

ORDINANCE NO. 99-10

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON
ADOPTING A NEW CHAPTER 9.08 TO THE AMERICAN
CANYON MUNICIPAL CODE TO PROHIBIT THE
POSSESSION OF ANY OPEN BOTTLE, CAN OR OTHER
RECEPTACLE CONTAINING ANY ALCOHOLIC BEVERAGE
WHICH HAS BEEN OPENED ON THE POSTED PREMISES
OF ANY RETAIL PACKAGE OFF-SALE ALCOHOLIC
BEVERAGE LICENSEE, CERTAIN ADJACENT AREAS AND
ADJACENT PUBLIC SIDEWALKS**

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

Section 1. Penal Code section 647e provides that the City, may, by ordinance, provide that no person who has in their possession any bottle, can or receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents which have been partially removed, may enter, be or remain on the posted premises of or parking lots immediately adjacent to any retail package off-sale alcoholic beverage licensee, licensed under the provisions of Business and Professions Code section 23000 *et seq.* or on any public sidewalk immediately adjacent to the licensee as posted premises. It is the intent of the City Council, consistent with the provisions of Penal Code section 647e, to enact such an Ordinance in order to protect the public health, safety and welfare.

Section 2. A new Chapter 9.08 is hereby added to the American Canyon Municipal Code to read as follows:

**CHAPTER 9.08 POSSESSION OF OPENED CONTAINERS OF ALCOHOLIC
BEVERAGES ON THE POSTED PREMISES OF RETAIL PACKAGE OFF-
SALE ALCOHOLIC BEVERAGE LICENSEES, IMMEDIATELY ADJACENT
AREAS, AND ADJACENT PUBLIC SIDEWALKS PROHIBITED**

**Section 9.08.10 Possession of opened containers of alcoholic beverages on
the posted premises of retail package off-sale alcoholic
beverage licensees, immediately adjacent areas, and adjacent
public sidewalks prohibited.**

- A. No person who has in his or her possession any bottle, can or other receptacle containing any alcoholic beverage which has been opened, or the seal of which has been broken, or the contents of which have been partially removed, shall enter, be, or remain on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee, licensed

pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensee and posted premises. Any persons violating this provision shall be guilty of an infraction.

- B. For the purposes of this Chapter, "retail package off-sale alcoholic beverage licensee", shall mean any retail establishment that has been licensed by the State Department of Alcoholic Beverage Control to sell unopened packages or containers of alcoholic beverages for consumption off the premises.
- C. As used in Section (a), "posted premises" means the premises of any retail package off-sale alcoholic beverage licensee, or the parking lot immediately adjacent to the licensee's premises on which clearly visible notices indicate to the patrons of the licensee and to persons in the adjacent parking lot and on the public sidewalk, that the provisions of Subsection (a) are applicable. In order for Subsection (a) to be given effect, the premises must be clearly posted to give patrons and persons in the adjacent parking lot and on the public sidewalk immediately adjacent to the licensee notice of the provisions of Subsection (a).
- D. All retail package off-sale alcoholic beverage licensees shall post in accordance with provisions of this section their premises and any adjacent parking lot utilized by the licensee to satisfy its parking requirements. Retail package off-sale alcoholic beverage licensees doing business in the City on the effective date of this section shall post within thirty (30) days after the effective date of the ordinance enacting this section. New retail package off-sale alcoholic beverage licensees starting business after the effective date of this section shall post their premises and adjacent parking lots immediately upon opening for business. The notice to be posted shall read:

IT IS UNLAWFUL TO HAVE AN OPEN CONTAINER WHICH CONTAINS ANY ALCOHOLIC BEVERAGE IN YOUR POSSESSION ON THESE PREMISES.

(American Canyon Municipal Code section 9.08.010)

- E. The provisions to this Section shall not apply to a private residential parking lot which is immediately adjacent to the posted premises.

Section 3. This Ordinance shall take affect thirty (30) days after its adoption.

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Section 4. Severability. This Ordinance shall be liberally construed to achieve its purposes and to preserve its validity. If any provision or clause of this Ordinance, or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance are declared to be severable and 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 17th day of June, 1999, and adopted at a regular meeting held on July 1, 1999:

AYES: Anderson, Maples, Canziani, Colcleaser, Shaver

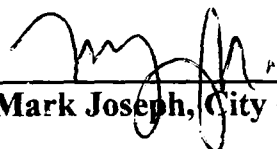
NOES: None

ABSTAIN: None

ABSENT: None


Benjamin "Ben" Anderson, Mayor

ATTEST:


Mark Joseph, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney