

ORDINANCE NO. 2003-05

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON
ESTABLISHING RIGHT-OF-WAY LINES**

WHEREAS, the City of American Canyon ("City") expects to improve means of access to various locations within the City, and

WHEREAS, at times right-of-way lines do not correspond to legal title of property; and

WHEREAS, construction of means of access often requires that legal descriptions conform to the physical boundaries of properties; and

WHEREAS, the City wishes to determine the need for establishment of future rights of way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN THE FOLLOWING:

SECTION 1. Purpose.

A right-of-way line study may be established by the City Council as provided herein for the purpose of reserving areas for future widening, extension, or creation of streets, highways, or space for future utilities, pedestrian ways, fire and police emergency access, access to property, and all public rights-of-way.

SECTION 2. Definitions.

For the purpose of this chapter, unless otherwise apparent from the context, words and phrases set forth in this section shall have the following meanings:

A. "Building" or "structure" shall be defined as set forth in Chapter 19.04 of this Code, and shall also include stairways, required off-street parking facilities, any well, whether for water, oil, or other hydrocarbon products, and any underground storage facilities in excess of one thousand (1,000) gallon capacity. "Building" or "structure" shall not include any building or structure existing on the effective date of the ordinance codified in this chapter, any public utility installed under authority of franchise, or any fence.

B. "Right-of-way" shall mean any land, or interest therein, which has been reserved for or dedicated to the City by deed, conveyance, agreement, dedication, usage, or other process of law, for the use of the general public for public road purposes.

C. "City Engineer" shall mean the City Engineer of the City.

SECTION 3. Initiation.

A right-of-way line may be initiated by:

A. The verified petition of one (1) or more owners of property affected by the proposed right-of-way lines, which petition shall be filed with the Planning Commission and shall be accompanied by a fee in an amount set forth by the City Council by resolution. Every petition shall be accompanied by a description of the streets or portions of the streets along which such right-of-way lines are sought to be established, a map or sketch showing the streets and relation of the proposed right-of-way lines thereto, and such other plans and specifications necessary to show the proposed use of the area affected thereby;
or

B. Resolution of the City Council; or

C. Resolution of the Planning Commission.

SECTION 4. Planning Commission Report And Recommendation.

Before any action shall be taken by the City Council as provided in Section 4.06.100 hereof, the proposal shall be referred to the Planning Commission and the City Engineer for report and recommendation.

SECTION 5. Public Hearing.

The Planning Commission shall hold at least one (1) public hearing on any proposed right-of-way line and shall give notice of the time and place of such public hearing by publishing notice thereof at least once and sending notices to affected property owners within three hundred (300) feet of proposed right-of-way. Such publication shall be accomplished at least five (5) days prior to the date fixed for said hearing. Upon review of the report and recommendation of the City Engineer and completion of the hearing, the Planning Commission shall submit its report and recommendation to the City Council.

SECTION 6. Resolution Of Intention.

Upon receipt of a report and recommendation from the Planning Commission, but before determining and establishing any right-of-way lines, the City Council shall pass a resolution of intention designating the right-of-way lines proposed to be established. The resolution shall contain a description of the property affected and a notice of the hour, day, and place when and where any and all persons objecting to the establishment of the proposed right-of-way lines may appear before the City Council and object thereto.

SECTION 7. Publication And Posting Of Resolution.

Such resolution described in Section 4.06.060 shall be published or posted at those places where the Council agendas are posted once at least ten (10) days before the date of the hearing of objections to the proposal. Posting shall be accomplished at least ten (10) days before the date of the hearing of objections to the proposal.

SECTION 8. Hearing - Time Limit.

The time for hearing objections to such proposal shall be not less than fourteen (14) nor more than thirty-five (35) days from the date of the adoption of the resolution of intention described in Section 4.06.060.

SECTION 9. Filing Of Protest.

At any time not later than the close of business on the day set for hearing objections to the establishment of the proposed right-of-way line, any person having any interest in any land upon which said right-of-way lines are proposed to be established may file with the City Clerk a written objection to the establishment of said right-of-way lines.

SECTION 10. Action By City Council.

At the time set for hearing, or at any time to which the hearing may be continued, the City Council shall proceed to hear and pass upon all protests or objections filed pursuant to section 9, or to any objections verbally presented at the public hearing. The City Council may sustain any objections and abandon such proceeding, deny any and all objections, and by ordinance establish said right-of-way lines described in the resolution, or it may deny any and all objections and by ordinance establish such right-of-way lines with such changes and modifications as it shall determine to be proper. The ordinance establishing right-of-way lines shall be recorded by the City Clerk with the County Recorder.

SECTION 11. Effect Of Right-Of-Way Line.

Whenever any ordinance establishing any right-of-way line or lines shall become effective, it shall thereafter be unlawful for any person, firm, partnership, corporation, or other entity to construct or erect any building or structure within the right-of-way established by the newly established right-of-way line.

SECTION 12. Nonconforming structures.

Existing buildings or structures nonconforming to the requirements of established right-of-way lines shall not be altered or enlarged in any manner.

SECTION 13. Variance Procedure.

A. Variance may be granted from the provisions of this chapter where unnecessary or unusual hardship is shown and where such variance will not defeat the purposes of the right-of-way lines established by this chapter; provided that the applicant waives all claims for compensation and damages caused by the taking of any property affected by such a variance pursuant to the exercise of the right of eminent domain or any other right of this City or any other action.

B. The provisions governing the procedure for variances and appeals from the zoning ordinance of the city shall apply to the procedures for variances and appeals from the provisions of this chapter.

SECTION 14. Yard Requirements - Additional.

Yard and other requirements of the zoning ordinance shall be separately applied as requirements additional to right-of-way line requirements required herein. All yards, setbacks, and such regulations of the zoning ordinance of the City shall be measured from the established right-of-way lines herein. Notwithstanding any provision to the contrary, however, that portion of any parcel that lies between established right-of-way lines shall be considered as part of the lot area when determining the number of dwelling units that may be placed on a parcel or the percentage of lot area that may be covered by buildings or structures.

SECTION 15. Previously Established Right-Of-Way Lines.

[To be inserted if necessary.]

SECTION 16. Effective Date.

This ordinance shall take effect on the 31st day after adoption.


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 6th day of March, 2003 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 3rd day of April, 2003 by the following vote:

AYES: Colcleaser, Luporini, Anderson, Garcia
NOES: Shaver
ABSENT: None
ABSTAIN: None




DONALD COLCLEASER
Mayor

ATTEST:



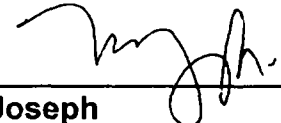
KAY WOODSON
Interim City Clerk

APPROVED AS TO FORM:



WILLIAM D. ROSS
City Attorney

APPROVED AS TO CONTENT:



Mark Joseph
City Manager