

URGENCY INTERIM ORDINANCE NO.1028

AN ORDINANCE OF THE TOWN OF SAN ANSELMO EXTENDING ORDINANCE NO. 1025 TEMPORARILY PROHIBITING THE CONSTRUCTION OR INSTALLATION OF WIRELESS COMMUNICATIONS FACILITIES PENDING REVIEW FOR MODERNIZATION AND ADDITION OF RULES FOR THE CONSTRUCTION AND INSTALLATION OF WIRELESS COMMUNICATION FACILITIES

THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE

WHEREAS, this Ordinance is found to be exempt from environmental review per the provisions of Section 15061(b) (3) of the California Environmental Quality Act of 1970 as amended.

WHEREAS, the current San Anselmo Municipal Code provisions found at § 10-3.2810 through 10-3.2818 do not contain adequate provisions necessary to insure that the construction and installation of wireless communication facilities are consistent with the public health, safety and welfare of the citizens of and visitors to the Town of San Anselmo, and therefore need to be amended.

Potential changes and additions to current Code provisions include: an updated facilities plan, including appropriate site locations; description and explanation of technology required for installation, construction and use of wireless communication facilities; listing of the carriers' facilities sites; peer review and costs; financial security provisions; removal of obsolete facilities; improved noticing of wireless communication applications; indemnity provisions; permit duration, monitoring and technological upgrades.

WHEREAS, Government Code §65858 (f) provides that upon termination of a prior interim ordinance, the Town Council may adopt another interim ordinance provided the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

The prior urgency interim ordinance, no. 985, made the following findings:

1. "The Town has been recently called upon to respond to inquiries concerning applications for wireless

communication facilities in Marin County near the Town of San Anselmo corporate limits in highly visible hillside areas near open space lands. During the course of said application process, questions arose regarding the applicability of Marin County Community Development Agency Interim Standards and Criteria for Wireless Communications Facilities approved by the Marin County Board of Supervisors November 12, 1996.

2. "A draft wireless communication facilities ordinance, patterned after the Marin County Interim Standards and Criteria, had been approved by the Town Planning Commission and was pending Town Council action at the time questions arose regarding the County applications referenced above. This prompted the Town Council to continue the ordinance adoption until sensitive land use and zoning issues were resolved.
3. "Because of the topography and geography of the Ross Valley, the proximity of San Anselmo is an important link in the receiving and transmitting network of wireless communication facilities.
4. "A potential conflict exists between the land use and zoning policies of the Town in that no specific guidelines or criteria currently exist within these documents to evaluate wireless communication facilities.
5. "As a result of the above, there exists a threat to public health, safety and welfare posed by processing and approval of use permits, variances, design review approvals, building permits or other applicable entitlements for the construction and/or use of wireless communication facilities such that processing and approval of such use permits, variances, design review approvals, and building permits or other applicable entitlements for the construction and/or installation of wireless communication facilities would lead to potential inconsistencies with the San Anselmo General Plan and Zoning Ordinance, and a decline in residential neighborhoods due to effects on aesthetics and property value. It is necessary that the Town Council and the Planning Commission conduct further study to address the issues identified in subsections 1 through 4 inclusive.

6. "A moratorium on the processing and approval of use permits, variances, building permits and/or applicable uses and entitlements for the construction of wireless communication facilities is necessary to protect the public health, safety and welfare.
7. "A moratorium is consistent with the objectives, policies and general land uses specified in the Town's General Plan and Zoning Ordinance.
8. "A moratorium will not adversely affect the orderly development, and will in fact, enhance the orderly development of property and/or the preservation of property values in the Town."

WHEREAS, ORDINANCE NO. 1025, adopted by the Town Council at its regular meeting on April 9, 2002, expires September 9, 2002.

WHEREAS, the Town Council desires to extend that ordinance and Ordinance No. 1023 to March 12, 2004 for a total of 730 days based on the findings made and the reasons given in Ordinance No. 1025.

THEREFORE, the Town Council finds that this ordinance, extending Ordinance No. 1025 is needed to protect the public safety, health, and welfare from an event, occurrence and set of circumstances different from the event, occurrence and set of circumstances that led to the adoption of prior Urgency Interim Ordinance Nos. 985 and 1023.

SECTION 2. APPLICATION OF ORDINANCE

This ordinance shall apply to every owner of real property within the Town.

SECTION 3. PROHIBITION ON CONSTRUCTION OF COMMERCIAL ANTENNAE

Except as provided below, it is unlawful for any person to construct or install any further wireless communication facilities. Pending the review contemplated herein, the Town shall not process or approve any application(s) for permits, variances, building permits, encroachment permits, or other applicable uses or entitlements for the construction, installation or use of wireless communication facilities.

EXEMPTION

The following shall be exempt from the provisions of this urgency interim ordinance:

Installation of wireless communication facilities or personal communications service (PCS) facilities for which applications are currently pending before the Town of San Anselmo.

SECTION 5. VIOLATION

The violation of any provision of this ordinance is hereby declared unlawful and shall constitute a misdemeanor or infraction and a public nuisance.

SECTION 6. EFFECTIVE DATE

This ordinance shall take effect immediately, and shall be of no further force and effect 549 days from the date of adoption to March 12, 2004.

Copy of the foregoing ordinance shall be published or posted according to law; if posted, shall be posted in three public places in the Town of San Anselmo, to wit: 1) Bulletin Board in front of Town Hall; 2) Town of San Anselmo Library; 3) Isabelle Cook Community Center; at places designated for that purpose.

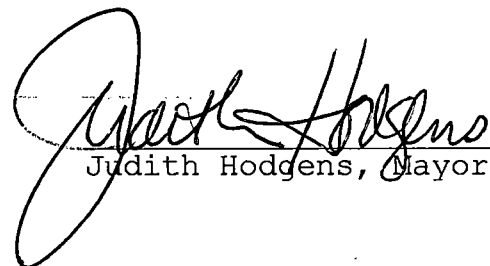
I hereby certify the Urgency Interim Ordinance No.1028 was duly passed and adopted at the regular meeting of the Town Council held on August 27, 2002, by the following vote:

AYES: Breen, Chignell, Hodgens, Kroot

NOES: Kilkus

ABSENT: (None)

ATTEST:


Judith Hodgens, Mayor


Debra Stutsman, Town Clerk

FYI: ^{Save}
This interim ordinance expired on 3/12/04.
Ordinance No. ~~1009~~ (1999) remained in effect when Resolution No. 3688 was adopted on 6/8/04.