

ORDINANCE NO. 97-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AMERICAN CANYON ADDING TITLE 4, CHAPTER 4.04,
REGARDING ADMINISTRATIVE PROCEDURES FOR THE ACQUISITION
OF PROPERTY FOR MUNICIPAL PURPOSES, TO THE
AMERICAN CANYON MUNICIPAL CODE

The City Council of the City of American Canyon hereby ordains as follows:

SECTION 1. Title 4, Chapter 4.04, regarding administrative procedures for the acquisition of property for municipal purposes, is hereby added to the American Canyon Municipal Code to read as follows:

Chapter 4.04

ADMINISTRATIVE PROCEDURES FOR THE ACQUISITION
OF PROPERTY FOR MUNICIPAL PURPOSES

- Section 4.04.010 Council Findings/Purpose of City's Land Acquisition Program
- Section 4.04.020 Prerequisites to City's Decision to Acquire Privately-Owned Property for a Municipal Project
- Section 4.04.030 Nature of Property Interests Which May Be Acquired by City
- Section 4.04.040 Joint Powers Agreements for Acquisition of Property
- Section 4.04.050 Acquisition of Nonprofit, Special Use Property by City
- Section 4.04.060 Appraisal of Property Being Considered for Acquisition by City
- Section 4.04.070 Performance of Tests, Assessments, and Related Activities on the Property by City
- Section 4.04.080 Environmental Analysis and Assessment of Property by City
- Section 4.04.090 Notice of City's Decision Not to Acquire Property
- Section 4.04.100 City's Determination of Just Compensation for the Property
- Section 4.04.110 City's Written Offer to Purchase Property from Owner
- Section 4.04.120 Additional Information to be Provided to Owner by City
- Section 4.04.130 Pre-Condemnation Negotiations Between City and Owner
- Section 4.04.140 Acquisition of Uneconomic Remnant of Property by City
- Section 4.04.150 City's Adoption of Resolution of Necessity Before Initiating Eminent Domain Proceedings to Acquire Property
- Section 4.04.160 Notice of Hearing on Proposed Adoption of Resolution of Necessity
- Section 4.04.170 Hearing on Adoption of Resolution of Necessity
- Section 4.04.180 Initiation of Eminent Domain Action by City
- Section 4.04.190 Relocation Assistance

- Section 4.04.200 Displacement of Persons from Property Acquired by City/
Short-Term Rental of Property Acquired by City to Former
Owner or Tenant
- Section 4.04.210 Prohibited Activities
- Section 4.04.220 Applicability of State and Federal Law
- Section 4.04.230 Method of Service of Required Notices and Documents by
City
- Section 4.04.240 Annual Review

Section. 4.04.010 Council Findings/Purpose of City's Land Acquisition
Program

A. Council Findings. The City Council finds and declares that from time to time the City of American Canyon may need to acquire privately-owned property for municipal projects which serve a public purpose.

B. Purpose of City's Land Acquisition Program. The purpose of this Chapter is to provide procedures for the City's acquisition of property when necessary for municipal projects that serve the public interest and necessity in accordance with the applicable law and in consideration of the rights of property owners.

Section 4.04.020 Prerequisites to City's Decision to Acquire Privately-Owned
Property for a Municipal Project

Before making a decision to acquire privately-owned property, the City shall consider whether it can use existing City property or otherwise purchase or obtain suitable property for the project. The City may acquire privately owned property by eminent domain if the following three requirements are met:

- A. the municipal project for which the City wishes to acquire property will serve both the public interest and the needs of the public;
- B. the municipal project for which the City wishes to acquire property is being planned and/or located in the manner that will be compatible with the greatest public good and the least injury to private interests;
- C. the property sought to be acquired by the City is necessary for the municipal project.

Section 4.04.030 Nature of Property Interests Which May Be Acquired by City

The City may acquire full ownership of privately-owned property if necessary for the municipal project, or a lesser interest in the property, such as an easement, if such lesser interest would meet the City's needs for the project. The City may acquire any interest in the property necessary for the project, including submerged lands, water rights, subsurface rights, airspace rights, easements, rights of temporary occupancy, or public utility facilities and franchises.

Section 4.04.040 Joint Powers Agreements for the Acquisition of Property

In appropriate circumstances, the City may enter into a joint powers agreement pursuant to state law with one or more public agencies for the purpose of acquiring property for a project that will serve the public interest and necessity.

Section 4.04.050 Acquisition of Nonprofit, Special Use Property by City

A. Definition of Nonprofit Special Use Property. For the purposes of this section, "nonprofit, special use property" shall be defined to mean property which is operated for a special nonprofit, tax-exempt use, such as a school, church, cemetery, hospital or similar property, but not to include property owned by a public entity.

B. City's Duty to Seek Alternative Property for Municipal Project. Before making an offer to purchase nonprofit, special use property or initiating negotiations with the property owner(s), the City shall make every reasonable effort to find alternative property that may be acquired for the project that is not nonprofit, special use property.

C. Permissible Uses of Nonprofit, Special Use Property by City. The requirements of subsection (B) above shall not apply to property acquired by the City for the following purposes:

1. Transportation projects, including but not limited to, the construction, expansion or improvement of streets, highways, or railways; or
2. Water, sewer, electricity, telephone, natural gas, or flood control facilities, or rights-of-way, where the City's acquisition of the property for these purposes will not require the removal or destruction of existing improvements, or cause the property to become unfit for the owner's present or proposed use.

Section 4.04.060 Appraisal of Property Being Considered for Acquisition by City

A. City's Right to Conduct Appraisal/Timing for Appraisal. After the City has identified a municipal project for which the acquisition of privately-owned land may be necessary, the City shall conduct an appraisal of any property which is being considered for this purpose. The appraisal must be conducted before negotiations between the City and the owner regarding the purchase of the property are begun. The City may waive its right to appraise property which has an extremely low fair market value and will be acquired from the owner by sale or donation, or as otherwise permitted by law.

B. Notice to Property Owner of Decision to Appraise

The City shall provide the owner with written notice of its decision to appraise the property as soon as possible after the decision is made. At a minimum, the notice shall state:

1. A specific geographic area is being considered by the City for a particular municipal project;
2. The owner's property is located within that area;
3. The owner's property, which shall be generally described, may be acquired by the City for use in connection with the municipal project.

The City shall give reasonable advance notice of the date and time of the appraisal in writing. In the absence of unusual circumstances, notice given to the owner at least ten (10) business days before the inspection shall be considered reasonable advance notice.

C. City's Provision of Written Explanation of Its Land Acquisition Procedures and Property Owner's Principal Rights At Time of Notice of Decision to Appraise the Property

At the time of notifying the owner of the decision to appraise the property, the City shall provide the property owner with a written explanation in non-technical, understandable terms of its land acquisition procedures, and the principal rights and options available to the owner. This notice shall include at a minimum:

1. A description of the basic purpose of the City's land acquisition procedures and a reference to the availability of the City's policy regarding relocation benefits for which an owner or lawful occupant may be eligible;

2. A statement that the owner or his representative designated in writing shall be given an opportunity be present and to accompany the appraiser during the appraisal;

3. A statement that if the City decides to acquire the property, it shall notify the owner in writing as soon as possible after the decision is made. The City shall then give the owner a written offer to pay a fair and reasonable compensation ("just compensation") for the property. If the owner is not satisfied with the City's offer, he/she shall be given a reasonable opportunity to present relevant material to the City for consideration in determining the amount to be paid to the owner for the property;

4. A statement that the City will make reasonable efforts to reach agreement with the owner regarding the compensation to be paid for the property through negotiations. If an agreement cannot be reached, the City may either file an eminent domain action in court to acquire the property, or may abandon its decision to acquire the property. If an eminent domain action is filed, the owner shall have the right to contest the City's acquisition of the property in court;

5. A statement to the owner that if the City's acquisition of any part of the property would leave the owner with an uneconomic remnant of land as defined by Section 4.04.140 and state law, the City will offer to acquire the uneconomic remnant, if the owner so desires;

6. A statement that construction or development of the municipal project on the property shall be scheduled so that no person lawfully occupying the property shall be required to move his/her home, business, or farm operation without at least ninety (90) days advance written notice from the City of the date on which the move is required;

7. A statement that if arrangements are made to the rent the property to the owner or a tenant after the City has acquired the property for a short term or for a period subject to termination by the City on short notice, the rent will not exceed the lesser of the fair rental value of the property to the short-term occupant or the pro rata portion of the fair rental value for a typical rental period. If the owner or a tenant is the lawful occupant of a dwelling on the property, the rental for the dwelling shall be within his/her financial means;

8. A statement that the City will comply with applicable legal requirements regarding relocation assistance and that additional information on relocation assistance shall be available at the City offices;

9. If the owner is also the owner of a business conducted on the property or the remainder of the property, a statement that the owner may have a right to compensation for loss of goodwill if the City acquires the property. A copy of the pertinent provisions of the state Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.) shall be enclosed with the notice.

10. The name, title, and phone number of a contact person at the City to whom the owner may address questions.

11. Any other information required by state or federal law.

D. Property Owner's Consent to City's Entry on Property for Appraisal/Indemnity Agreement

The City shall attempt to obtain written consent from the property owner to enter the property to conduct the appraisal, and shall indemnify, hold harmless, and defend the property owner from and against any damage or injury to persons or property, including death, arising out of or resulting from, and to the extent caused by, the sole negligence or willful misconduct of the City and/or its agents in the performance of the appraisal and related activities on the property.

E. Manner of Conducting Appraisal

The City shall make reasonable efforts to conduct the appraisal in a manner which avoids or minimizes any interference with the use of the property by the owner or other persons who have a lawful interest in the property, or any damage to the property.

Section 4.04.070 Performance of Tests, Assessments, and Related Activities on the Property by the City

A. Right of City to Enter Property Being Considered for Acquisition for Tests, Assessment, and Related Activities

The City may also enter property that is being considered for acquisition to take photographs, or conduct studies, surveys, examinations, tests, soundings, borings, or similar activities reasonably related to the acquisition of the property, environmental assessment, or the potential use of the property for a municipal project.

B. Advance Notice to Property Owner

The City shall give notice to the owner of the need to enter the property and the nature of activity to be conducted to the property owner at least ten working (10) days before the entry on to the property. The owner or his/her representative designated in writing may be present during the performance of these activities.

C. Consent of Property Owner and/or Authorization of City to Enter Property

The City shall attempt to obtain the written consent of the owner before entering on the property to perform these activities. If the owner declines to give consent, the City shall, when required by state law, obtain court authorization before entering the property for these purposes.

D. Manner of Conducting Tests and Related Activities/Indemnity Agreement.

The City shall make reasonable efforts to conduct these activities in a manner which avoids or minimizes any interference with the use of the property by the owner or other persons who have a lawful interest in the property, and any damage to the property or injury to persons. The City shall indemnify, hold harmless and defend the owner from and against any damage or injury to persons or property, including death, arising out of, or resulting from, and to the extent caused by, the sole negligence or willful misconduct of the City and/or its agents in the performance of these activities on the property.

Section 4.04.080 Environmental Analysis and Assessment of Property by City

A. Compliance with California Environmental Quality Act (CEQA).

The City shall take any necessary action to conduct an analysis of the environmental effects of its acquisition of the property as may be required by the California Environmental Quality Act (CEQA).

B. Assessment of Property for Existence of Environmental Contamination.

Before making a decision to acquire the property, the City may conduct a preliminary assessment of the property to determine whether environmental contamination exists, and the nature and extent of any contamination. If contamination is found to exist and the City is still considering acquisition of the property, a further assessment of the contamination may be performed. The City shall obtain permission from the owner or, if necessary, a court order, to enter the property for this purpose pursuant to Section 4.04.070.

Section 4.04.090 Notice of City's Decision Not to Acquire Property

If, at any time after sending a notice of intent to appraise to the property owner, or an offer to pay just compensation for the privately-owned property, the City decides not to acquire the property, the City shall serve a written notice of the decision not to acquire to the owner, all persons occupying the property, and other persons potentially eligible for relocation assistance within ten (10) days after the decision.

Section 4.04.100 City's Determination of Amount of Just Compensation for Property

A. City's Determination of Amount of Just Compensation. If after the appraisal and other examination and consideration of the property, the City determines that it wishes to acquire the property for a municipal project by eminent domain, the City shall establish an amount that it believes to be just compensation for the property. The amount determined to be just compensation shall be no less than the fair market value of the property as improved.

The determination of the amount established as just compensation shall be based on consideration of:

1. The property being acquired;
2. The appraisal conducted by the City;
3. If the property to be acquired is part of a larger parcel, the injury, if any, to the remainder of the property;
4. Loss of goodwill, if the owner of the real property is also owns a business conducted upon the property to be acquired, or the remainder of the property, and compensation for loss of goodwill is required by the state Eminent Domain Law (Civil Procedure Section 1263.010 et seq.). Goodwill consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.
5. Other factors as authorized by state or federal law.

B. Approval of Amount of Just Compensation by City Council. The City's appraisal of the property and amount established as just compensation shall be approved by the City Council.

Section 4.04.110 City's Written Offer to Purchase Property from Owner

A. City's Written Offer to Purchase Property for Just Compensation

The City shall serve on the property owner a written offer to purchase the property for the amount determined to be just compensation, unless the circumstances set forth in subsections (B)and (D) below apply, and a statement of the basis for determination of just compensation. The statement must include the following:

1. A general statement of the municipal project for which the property is to be acquired;
2. A description of the location and extent of the property to be taken, with sufficient detail for reasonable identification, and the interest to be acquired;
3. An inventory identifying the buildings, structures, fixtures, and other improvements;
4. A recital of the amount of the offer and a statement that such amount:
 - a. is the full amount believed by the City to be just compensation for the property;
 - b. is not less than the approved appraisal of the fair market value of the property as improved;
 - c. disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired, other than due to physical deterioration within the reasonable control of the owner or occupant; and
 - d. does not reflect any consideration of or allowance for any relocation assistance or other payments or benefits which the owner is entitled to received under an agreement with the City, except for an amount to compensate the owner for the the loss of goodwill as provided in Section;
 - e. If the property to be acquired is part of a larger parcel, the statement must include an apportionment of the total estimated just compensation for the partial acquisition, between the value of the property being taken and the amount of damage, if any, to the remainder of the larger parcel from which such property is taken;

f. If the owner of the real property to be acquired also owns a business conducted upon the property or the remainder, the statement must include an indication of compensation for loss of goodwill.

B. Circumstances in which City May Offer Less than Just Compensation to Owner

Notwithstanding the foregoing, the City may offer less than the amount determined to be just compensation for the property in the following circumstances:

1. Property Offered for Sale by Owner.

The City may offer to purchase property for municipal projects at a price no less than the amount offered by the owner if the following requirements are met:

a. The owner has directly offered the property to the City for a specified price which is less than the amount determined to be just compensation before the commencement of negotiations by the City for acquisition of the property; or

b. The owner has offered the property for sale to the general public at an advertised or published price which is less than the amount determined to be just compensation no more than six (6) months prior to, and the property is still available at this price at the time that the City initiates contact with the owner regarding the possible acquisition of the property; and

c. No federal funds are involved in the acquisition of the property or the construction or development of the municipal project for which the property would be acquired.;

2. Acquisition by Eminent Domain Not Contemplated by City.

The City may acquire property for less than the amount determined to be just compensation if the City is not contemplating the acquisition of the property by eminent domain.

3. The City may acquire property for less than the amount determined to be just compensation when otherwise authorized by law.

C. City's Offer May be Conditional. The City's written offer for the property may be conditioned upon the City Council's ratification of the offer by execution of an agreement for acquisition of the property or the adoption of a Resolution of Necessity, or both.

D. Exception to Requirement that City Make Written Offer to Owner. In unusual circumstances, in which the City Council has made a finding that the project for which the property to be acquired is needed is an emergency project, which is necessary to preserve or protect the public health, safety, or welfare, the City may adopt a Resolution of Intention pursuant to Section 4.04.150 without first making a written offer to purchase the property from the owner(s). However, in such cases, the written offer must be made by the City to the owner within a reasonable time but in any event, no later than ninety (90) days after the adoption of a Resolution of Necessity.

4.04.120 Additional Information to be Provided to Property Owner

A. Review of City's Appraisal by Owner by City.

If the property sought to be acquired by the City is owner-occupied residential property and contains no more than four (4) residential units, the owner shall be entitled to review the City's appraisal upon request.

B. Additional Information to be Provided to Owner by City Upon Request.

If after receiving the City's written offer to purchase the property, the owner requests additional information regarding the determination of just compensation, the City shall provide the following information, if it was considered in the City's determination of just compensation:

1. The date of valuation used;
2. The highest and best use of the property;
3. The applicable zoning;
4. Identification of some of the sales, contracts to sell and purchase, and leases supporting the City's determination of value, including the names and business or residence addresses of the parties to the transaction, the location of the property subject to the transaction, the price and other significant terms of the transaction, if known. The City may make documents related to such transactions available for inspection by the owner at a designated place.

C. City's Duty to Provide Additional Information Inapplicable After Initiation of Eminent Domain Action.

The requirements of subsection B. above shall not apply after an eminent domain action has been filed in court.

4.04.130 Pre-Condemnation Negotiations between City and Property Owner

A. City's Duty to Acquire Property through Agreement with Owner, if Possible.

The City shall make every reasonable effort to acquire the property through negotiation and agreement with the owner, rather than through an eminent domain action in court.

B. Manner of Conducting Negotiations with Owner

The City shall give the owner a reasonable time to consider the City's written offer to purchase the property and any additional information provided by the City and shall make reasonable efforts to discuss the offer with the owner. The owner shall be given an opportunity to present material which he/she believes relevant to the issue of the value of the property and to suggest modifications in the terms and conditions of the City's purchase of the property. The City shall carefully consider any information presented by the owner.

C. Adjustments in City's Appraisal Based on New Information or Delay.

If information presented by the owner or a material change in the condition of the property indicates a need for a new appraisal, or if a significant delay has occurred since the determination of just compensation, the City shall update its appraisal to reflect these circumstances. If a change in the City's determination of just compensation is warranted, the City shall make appropriate adjustments and forward a new written offer which meets the requirements of Section 4.04.110 to the owner for consideration.

D. City's Payment of Expenses Incidental to Purchase of Property Acquired Through Successful Negotiations with Owner.

If the City successfully acquires the property by purchase after negotiations with the owner, the City shall pay reasonable expenses incidental to the sale of land to the City. Such reasonable expenses shall include, but are not limited to: recording fees, transfer fees and similar expenses incidental to the conveyance of real property, and the pro rata portion of charges for public services such as water, sewage and trash collection which are attributable to a period subsequent to the date of transfer of title to the City or the effective date of possession by the City, whichever is earlier. The City shall inform the property owner(s) that he/she may apply for a rebate of the pro rata portion of any real property taxes paid.

Section 4.04.140 Acquisition of Uneconomic Remnant of Property by City

A. Definition of Uneconomic Remnant.

For the purposes of this Chapter, "uneconomic remnant" shall mean a parcel of real property in which the property owner retains a legal interest after the City has acquired another part of the property and which has little value or utility to the owner(s), or any other applicable definition under state law.

B. City's Duty to Offer to Acquire Uneconomic Remnant.

Whenever the City is acquiring part of a parcel of real property, and the remainder, or a portion of the remainder, is left in such size, shape, or condition as to constitute an uneconomic remnant, the City shall offer to acquire the uneconomic remnant if the owner(s) so desires.

Section 4.04.150 City's Adoption of Resolution of Necessity Before Initiating Eminent Domain Proceedings to Acquire Property

A. Requirement for Resolution of Necessity. If after a reasonable time, the City is unable to successfully negotiate the purchase of the property with the owner and wishes to acquire the property by eminent domain, the City Council shall adopt a Resolution of Necessity by a two-thirds (2/3) vote pursuant to Code of Civil Procedure Section 1245.230 before initiating eminent domain proceedings in court, and after giving notice and conducting a hearing as required by Sections 4.04.160 and 4.04.170.

B. Contents of Resolution of Necessity. In addition to any other information required by law, the Resolution of Necessity shall contain all of the following:

1. A general statement of the public use for which the property is taken by the City and a reference to the statute that authorizes the City to acquire the property by eminent domain;
2. A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification;
3. A declaration that the City Council has found and determined each of the following:
 - a. The public interest and necessity require the proposed project for which the property is to be acquired by the City;

b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

c. The property described in the Resolution of Necessity is necessary for the proposed municipal project;

d. That the City has either made the written offer to purchase the property to the property owner(s), or that the offer has not been made because the owner(s) cannot be located with reasonable diligence, or because the project for which the property is to be acquired is an emergency project necessary to protect or preserve the public health, safety, and welfare. However, in cases involving the adoption of a Resolution of Necessity for an emergency project for which the City has not given the owner a written offer to purchase, the City shall give the owner a written offer to purchase the property pursuant to Section 4.04.110(D) within a reasonable time and in no event later than ninety (90) days after the adoption of the Resolution of Necessity.

Section 4.04.150. Notice of Hearing on Proposed Adoption of Resolution of Necessity.

A. Persons Entitled to Notice of Hearing.

Before adopting a Resolution of Necessity, the City shall give each person whose property is sought to be acquired by the City and whose name and address appears on the last equalized county assessment roll notice a reasonable opportunity to appear and be heard at a hearing on the adoption of the proposed Resolution of Necessity.

B. Contents of Notice.

The City shall send a written notice by first-class mail to each person described in subsection (A) above at least sixteen (16) days before the hearing on the adoption of the Resolution of Necessity, which states all of the following:

1. The intent of the City Council to adopt the Resolution of Necessity and a description of the property that would then be subject to acquisition by the City by eminent domain;

2. The right of each person who receives a notice to appear and speak or offer written comments at the hearing on the adoption of the Resolution of Necessity, upon the timely filing of a written request to appear and be heard with the City Clerk, and the date, time, and place of the hearing;

3. If the recipient of the notice fails to file with the City Clerk a written request to appear and be heard at the hearing on the adoption of the Resolution of Necessity within fifteen (15) days after the mailing of the notice by the City, he/she shall be deemed to have waived the right to appear and be heard at the hearing on the Resolution of Necessity.

C. Additional Notice of Hearing.

The City may give additional notice of the hearing on the proposed adoption of the Resolution of Necessity to affected persons and the public.

Section 4.04.160 Hearing on Resolution of Necessity.

A. At the hearing, the City Council shall grant an opportunity to be heard to all persons who filed a timely written request to appear and be heard on the adoption of the Resolution of Necessity pursuant to Section 4.04.160 and the following issues:

1. Whether the municipal project for which the property is sought to be acquired by the City is required to serve the public interest and necessity;
2. Whether the municipal project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury;
3. Whether the municipal project sought to be acquired by the City is necessary for the project.
4. Issues related to the City's provision of relocation assistance.

B. Adoption of Resolution of Necessity by Two-Thirds Vote of City Council

If, at the conclusion of the hearing and consideration of testimony given, the Council makes the findings required by Section 4.04.140 above, the Resolution of Necessity may be adopted by a two-thirds (2/3) vote of the City Council.

Section 4.04.180 Initiation of Eminent Domain Action by City

After the adoption of the Resolution of Necessity, the City may file an eminent domain action in court to acquire the property pursuant to the Eminent Domain Law (California Code of Civil Procedure Section 1230.010 et seq.).

Section 4.04.190 Relocation Assistance

A. Compliance with State and Federal Law. The City shall comply with the requirements of state law and regulations regarding the provision of relocation assistance to eligible persons displaced from lawful residential, farm, or business uses on the property to be acquired. In cases in which the municipal project for which the property is being acquired will be partially or totally funded with federal funds, the City shall comply with the requirements of federal law regarding relocation assistance, as well as state law requirements.

B. Notice/Advisory Assistance to Eligible Persons.

The City shall inform persons who may be eligible for relocation benefits in writing of the availability of relocation benefits and the procedure for obtaining them within fifteen (15) days after the date that the written offer to acquire is given to the property owner(s).

Section 4.04.200 Displacement of Person(s) from Property Acquired by City/Short Term Rental of Property Acquired by City to Former Owner/Occupant

A. Required Notice for Displacement of Occupants After City Has Obtained Possession of the Property.

After the City has obtained possession of the property acquired for the project, the construction or development of the project shall be scheduled that, to the greatest extent practicable, no person lawfully occupying the property shall be required to move from a dwelling, or to move his/her business or farm operation, without at least ninety (90) days notice from the City of the date by which such move is required.

B. Permissible Rent Level to be Charged Short-Term Tenants by City

If the City permits a former owner or tenant to occupy the property it has acquired on a rental basis for a short term, or for a period subject to termination by the City on short notice, the amount of rent required shall not exceed the fair market value rental value of the property to the owner or tenant, or the pro rata portion of the fair market value for a typical rental period. If the former owner of tenant is occupying a dwelling, the rent shall be within his/her financial means.

C. Required Notice for Termination of Short-Term Tenancy

The City shall give the former owner or other short-term, post acquisition tenants on the property it has acquired at least thirty (30) days notice of the termination of the tenancy.

4.04.210 Prohibited Activities

A. Coercive Actions Prohibited.

The City shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds in court for the use of the property owner(s), or take any other coercive action to compel an agreement by the property owner(s) on the price to be paid for the property by the City.

B. City's Duty to Initiate Eminent Domain Proceedings.

If any interest in property is to be acquired by the City's exercise of the power of eminent domain, the City shall institute formal condemnation proceedings in court if negotiations with the owner regarding the purchase of the property are unsuccessful. The City shall not intentionally make it necessary for the property owner(s) to initiate legal proceedings to prove the fact of the taking of his/her property.

Section 4.04.220 Applicability of Federal and State Law

If any other provisions of state or federal law would give the owner(s) or occupant(s) of property to be acquired by the City greater protection than this Chapter, the City shall also comply with such other provisions of law. If any section of this Chapter is found to conflict with applicable state or federal law, the applicable portions of state or federal law shall take precedence.

Section 4.04.230 Service of Required Notices and Other Documents by City

The City shall serve any notices or documents required to be served on the property owner or other persons pursuant to this Chapter by first class mail or in-person service.

Section 4.04.240 Annual Review

The City shall review this Chapter annually to ensure that its provisions are consistent with current state and federal law.

SECTION 2. Effective Date, Urgency Ordinance. This Ordinance is an urgency ordinance necessary for the immediate protection and preservation of the public peace, health, safety, or welfare within the meaning of Article IV, Section 8(d) of the California Constitution and shall go into immediate effect upon its adoption. The facts constituting the necessity are: The City is required by law to adopt procedures related to the acquisition of property for public purposes and has an

immediate need to identify and acquire suitable property for a wastewater treatment facility to serve the needs of the public. Therefore, this Ordinance must take effect immediately upon its adoption in order to govern the City's acquisition of this land for this project.

SECTION 3. Ordinance Applicable Only to City Acquisitions of Property. The procedures set forth in this Ordinance apply only to City acquisition efforts. They are not applicable to any acquisition attempt by a redevelopment agency, should one be formed within the City.

SECTION 4. Severability. This Chapter shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this Chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application. To this end, the provisions of this Chapter are declared to be severable and are intended to have independent validity.


The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of August 1997, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of August, 1997 by the following vote:

AYES: Anderson, Cypher, Colcleaser, Winters, and Maples

NOES: None

ABSTAIN: None

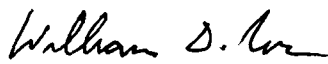
ABSENT: None


Ben Anderson, Mayor

ATTEST:

APPROVED AS TO FORM:


Mark Joseph, City Clerk


William D. Ross, City Attorney