

ORDINANCE NO. 2017-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING THE AMERICAN CANYON MUNICIPAL CODE TO PROVIDE CONSISTENT ADMINISTRATIVE CITATION PROVISIONS AMONG CHAPTERS 1.24, 9.04 AND 9.12

WHEREAS, Municipal Code Chapters 1.24, 9.04 and 9.12 all relate to enforcement of laws, Chapter 1.24 (General Penalty) states that it is unlawful to violate any ordinance in the City. Chapter 9.04 (Neighborhood Preservation) states that it is unlawful for an owner of a building or property to fail to maintain or abate a nuisance. For purposes of this chapter, nuisance includes but is not limited to unsafe, dilapidated, or vacant buildings or properties that are unsafe; and

WHEREAS, when the responsible parties fail or refuse to comply after receiving two courtesy notices, Municipal Code Chapter 9.12 (Administrative Citations) allows an Administrative Citation to impose a civil fine; and

WHEREAS, over time, incremental municipal code changes have created small inconsistencies among the three Chapters which makes it difficult for staff to provide consistent enforcement; and

WHEREAS, the proposed ordinance would remedy these inconsistencies; and

WHEREAS, the City Council has considered all of the written and oral testimony presented at the public hearing on December 20, 2016 in making its decision.

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

SECTION 1: Chapter 1.24 GENERAL PENALTY, Section 1.24.010 is amended as follows:

1.24.010 Violation—Infraction.

A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code or the provisions of any code adopted by reference by this code or any provision of any ordinance of the city not included within this code. Any person violating any of such provisions or failing to comply with any of the mandatory requirements of this code or any code adopted by reference by this code or any other city ordinance shall be guilty of an infraction, unless such violation is specifically designated as constituting a misdemeanor. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code, or any provision of any code adopted by reference by this code, or of any other city ordinance, is committed, continued, or permitted by such person, and may be punished accordingly.

B. Any provision or requirement of this code or otherwise as referred to above, the violation of which or the failure to comply with which, is designated as an infraction, may be prosecutable as a misdemeanor upon a fourth violation and each violation thereafter of the same provision by the same individual.

SECTION 2: Chapter 9.04 NEIGHBORHOOD PRESERVATION, Section 9.04.180 is amended as follows:

9.04.180 Violations—Penalties.

A. The owner or other person having charge or control of any property, building or structure who maintains any condition described as a public nuisance in Section 9.04.040 or who fails to abate a nuisance within the time periods specified in a notice to abate or any city council order to abate is guilty of an infraction pursuant to Section 1.24.010 of this code.

B. Any occupant or person in possession of any such building or structure who fails to vacate such building or structure in accordance with an order given pursuant to this chapter is guilty of an infraction pursuant to Section 1.24.010 of this code.

C. Any person who obstructs, impedes or interferes with any authorized representative or agent of the city or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated or demolished, or with any person to whom such building has been lawfully sold pursuant to the provision of this code whenever any such person is engaged in proceedings involving the abatement of a nuisance is guilty of an infraction pursuant to Section 1.24.010 of this code.

D. Section 1.24.010 provides that each day of violation constitutes a separate offense and may be separately punished and that fourth and subsequent violations may be prosecuted as a misdemeanor.

E. Section 9.12.030 provides the penalty for any violation of any provision of this chapter.

SECTION 3: Chapter 9.12 ADMINISTRATIVE CITATIONS, Section 9.12.030 is amended as follows:

9.12.030 Authority.

A. Any person violating any provisions of the American Canyon municipal code or applicable state code may be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to, all violations of the municipal code, the uniform codes adopted by the city council, failing to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved under the provisions of this code.

B. Section 1.24.010 provides that each day of violation constitutes a separate offense and may be separately punished and that fourth and subsequent violations may be prosecuted as a misdemeanor.

C. A civil fine shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the American Canyon administrative services department.

D. Fines for specific violations of the municipal code, conditions to entitlements or applicable state codes shall be assessed in the amounts specified by resolution of the city council, or where no amount is specified:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance or permit within one year from the date of the first violation;
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance or permit within one year from the date of the first violation.

SECTION 4: Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations because it has no potential for resulting in physical change to the environment, directly or indirectly, as it prevents changes in the environment pending the completion of the contemplated possible review of City zoning regulations.

SECTION 5: Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 6: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 20th day of December, 2017, by the following vote:

AYES: Council Members Aboudamous, Joseph, Leary, Ramos, and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 17th day of January, 2017, by the following vote:

AYES: Council Members Aboudamous, Leary, Vice Mayor Joseph, and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None

Leon Garcia
Leon Garcia, Mayor

ATTEST:

Suellen Johnston
Suellen Johnston, CMC, City Clerk

APPROVED AS TO FORM:

William D. Ross
William D. Ross, City Attorney