b) controlling the discharge to storm drains or watercourses from spills, dumping or disposal of materials other than rain water; and
- (c) reducing pollutants in storm water discharges to the maximum extent practicable.

The intent of this Chapter is to protect and enhance the water quality of the State's, and the Nation's watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Clean Water Act. (33 U.S.C. §1251 et seq.)

5-8:3. Definitions

3.1. -- Any terms defined in the Federal Clean Water Act (33 U.S.C. §1251 et seq.) and acts amendatory thereof or supplementary thereto, and/or defined in the regulations for the storm water discharge permitting program issued by the Environmental Protection Agency on November 16, 1990 (as may from time to time be amended) as used in this Chapter shall have the same meaning as in said Act or regulations. Such terms include, but are not limited to, the following:

3.1.1. -- Discharge. (a) any addition of any pollutant to navigable waters from any point source, or (b) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

3.1.2. -- Illicit Discharge. Any discharge to storm drains that is not composed entirely of storm water except discharges pursuant to a National Pollutant Discharge Elimination System (NPDES) permit and discharges resulting from fire fighting activities.

3.1.3. -- Illicit Connection. Any device or method which conveys non-stormwater discharge.

3.1.4. -- Pollutant. Dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

3.1.5. -- Storm Water or Storm Runoff. Storm water runoff, snow melt runoff, and surface runoff and drainage.

3.2. -- When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

3.2.1. -- Authorized Enforcement Official. The following Town officials: Director of Public Works, Planning Director, Associate Planner, Assistant Planner, Building Inspector, Fire Chief, Fire Marshal, Fire Inspector, Public Works Maintenance Superintendent, Public Works Supervisor and Parks Superintendent.

3.2.2. -- Best management practices ("BMPs"). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste recycling or disposal, or drainage from raw material storage.

3.2.3. --Town. The Town of San Anselmo.

3.2.4. -- Storm Drains. Includes but is not limited to those stormwater drainage conveyance facilities within the Town, both public and private, by which storm water may be conveyed to waters of the United States, including any roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, which are

not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

3.2.5. -- Non-Storm Water Discharge. Any discharge that is not entirely composed of storm water.

3.2.6. -- Premises. Any building, lot parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

4. Responsibility for Administration.

This Chapter shall be administered for the Town by the Director of Public Works.

5. Construction and Application.

This Chapter shall be construed to assure consistency with the requirements of the Federal Clean Water Act (33 U.S.C. §1251 et seq.) and acts amendatory thereof or supplementary thereto, and applicable implementing regulations, including the Basin Plan and any amendments, revisions or reissuance thereof.

ARTICLE II

DISCHARGE REGULATIONS AND REQUIREMENTS

7. Discharge of Pollutants.

The discharge of non-storm water discharges to storm drains is prohibited. All discharges of material other than storm water

must be in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued for the discharge.

7.1. -- Exceptions to Discharge Prohibition. The following discharges are exempt from the prohibition set forth in Section 7 above.

7.1.1. -- The prohibition on discharges shall not apply to any discharge regulated under a NPDES permit issued to the discharger and administered by the State of California under authority of the United States Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

7.1.2. -- Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising ground waters, infiltration to storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, flows from fire fighting, or permitted used of reclaimed water.

8. Discharge in Violation of Permit.

In the future, the California Regional Water Quality Control Board, San Francisco Bay Region (herein Regional Board) may issue an NPDES permit for stormwater discharges to the Town of San Anselmo, individually or in association with other Marin County municipalities. Any discharge that would result in or contribute to a violation of that permit and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person(s) so causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the Town in any administrative or judicial enforcement action relating to such discharge.

9. Illicit Discharge and Illicit Connections.

The establishment, use, maintenance, or continuance of illicit connections to the storm drains, and/or the commencement or continuance of illicit discharges to the storm drains is prohibited. This prohibition is expressly retroactive and applies to connections made in the past, regardless of whether made under a permit or other authorization or whether permissible under the law or practices applicable or prevailing at the time of the connection.

10. Reduction of Pollutants in Urban Runoff.

Any person engaged in activities which will or may result in pollutants entering the storm drains shall undertake all practicable measures to cease such activities, and/or eliminate or reduce such pollutants. Such activities shall include, but not be limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, and stores fronting Town streets or backing onto streams.

10.1. -- Littering. Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land or other premises in the Town, so that the same might be or become a pollutant discharged to water.

The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor of any premises in the Town of San Anselmo in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but

shall be disposed of in receptacles maintained on said real property as required for the recycling or disposal of garbage.

10.2. -- Standard for Parking Lots and Similar Structures. Persons owning or operating a parking lot, gas station area of pavement or similar structure shall clean those structures as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the storm drains.

10.3. -- Best Management Practices for New Developments and Redevelopments. Any construction contractor performing work in the Town shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering the storm drains.

All construction plans and applications for building permits shall consider the potential for erosion and sedimentation at the construction site, and shall include appropriate erosion and sedimentation controls. Appropriate controls shall be determined in accordance with the guidance provided in the "Standards for Erosion and Sedimentation Control" and the "Erosion and Sedimentation Control Handbook" published by the Association of Bay Area Governments, (ABAG) and may include site planning considerations, construction staging and timing, and installation of temporary detention ponds or other treatment facilities.

Prior to and/or during construction, the Director of Public Works may establish controls on the volume and rate of storm water runoff from new developments and redevelopment as may be appropriate to minimize peak flows or total runoff volume. These controls may include limits on impervious area or provisions for detention and retention of runoff on-site.

The Director of Public Works may require, as a condition of project approval, permanent structural controls designed for the removal of sediment and other pollutants. The selection and design of such controls shall be in accordance with criteria established or recommended by state and federal agencies.

10.4. -- Notification of Intent and Compliance with General Permits. Each industrial discharger, discharger associated with construction activity, or other discharger, described in any general storm water permit addressing such discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the Regional Board, shall provide notice of intent, comply with, and undertake all other activities required by any general storm water permit applicable to such discharges.

Each discharger identified in an individual NPDES permit relating to storm water discharges shall comply with and undertake all activities required by such permit.

10.5. -- Compliance with Best Management Practices. Where best management practices guidelines or requirements have been adopted by any Federal, State of California, regional, and/or local agency, for any activity, operation, or facility which may cause or contribute to storm water pollution or contamination, illicit discharges, and/or discharge of non-storm water to the storm drains, every person undertaking such activity or operation, or owning or operating such facility shall comply with such guidelines or requirements as may be identified by the Director of Public Works.

11. Watercourse Protection.

Every person owning, occupying, leasing, renting, or in control of premises through which a watercourse passes, shall:

- 1) keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation, and other obstacles which would and/or could pollute, contaminate, or significantly retard the flow of water through the watercourse;
- 2) maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and
- 3) not remove healthy bank vegetation beyond that actually necessary for said maintenance, nor remove said vegetation in such

a manner as to increase the vulnerability of the watercourse to erosion.

No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the Director of Public Works:

11.1. -- Discharge into or connect any pipe or channel to a watercourse;

11.2. -- Modify the natural flow of water in a watercourse;

11.3. -- Deposit in, plant in, or remove any material from a watercourse including its banks, except as required for necessary maintenance;

11.4. -- Construct, alter, enlarge, connect to, change, or remove any structure in a watercourse; or

11.5. -- Place any loose or unconsolidated material adjacent to or within a watercourse so as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm waters passing through such watercourse.

ARTICLE III

INSPECTION AND ENFORCEMENT

12. Violations Constitute a Public Nuisance; Abatement; Restoration.

Any condition caused or allowed to exist in violation of any of the provisions of this Chapter, constitutes a threat to the

public health, safety and welfare, and is deemed and declared to be a public nuisance. This public nuisance may be summarily abated, and/or the property restored to its original condition, and/or enjoined or otherwise be compelled to cease and desist, by the authorized enforcement official, or by actions taken by the Town Attorney.

12.1 -- Abatement Procedure; Costs; Lien. The abatement of any public nuisance under this Chapter shall follow the formal notice procedures as set forth in Chapter 2 Title 1 of the Town's Municipal Code. The cost of such abatement and/or restoration of the property to its original condition, shall be the responsibility of the owner of the property. Said costs shall be a lien upon and against the property and shall continue in existence until it is paid. Said lien shall be imposed and collected in accordance with the applicable provisions of State law and this Code.

12.2 -- Inspections and Sampling: Authority and Procedure.

12.2.1. -- The authorized enforcement official has the duty and the responsibility to inspect any and all locations for any violation of the provisions of this Chapter. The authorized enforcement official may, within the limitations of law, enter such building or premises at reasonable times to inspect the same for violations of this Chapter or to perform any duty imposed upon the official by this Chapter, provided

that the official presents proper credentials to, and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the Town Attorney to obtain an administrative warrant for the premises, pursuant to the provisions of State law.

12.2.2. -- The authorized enforcement official has the right to, and shall conduct routine sampling and monitoring on or adjacent to the premises under review. The cost of such routine sampling and/or monitoring activities, including test reports and results, shall be born by the local agency. The authorized enforcement official may, within the limitations of law, enter such premises at reasonable times to conduct sampling and monitoring operations, provided that the official presents proper credentials to, and obtains consent from the owner or occupant to enter. In the event the owner and/or occupant refuses entry, the official shall request assistance of the Town Attorney to obtain an administrative warrant for the premises, pursuant to the provisions of State law.

12.2.3. -- Whenever the authorized enforcement official has reasonable cause to believe that the owner and/or occupant of a premises is engaged in an activity and/or operating a facility that is causing or contributing to storm water

pollution or contamination, illicit discharges, and/or the discharge of non-storm water or other unlawful material, to the storm drains, the official may require the owner and/or occupant to conduct sampling and/or monitoring activities on the premises, and to furnish such test results and reports as the official may determine. The burden and cost of undertaking such sampling and monitoring activities, including test results and reports, shall be born by the owner of the premises under review. The type and method of sampling and monitoring shall bear a reasonable relationship to the need for testing and monitoring and to the benefits to be obtained, as determined by the enforcement official.

12.2.4 -- Exigent Circumstances. Whenever a condition is found to exist in violation of this Chapter that presents an immediate and present danger to the public health, safety and welfare requiring immediate remedial action to prevent injury to persons or property, the authorized enforcement official shall take whatever reasonable and appropriate action is necessary to neutralize the danger, including but not limited to, entry upon private premises for inspection, sampling and monitoring, and abatement.

13. Violations; Misdemeanors or Infractions; Punishment.

The violation of any provision of this Chapter, or failure to comply with any of the mandatory requirements of this Chapter, shall constitute a Misdemeanor, except that, notwithstanding any other provision of this Chapter, any such violation of this Chapter may, in the discretion of the enforcement authority, constitute an infraction. If convicted of a misdemeanor, a person shall be subject to payment of a fine, imprisonment, or both, not to exceed the limits set forth in Government Code section 36901. If convicted of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in Government Code section 36900. A person, firm, corporation, or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or allowed by the person, firm, corporation or organization, and shall be punishable accordingly.

14. Violations; Civil Action for Enforcement.

The violation of any provision of this Chapter, or the failure to comply with any of the requirements of this Chapter, may be enforced by a civil action brought by the Town Attorney in any court having appropriate jurisdiction. In any such action, the Town may seek any or all of the following remedies:

- 1) A temporary or permanent injunction.
- 2) Costs of investigation, inspection, sampling, or monitoring activities concerning the violation, and costs of suit.

3) Costs of restoration of the premises from its condition resulting from the violations back to its original condition

4) Compensatory damages including but not limited to loss and/or destruction of water quality, wildlife, fish, aquatic habitat, and other adverse environmental effects. Damages recovered under this subsection shall be paid to the Town and shall be used exclusively for costs of sampling and monitoring, of establishing storm water discharge pollution control systems, and of implementing and/or enforcing the provisions of this Chapter.

15. Violations: Administrative Enforcement Action.

In addition to any other enforcement powers and/or remedies provided in this Chapter, an authorized enforcement official may issue an order to a person to cease and desist from the discharge, practice, operation or other activity causing or likely to cause a violation of this Chapter. Such order shall be directed to those persons in violation of the Chapter stating clearly and concisely the nature of the violation, the requirements for compliance, a timetable for compliance, and such other remedial and/or preventive action as may be necessary. Upon the violator's failure to comply with such order, the Town shall take further enforcement action as specified in this Chapter, or in accordance with any other appropriate provision of local, State or Federal law.

16. Remedies Not Exclusive.

The enumerated remedies provided in this Chapter are in addition to and do not supersede or limit and all other remedies, both civil and criminal. The remedies provided for herein shall be cumulative to, and not exclusive of, each other.

17. Authority to Arrest and Issue Citations.

The authorized enforcement official shall have the authority to arrest or to cite any person who violates any provision of this Chapter in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanors or for citation of infractions and notice to appear, as prescribed by Chapter 5, 5c, and 5d of Title 3, Part 2 of the California Penal Code, including section 853.6, or as the same may be hereinafter amended.

It is the intent of the Town Council that the immunities provided in Penal Code section 836.5 be applicable to public officers or employees acting within the course and scope of their employment pursuant to this Chapter.

ARTICLE IV

COORDINATION WITH OTHER PROGRAMS; SUPERCESSION

18. Coordination with Hazardous Materials Inventory and Response Program.

The first revision of the business plan for any facility subject to the Town's hazardous materials inventory and response ordinance shall include a program for compliance with this Chapter,

including the prohibitions on non-storm water discharges and illicit discharges, and the requirement to reduce storm water pollutants to the maximum extent practicable.

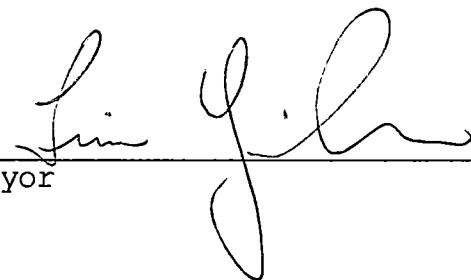
19. Supercession. If any section, subsection, sentence, clause or phrase or word of this Chapter is for any reason held to be unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The Town Council of the Town of San Anselmo hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional.

The foregoing article was introduced at a regular meeting of the Town Council of the Town of San Anselmo on November 22, 1994, and thereafter adopted on December 13, 1994.

AYES: Breen, Chignell, Kroot, Yarish, Zaharoff

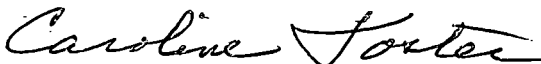
NOES: (None)

ABSENT: (None)



Mayor

ATTEST:



Town Clerk

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