

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING AMERICAN CANYON MUNICIPAL CODE CHAPTER 9.04 "NEIGHBORHOOD PRESERVATION" TO PROHIBIT SMOKING IN ANY UNIT OF A MULTI-UNIT RESIDENCE AND ANY COMMON AREA OF A MULTI-UNIT RESIDENCE IN THE CITY OF AMERICAN CANYON

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers. At special risk are elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease); and

WHEREAS, health hazards induced by breathing secondhand smoke include lung cancer, heart disease, respiratory infection, decreased respiratory function, broncho-constriction, and broncho-spasm; and

WHEREAS, more than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, the United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a Group "A" carcinogen, the most dangerous class of carcinogen; and

WHEREAS, the U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, just 30 minutes of exposure to secondhand smoke is sufficient to damage blood vessels in a healthy nonsmoker; and

WHEREAS, the California Air Resources Board has put secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and

WHEREAS, secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and

WHEREAS, in the United States, secondhand smoke is thought to cause about 46,000 heart disease deaths each year; and

WHEREAS, secondhand smoke can seep under doorways and through wall cracks; and

WHEREAS, the only way to fully protect nonsmokers from secondhand smoke is to completely eliminate smoking in indoor spaces. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely eliminate exposure to secondhand smoke; and

WHEREAS, cigarette butts pose a health threat to children. Small children who had ingested cigarette butts exhibited symptoms of illness such as spontaneous vomiting, nausea, lethargy, and gagging; and

WHEREAS, cigarette butts are a major and persistent source of litter. In the last 25 years of coastal clean-ups, cigarette and cigarette filters ranked as the number one source of waste comprising nearly 32% of all collected litter items; and

WHEREAS, electronic smoking devices and other unapproved nicotine delivery products have a high appeal to youth due to their high tech design and availability in child-friendly flavors like cotton candy, bubble gum, chocolate chip cookie dough and cookies and cream milkshake; and

WHEREAS, a CDC study showed that in 2011 4.7% of all high school students had tried e-cigarettes and that in 2012 that percentage more than doubled to 10.0% of all high school students; and

WHEREAS, nonsmokers who live in multiunit dwellings can be exposed to neighbors' secondhand smoke, as evidenced by the following:

- Residents of multiunit housing have higher levels of cotinine (a biomarker for nicotine) in their blood and saliva than those living in detached houses;ⁱ
- Among children who live in homes in which no one smokes indoors, those who live in multiunit housing have 45% higher cotinine levels than children who live in detached houses;ⁱⁱ
- Twelve studies have found between 26% and 64% of residents of multiunit housing report secondhand smoke drifting into their home;ⁱ
- Surveys have found that 65% to 90% of multiunit housing residents who experience secondhand smoke in their home are bothered by it,³⁶ and a 2019–2020 survey documented variations in secondhand smoke source among multiunit housing residents in Los Angeles County, who reported secondhand smoke exposure from tobacco (39%), marijuana (36%), and e-cigarettes (9%);ⁱⁱⁱ
- Between 44.0% and 46.2% of Californians living in multiunit housing with personal smoke-free home policies are exposed to secondhand smoke in their home;^{iv} and

WHEREAS, harmful residues from tobacco smoke can be absorbed by and cling to virtually all indoor surfaces long after smoking has stopped and then be emitted back into the air, making this “thirdhand smoke” a potential health hazard, as evidenced by the following:

- Thirdhand smoke contains carcinogenic materials that accumulate over time, presenting a health hazard long after the initial smoke is gone;^v
- Studies consistently find that thirdhand smoke remains months after nonsmokers have moved into units where smokers previously lived,^{vi} and a recent study documents that it can remain in units for years;^{vii}
- Human exposure to these thirdhand smoke carcinogens can occur through inhalation, ingestion, or skin absorption through contact with carpeting, furnishings, or clothing;^{viii}
- Thirdhand smoke potentially poses the greatest danger to infants and toddlers, who crawl on rugs and furnishings and place household items in their mouths;^{viii}
- Nonsmoking people who are exposed to thirdhand smoke have significantly higher nicotine and cotinine levels than those who have not been exposed to thirdhand smoke;^{vi}
- Research has shown that thirdhand smoke damages human cellular DNA^{45, ix} and is carcinogenic at exposure levels relevant to residents of multiunit housing;^x and

WHEREAS, secondhand smoke in multiunit housing is a significant threat to the health and safety of California children, as evidenced by the following:

- About a quarter of those who live in multiunit housing (25.2%) are under the age of 18;iv
- The home is the primary source of secondhand smoke exposure for children;
- A national survey found that 56.4% of U.S. youth living in apartment units in which no one smokes have elevated blood cotinine levels above 0.05 ng/mL, indicating they have been exposed to potentially dangerous levels of secondhand smoke;ii
- The same survey also found that children who live in homes in which no one smokes indoors have 45% higher cotinine levels if they live in apartments compared with detached homes;ii and

WHEREAS, research demonstrates that a majority of adults supports smoke-free policies in multiunit residences, as evidenced by the following:

- 73.7% of U.S. adults surveyed favor smoke-free public housing;^{xi}
- 63.5% of Californians surveyed favor restricting smoking inside apartment units;^{xii} and

WHEREAS, there are significant savings from adopting a smoke-free multiunit housing policy, as evidenced by the following:

- Prior to implementation, the U.S. Department of Housing and Urban Development’s smoke-free public housing policy was conservatively estimated to produce an annual savings of 4 to 8 million dollars a year for U.S. public housing authorities in renovation-related costs,^{xiii} and 30 to 109 million dollars per year in health care costs in California alone;^{xiv}
- Implementing statewide smoke-free policies in multiunit housing property would save property owners in California an estimated \$18.1 million in renovation expenses each year;^{xv} and

WHEREAS, smoke-free multiunit housing policies have been shown to have a meaningful impact on public health, as evidenced by the following:

- An estimated 268% of Californians (or 10.17.3 million people) live in multiunit housing;^{xvi}
- The U.S. Surgeon General has concluded that eliminating smoking in indoor spaces is the only way to fully protect nonsmokers from secondhand smoke exposure; and that separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot completely prevent secondhand smoke exposure;^{xvii}
- Smoke-free housing policies resulted in a 24% reduction in self-reported exposure to secondhand smoke exposure among racially and ethnically diverse seniors living in low-income multiunit housing properties;^{xviii} and

WHEREAS, a duly-noticed public hearing was held by the City of American Canyon City Council on May 2, 2023 on the subject ordinance, at which time all those in attendance were given the opportunity to speak on this proposal and to submit comments.

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

SECTION 1: That smoking in all its forms in multiunit living environments is a nuisance.

SECTION 2: The purpose of this ordinance is to: (1) protect the public health and welfare by prohibiting smoking in any unit of a multi-unit residence and any common area of a multi-unit residence because there is no risk-free level of exposure to secondhand smoke, and (2) guarantee the right of nonsmokers to breathe smoke-free air at their place of residence.

SECTION 3: Amend American Canyon Municipal Code Chapter 9.04 “Neighborhood Preservation” as follows:

Chapter 9.04 NEIGHBORHOOD PRESERVATION

(All Content Displayed)

- 9.04.010 Findings and determination.
- 9.04.020 Declaration of public nuisances.
- 9.04.030 Chapter not exclusive.
- 9.04.040 Classification of nuisances.
- 9.04.050 Inspection.
- 9.04.060 Summary abatement of immediate dangers.
- 9.04.070 Notice to abate public nuisance.
- 9.04.080 Request for hearing.
- 9.04.090 Hearing by the city council.
- 9.04.100 Decision of the city council.
- 9.04.110 Limitation on filing judicial action.
- 9.04.120 Abatement by property owner.
- 9.04.130 Abatement by the city.
- 9.04.140 Record of cost of abatement notice and hearing to confirm.
- 9.04.150 Assessment lien.
- 9.04.160 Nuisance abatement lien.
- 9.04.170 Alternative actions available.

- 9.04.180 Violations—Penalties.

9.04.010 Findings and determination.

The city council finds and determines that the restrictions in this chapter are necessary to promote the health, safety and general welfare of the public; to protect the integrity and character of residential neighborhoods and districts; to protect the appearance of the Highway 29 corridor; to prevent the devaluation of property values; and, to enhance and protect the livability, social and economic conditions of the city. (Ord. 94-07 § 1, 1994)

9.04.020 Declaration of public nuisances.

A. Any property, building or other improvements found to be maintained in violation of any one or more of the provisions of Section 9.04.040 of this chapter is declared to constitute a public nuisance and shall be abated by rehabilitation, repair, removal or demolition pursuant to the procedures set forth in this chapter.

B. Any property, building, or other improvement found to be maintained in such condition as to constitute a public nuisance as defined anywhere in this code, the statutes of the state of California or in the common law is declared to constitute a public nuisance subject to abatement under the procedures in this chapter. (Ord. 94-07 § 1, 1994)

9.04.030 Chapter not exclusive.

A. This chapter does not exclusively regulate the conditions and use of property within the city. This chapter shall supplement and be in addition to other provisions of this code and to other statutes, ordinances or regulations existing or subsequently enacted by the city, the state or any other legal entity or agency having jurisdiction.

B. The procedures for abatement set forth in this chapter are not exclusive and are in addition to any other provisions provided in this code or by state law for the abatement of public nuisances. (Ord. 94-07 § 1, 1994)

9.04.040 Classification of nuisances.

It is unlawful for any person owning, leasing, occupying, or having charge or possession of any property in the city to maintain or permit such property to be maintained in such a manner that any of the following conditions are found to exist thereon and to be of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to have a tendency to degrade the appearance and property values of surrounding property or to cause damage to public rights-of-way:

A. Property Conditions.

1. Overgrown, diseased, dead or decayed trees, weeds or other vegetation which:

a. Constitute a fire hazard or a condition considered dangerous to the public health, safety and general welfare due to a variety of factors, including, but not limited to, impairment of vehicular traffic or obstruction of vehicular line of sight or the ability to clearly observe safety signs and signals,

b. Are likely to harbor rats, vermin or other pests. This provision identifies conditions which may be deemed to constitute a nuisance within portions of the city that are partially or fully developed because of the potential to adversely affect the public health, safety and welfare and to degrade the appearance and property values of surrounding property. Due to the diminished potential for such adverse effects, such condition would not constitute a nuisance when existing on grazing lands or large undeveloped parcels except when such conditions exist on properties immediately adjacent to developed property. American Canyon fire protection district standards for weed abatement continue to apply to property city-wide;

2. Accumulations of debris, rubbish and trash in the front or side yard areas visible from the public right-of-way or which constitute a health or fire hazard;

3. Storage, as to be visible at ground level from a public street or adjoining property for unreasonable periods or as a part of a continuing practice, any of the following:

a. Abandoned, inoperative, wrecked or dismantled motor vehicles of any kind, and abandoned, inoperative, wrecked or dismantled trailers, campers or boats,

b. Broken or discarded household furnishings and fixtures, appliances, boxes and cartons, play equipment, toys and similar materials,

c. Discarded, wrecked or inoperable machinery and tools,

d. Salvage materials, scrap metal or building and construction materials, including, but not limited to, dirt, sand, gravel, concrete, tile, rocks, bricks, and similar materials except when associated with agricultural uses or ongoing landscape projects;

4. Garbage or trash cans which cause offensive odors to neighbors or containers stored in front or side yards, which are visible from public streets unless all of the following conditions exist: a) The garbage/trash container(s) are stored within a defined area that is maintained in a neat and orderly condition, b) all trash is stored completely within a designated container, the container is covered, and no trash has spilled over or has fallen on the ground in the immediately surrounding area, and c) the trash cans/containers are stored behind the front wall plane of the dwelling;

5. Conditions which, due to their accessibility to the public, may prove hazardous or dangerous, including, but not limited to:

a. Unused and/or broken equipment such as ice boxes and refrigerators,

b. Abandoned wells, shafts or basements,

c. Hazardous or unprotected pools, pits, ponds or excavations,

- d. Machinery which is inadequately secured or protected,
 - e. Accumulations of lumber, refuse and waste matter, or discarded materials, including, but not limited to, building and construction materials;
6. Parking or storing construction equipment or machinery except during excavation, construction or demolition operations conducted pursuant to a building or grading permit or when associated with ongoing agricultural/noncommercial landscaping activities;
7. Parking of any motor vehicle, including a recreational vehicle, trailer, camper or boat on lawns or other landscaped areas within portions of the property visible from a public street where such areas are not paved or otherwise surfaced to allow parking. Allowable surface materials may include gravel, brick, grasscrete, concrete pavers, or similar materials that define the parking area and minimize erosion potential;
8. Parking of any motor vehicle, including a recreational vehicle, trailer, camper or boat on property adjacent to Highway 29 for the purpose of offering the same for sale to the general public where a "for sale" or similar sign is displayed on or in the vehicle, trailer, camper or boat which is visible to traffic on Highway 29 and constitutes or tends to constitute a traffic safety hazard or an unsightly appearance;
9. Smoking in any dwelling unit of a multi-unit residence and any common area of a multi-unit residence.
- i. "Smoke" or "smoking" "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device. Smoking does not include the use of traditional, sacred tobacco as part of an Indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
 - ii. "Common area of multi-unit residence" means any enclosed area or unenclosed area that may be used by more than the residents of a single unit or room, including but not limited to shared lobbies, courtyards, lounges, hallways, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, living and dining areas, kitchens, bathrooms, laundry rooms, lobbies, waiting rooms, and television rooms.
 - iii. "Dwelling Unit" means one or more rooms designed for residential use by a single household that contain cooking, living, sanitary, and sleeping facilities and that are physically separated from any other rooms or dwelling units that may be in the same structure. "Dwelling Unit" for purposes of smoking prohibition does not encompass hotels, motels, dormitories, campgrounds, rented single family housing, and manufactured housing parks.
 - iv. "Multiunit Residence" means a building or portion thereof designed or used for residential occupancy by two or more households in separate dwelling units.

B. Structural Conditions. Structures or buildings, both permanent and temporary, or other improvements, including, but not limited to walls and fences, which are subject to any of the following conditions:

1. Are structurally unsafe, either entirely or in part;
2. Constitute a fire hazard;
3. Have a faulty weather protection, including but not limited to crumbling, cracked, missing broken or loose exterior plaster or other siding, roofs, foundations or floors (including lack of paint or other protective finish), broken or missing windows or doors;
4. Have dry rot or warped materials, or are infested with termites;
5. Are abandoned, partially destroyed or left unreasonably in a state of partial construction. State of partial construction means building and structures which are partially constructed when the building permit for such construction has expired;
6. Are unoccupied and have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements;
7. Have exterior walls, fences, driveways or sidewalks which are in hazardous condition, hinder free access to public sidewalks or are in a state of disrepair as to be unsightly. (Ord. 94-07 § 1, 1994)

9.04.050 Inspection.

A. Authorized Representatives. The city manager and the community development director or their designated representatives are authorized to make inspections and take such actions as may be required by this chapter to abate public nuisances.

B. Inspection of Premises. Whenever there is a reasonable cause to believe that a condition, activity or use of property exists which constitutes a public nuisance, the city manager or community development director or a designated representative may seek to enter the premises at a reasonable time for the purpose of inspection. If the premises are occupied, entry shall be requested and proper credentials shall be presented. If the premises are unoccupied, a reasonable effort shall be made to locate the property owner. If entry is refused or if the property cannot be located, a twenty-four written notice of intent to inspect shall be left at the premises. The notice shall state that the property owner or occupant of the property has the right to refuse entry and if such entry is refused, the city may seek assistance from a court of competent jurisdiction to obtain entry to inspect the premises. (Ord. 94-07 § 1, 1994)

9.04.060 Summary abatement of immediate dangers.

Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, the city manager or designee may order, without notice or judicial action, the

immediate abatement of the public nuisance. The expense of such abatement shall be collectible as provided in this chapter. (Ord. 94-07 § 1, 1994)

9.04.070 Notice to abate public nuisance.

A. Contents of Notice. Whenever the city manager or the community development director or designee finds that a nuisance, as declared in Section 9.04.030, exists on any property located within the city, the owner and any tenant or occupant or other person having charge or possession of the property shall receive a written notice. The notice shall:

1. Describe the property sufficient to identify the location of the public nuisance;
2. Identify the nuisance and reference the section(s) of this code that have been violated;
3. Direct abatement of the nuisance by a specified date;
4. State the available methods of abatement;
5. Contain a statement of the hearing rights of the owner or occupant of the property on which any public nuisance is located; and
6. Indicate that if no request for hearing is made or that if after a hearing an order of abatement is issued, and the nuisance is not properly abated, then the city may abate the nuisance and charge the expenses as a personal obligation and/or a special assessment or lien against the property.

The amount of time allowed to abate a nuisance shall be determined by considering the severity of nuisance and its effect on the health, safety, welfare and aesthetics of the community.

B. Service of Notice. A notice to abate shall be mailed, by registered or certified mail, to the owner and occupant of property, or shall be served upon the owner or occupant in person. The notification shall be sent to the owner at the address appearing on the latest tax assessment roll and if there is no such address, then in care of the property address. In addition to personal service or service by registered or certified mail, notice to abate shall be posted on two conspicuous places on the affected property attested to by affidavit of city official. Service shall be deemed complete at the time the notice is personally served or deposited in the mail with the correct amount of postage affixed and is posted on the affected property as described. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken pursuant to this chapter.

C. Property Owner Definition. The term "property owner" or "owner" as used in this chapter, shall mean the owner or owners of record of real property as shown on the last Napa County equalized assessment roll or supplemental roll, whichever is more current. (Ord. 94-07 § 1, 1994)

9.04.080 Request for hearing.

The city council shall hold a public hearing to determine that a public nuisance exists upon the written request of the owner or occupant of the property for which a notice to abate has been issued. The

request shall be made to the city clerk within ten days from the date of personal service or within fifteen days from the date of mailing of the notice to abate. The request for hearing shall state the grounds upon which the hearing is requested. The matter shall be scheduled for hearing and the city clerk shall notify the owner or occupant requesting the hearing of the same, not less than five days prior to such hearing, unless such notice is waived in writing by the person requesting the hearing. (Ord. 94-07 § 1, 1994)

9.04.090 Hearing by the city council.

At the time and place stated in the notice of public hearing, the city council shall hear and consider all relevant evidence, objections or protests, and shall receive testimony from owners, occupants, witnesses, city personnel and interested persons relative to the alleged public nuisance and to the proposed abatement measures. The hearing may be continued from time to time. (Ord. 94-07 § 1, 1994)

9.04.100 Decision of the city council.

A. Following the public hearing, the city council shall consider all evidence and determine whether the property, or any part of the property, constitutes a public nuisance as alleged. If the city council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, the city council shall prepare a statement of findings and an order, which shall specify the nature of the nuisance, and order the owner or other person having charge or control of the premises to abate the nuisance, the method of abatement and the time within which the work shall be commenced and completed.

B. A copy of the statement of findings and order shall be served on the property owner and any occupant in the manner provided in Section 9.04.110. (Ord. 94-07 § 1, 1994)

9.04.110 Limitation on filing judicial action.

Action to review the city council statement of findings and order shall be commenced within thirty days of the date of service of the statement of findings and order and the same shall contain the statement advising of this time limit on seeking court review. After the expiration of thirty days from the date of service of the statement of findings and order, all objections to the decision shall be deemed waived. (Ord. 94-07 § 1, 1994)

9.04.120 Abatement by property owner.

The property owner, or person having charge or control of the property, may at their own expense abate the nuisance as prescribed by the notice to abate or the order of the city council, if any, prior to the expiration of the abatement period set forth in the notice or the order. If and when an owner or occupant undertakes to abate any such nuisance, the community development director or designated representative may impose such conditions as are necessary to protect the public health, safety and welfare. Any necessary permits and/or approvals shall be obtained by the owner or occupant. After the property has been inspected by the community development director or designated representative, and the nuisance has been fully abated in accordance with the notice to abate or order, the proceedings

shall terminate. The city manager or the community development director or designated representative may extend the abatement period specified in the notice to abate or any order to abate upon a showing of good cause. (Ord. 94-07 § 1, 1994)

9.04.130 Abatement by the city.

A. Failure to Abate. If a declared nuisance is not completely abated by the owner or person having charge or control of the property within the time prescribed in the notice to abate or after a public hearing, in the city council order, if any, the city manager or designee shall cause the same to be abated by city employees or private contract. The city manager or designated representative is expressly authorized to enter upon the property for the purpose of abating the nuisance.

B. Abatement of Motor Vehicles. Abatement of any motor vehicle registered or subject to registration with the Department of Motor Vehicles shall be carried out in conformance with the provisions of the Vehicle Code and Ordinance No. 92-19 of the city establishing the American Canyon traffic code and any amendments thereto.

C. Cost of Abatement Constitute Civil Debt. Upon the abatement of the public nuisance, or any portion thereof, by the city, all the costs, including incidental expenses shall be a civil debt owing to the city jointly and severally by the persons who have been given notice as provided in this chapter, except for any persons which the city council concludes pursuant to proof at the hearing to confirm the costs of abatement are not persons properly charged with responsibility of abatement. The costs shall be billed to the owner or occupant and shall be collectible in the same manner as any other civil debt owing the city. (Ord. 94-07 § 1, 1994)

9.04.140 Record of cost of abatement notice and hearing to confirm.

A. The city manager or designee shall keep an account of the costs, including incidental expenses, of abating such public nuisance on each separate lot or parcel of land where the work is done by the city and shall render an itemized report in writing to the city council showing the cost of abatement, including the rehabilitation, demolition or repair of said property, including any salvage value relating thereto; provided that before said report is submitted to the city council, a copy of the same together with a notice of the time when said report shall be heard by the city council for confirmation, shall be served upon the owner of the property in accordance with the provisions of Section 9.04.070 of this chapter at least ten days prior to submitting the same to the city council. Proof of said service shall be made by affidavit filed with the city clerk.

B. At the time fixed for hearing, the city council shall consider the correctness or reasonableness of the costs included in the accounting together with any protests or objections as may be offered against it, and shall correct, modify or amend the same, after which, by motion, the accounting as submitted, corrected, modified or amended shall be confirmed. The hearing may be continued from time to time.

C. The term "incidental expenses" means and includes, but is not limited to, the personnel costs, both direct and indirect, including attorneys' fees, costs incurred in documenting the nuisance, the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work, and the costs of printing and mailing required hereunder. (Ord. 94-07 § 1, 1994)

9.04.150 Assessment lien.

A. The total cost for abating such nuisance, as confirmed, by the city council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice of lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

B. After such confirmation and recordation, a certified copy of the city council's decision confirming the abatement costs shall be filed with the Napa County auditor-controller on or before August 1st each year, whereupon, it shall be the duty of the county auditor-controller to add the amounts of the respective assessments to the next regular tax bill levied against said respective lots and parcels of land for municipal purposes and thereafter said amounts shall be collected at the same time and in the same manner as ordinary taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessments.

C. In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law. (Ord. 94-07 § 1, 1994)

9.04.160 Nuisance abatement lien.

As an alternative to the assessment lien procedure contained in Section 9.04.150 the total cost for abating such nuisance, as confirmed by the city council, may be collected pursuant to the procedures set forth in Government Code Section 38773.1 as a nuisance abatement lien.

A. Prior to the recordation of any nuisance abatement lien, the city shall provide notice of the same to the owner of record of the parcel or lot on which the nuisance is maintained as shown on the last equalized assessment roll or the supplemental roll, whichever is more current.

B. The notice shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in the county of Napa pursuant to Government Code Section 6062.

C. The notice of nuisance abatement lien shall specify the amount of the lien, that the city is the agency on whose behalf the lien is imposed, the date the notice to abate was served or the date on which the city council issued its order to abate, if any, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel.

D. After recordation of the nuisance abatement lien, the city may foreclose the lien by an action brought by the city for a money judgment. (Ord. 94-07 § 1, 1994)

9.04.170 Alternative actions available.

A. Nothing in this chapter shall be deemed to prevent the city council or the city manager from ordering the city attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable civil or penal code provisions as an alternative to the proceedings as set forth in this chapter.

B. Pursuant to Government Code Section 38773.7, upon the entry of a second or subsequent civil or criminal judgment within a two-year period finding that property owner is responsible for a public nuisance subject to abatement pursuant to this chapter, the city shall be entitled to an order of the court requiring the owner to pay treble the costs of the abatement. (Ord. 94-07 § 1, 1994)

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. (Ord. 2017-01 § 2, 2017; Ord. 94-07 § 1, 1994)

SECTION 4. CEQA FINDINGS. The City Council finds the municipal code amendment is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment, directly or indirectly. In addition, the municipal code amendment is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective effect 30 days after its final passage pursuant to Government Code section 36937.

SECTION 6. 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 7. CUSTODIAN OF RECORDS. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 4831 Broadway, Suite 201, American Canyon, CA 94503. The custodian of these records is the City Clerk.

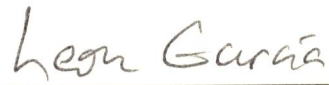
The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2nd day of May, 2023, by the following vote:

AYES: Councilmembers Aboudamous, Joseph, Oro, Vice Mayor Washington, 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 16th day of May, 2023, by the following vote:

AYES: Councilmembers Aboudamous, Joseph, Oro, Vice Mayor Washington, and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None

ATTEST:



Leon Garcia, Mayor
APPROVED AS TO FORM:



Taresa Geilfuss, CMC, City Clerk



William D. Ross, City Attorney