

## **ORDINANCE NO. 99-19**

### **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON ADDING A NEW CHAPTER 9.12 TO THE AMERICAN CANYON MUNICIPAL CODE ESTABLISHING AN ADMINISTRATIVE CITATION PROGRAM**

SECTION 1: The City Council of the City of American Canyon hereby ordains that the American Canyon Municipal Code is hereby amended to add a new Chapter 9.12, Administrative Citations, to read as follows:

#### **CHAPTER 9.12**

#### **ADMINISTRATIVE CITATIONS**

##### **Sections:**

<b>9.12.010</b>	<b>Legislative Findings and Statement of Purpose</b>
<b>9.12.020</b>	<b>Definitions</b>
<b>9.12.030</b>	<b>Authority</b>
<b>9.12.040</b>	<b>Service Procedures</b>
<b>9.12.050</b>	<b>Contents of Notice</b>
<b>9.12.060</b>	<b>Satisfaction of Administrative Citation</b>
<b>9.12.070</b>	<b>Appeal of an Administrative Citation</b>
<b>9.12.080</b>	<b>Hearing Officer</b>
<b>9.12.090</b>	<b>Hearing Procedures</b>
<b>9.12.100</b>	<b>Hearing Officer's Decision</b>
<b>9.12.110</b>	<b>Failure to Pay Fines</b>
<b>9.12.120</b>	<b>Right to Judicial Review</b>
<b>9.12.130</b>	<b>Notices</b>

##### **9.12.010 Legislative Findings and Statement of Purpose.**

- A. The City Council has determined that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable State Codes. The City Council has determined that an appropriate method of enforcement for minor violations is an Administrative Citation Program as authorized by Government Code Section 53069.4.
- B. The procedures established in this Chapter shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Municipal Code or applicable State Codes.
- C. The City Council hereby finds and determines that enforcement of the American Canyon Municipal Code, other ordinances adopted by the City, conditions on entitlements and terms and conditions of City Agreements are matters of local concern and serve important public purposes. Consistent with its powers as a

general Law, the City of American Canyon adopts this Administrative Citation Program provision in order to achieve the following goals:

- (1) To protect the public health, safety and welfare of the citizens of the City of American Canyon;
  - (2) To gain compliance with the Municipal Code and State Codes, ordinances and regulations in a timely and efficient manner;
  - (3) To provide for an administrative process to appeal the imposition of Administrative Citations and fines;
  - (4) To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the Municipal Code, Ordinances, Agreements or terms and conditions on entitlements in the City of American Canyon; and
  - (5) To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system.
- D. Use of this Chapter shall be at the sole discretion of the City.

#### **9.12.020 Definitions.**

- A. **Responsible Person** shall mean any individual who is the owner or occupant of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen (18) years, who causes or maintains a violation of the American Canyon Municipal Code, applicable State Codes, or conditons to an entitlement.
- B. **Enforcement Officer** shall mean any officer or employee with the authority to enforce the American Canyon Municipal Code or applicable State Codes, or conditons to an entitlement.
- C. **Hearing Officers** shall be the Planning Commission of the City of American Canyon, and shall hear all appeals from an Administrative Citation as set forth in Section 9.12.070.

#### **9.12.030 Authority.**

- A. Any person violating any provision 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. Each and every day a violation of the Municipal Code, applicable State Codes, or conditons to an entitlement exists constitutes a separate and distinct offense.
- 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 City Finance 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 (\$100.00) for a first violation;
  - (2) A fine not exceeding two hundred dollars (\$200.00) 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 (\$500.00) for each additional violation of the same ordinance or permit within one year from the date of the first violation.

**9.12.040 Service Procedures.** An Administrative Citation on a form approved by the City Manager may be issued to the Responsible Person by an Enforcement Officer for violations of the Municipal Code, applicable State Codes, or conditons to an entitlement in the following manner

- A. Personal Service. The Enforcement Officer shall attempt to locate and personally serve the Responsible Person and obtain the signature of the responsible person on the Administrative Citation. In the event the Responsible Person served refuses or fails to sign the Administrative Citation, the failure or refusal to sign shall not affect the validity of the Administrative Citation or of subsequent proceedings.
- B. Service of Citation by Mail. In the event the Enforcement Officer is unable to locate the Responsible Person, the Administrative Citation shall be mailed to the Responsible Person by certified mail, postage prepaid with a requested return receipt Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.
- C. Service by Citation by Posting Notice. In the event the Enforcement Officer does not succeed in personally serving the Responsible Person, or by certified mail or regular mail, the Enforcement Officer shall post the Administrative Citation on any real property within the City in which the City has knowledge that the Responsible Person has a legal interest, and such posting shall be deemed effective service.

**9.12.050 Contents of Notice.** Each Administrative Citation shall contain the following information:

- A. Date, approximate time, and address or definite description of the location where the violation(s) was observed;
- B. The Municipal or State Code sections or conditions violated and a description of the violation(s);
- C. An order to the responsible person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);
- D. The amount of the fine for the violation(s);
- D. An explanation of how the fine shall be paid and the time period by which it shall be paid;
- E. Identification of rights of appeal, including the time within which the Citation may be contested and the place to obtain a Request for Hearing form to contest the Administrative Citation; and
- G. The name and signature of the Enforcement Officer and if possible the signature of the Responsible Person.

**9.12.060 Satisfaction of Administrative Citation.** Upon receipt of an Administrative Citation, the Responsible Person must do the following:

- A. Pay the fine to the City within fifteen (15) days from the correction date of the Administrative Citation. All fines assessed shall be payable to the American Canyon City's Treasurer. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the City.
- B. Remedy the violation(s), if the violation(s) is of such a nature that it can be remedied. If the violation(s) is corrected before the date provided on the Administrative Citation no fine shall be imposed. If the Responsible Person fails to correct the violation(s), subsequent Administrative Citations may be issued for the same violation(s). The amount of the fine for failure to correct the violation shall increase at a rate specified in this Chapter or by Resolution of the City Council.

**9.12.070 Appeal of an Administrative Citation.** Any recipient of an Administrative Citation may contest that there was a violation of the American Canyon Municipal Code, applicable State Codes, or conditions of an entitlement, or that he or she is the Responsible Person by completing a Request for Hearing form and returning it to the City within fifteen (15) days from the correction date of the Administrative Citation, together with an advanced deposit of the fine. Any Administrative Citation fine that has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the Administrative Citation was not responsible for the violation(s) or that there was no violation(s) as charged in the Administrative Citation.

**9.12.080 Hearing Officers.** The City Council hereby designates the Planning Commission as the Hearing Officers for the Administrative Citation hearing. To the extent practical and consistent with this Ordinance, appeal hearings shall be conducted on the evenings of regularly scheduled Planning Commission meetings.

**9.12.090 Hearing Procedures.**

- A. No hearing to contest an Administrative Citation before the Hearing Officers shall be held unless and until a request for hearing form has been completed and submitted, and, the fine has been deposited in advance.
- B. A hearing before the Hearing Officers shall be set for a date that is not less than fifteen (15) and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this Chapter. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.
- C. The Hearing Officers shall only consider evidence that is relevant to whether the violation(s) occurred and whether the Responsible Person has caused or maintained the violation(s) of the Municipal Code or other applicable State Codes or conditions to an entitlement on the date(s) specified in the Administrative Citation.
- D. The Responsible Person contesting the Administrative Citation shall be given the opportunity to testify and present witnesses and evidence concerning the Administrative Citation.
- E. The failure of any recipient of an Administrative Citation to appear at the Administrative Citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.
- F. The Administrative Citation and any additional documents submitted by the Hearing Enforcement Officers shall constitute prima facie evidence of the respective facts contained in those documents.
- G. If the Enforcement Officer submits an additional written report concerning the Administrative Citation to the Hearing Officers for consideration at the hearing, then a copy of this report also shall be served by mail on the person requesting the hearing at least five (5) days prior to the date of the hearing.
- H. At least ten (10) days prior to the hearing, the recipient of an Administrative Citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Enforcement Officer. No other discovery is permitted. Formal rules of evidence shall not apply.
- I. The Hearing Officers may continue the hearing and request additional information from the Enforcement Officer or the recipient of the Administrative Citation prior to issuing a written decision.

#### **9.12.100 Hearing Officer's Decision**

- A. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officers shall issue a written decision within ten (10) days of the hearing to uphold or deny the Administrative Citation and shall list in the decision the reasons for rendering the decision. The decision of the Hearing Officers shall be final unless a request for Judicial Review is filed in accordance with the provisions of Section 9.12.120 of this Chapter.
- B. If the Hearing Officers determine that the Administrative Citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.
- C. If the Hearing Officers determine that the Administrative Citation should be canceled and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine.
- D. The recipient of the Administrative Citation shall be served with a copy of the Hearing Officer's written decision in the manner prescribed by the American Canyon Municipal Code.

**9.12.110 Failure to Pay Fines.** The failure of any person to pay the civil fines assessed by an Administrative Citation within the time specified on the Citation may result in the matter being referred to the American Canyon Finance Director to file a claim with the Small Claims Court. Alternatively, the City may pursue any other legal remedy to collect the civil fines. The City may also recover all costs associated with collecting any fines.

**9.12.120 Right to Judicial Review.** Any person aggrieved by an Administrative Decision of the Hearing Officers on an Administrative Citation may obtain review of the Administrative Decision by filing a Petition for Review with the Napa County Municipal Court in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4.

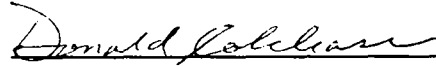
**9.12.140 Notices.** The Administrative Citation and all notices to be given by this Chapter shall be served on the Responsible Person in accordance with the provisions of this Chapter and any applicable provisions of the American Canyon Municipal Code. Failure to receive any notice specified in this Chapter does not affect the validity of proceedings conducted here under.

**SECTION 2:** A summary of this Ordinance shall be published once in the Vallejo Times Herald, a newspaper of general circulation serving the City of American Canyon, within fifteen (15) days after its passage and shall become effective thirty (30) days after the date of its adoption.

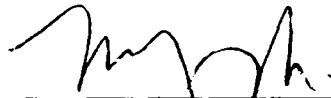
SECTION 3: The provisions of this Ordinance shall be severable. If any portion is found to be unconstitutional, illegal or invalid, the remainder shall survive and remain effective and enforceable.

SECTION 4: The foregoing Ordinance was introduced and read at regular meetings of the City Council of the City of American Canyon, State of California, held on the 16th day of December, 1999, 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 6th day of January, 2000, by the following vote:

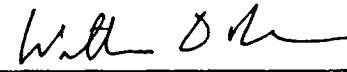
**AYES:** Anderson, Canziani, Colcleaser, Maples  
**NOES:** Shaver  
**ABSTAIN:** None  
**ABSENT:** None

  
Donald Colcleaser, Vice-Mayor

**ATTEST:**

  
Mark Joseph, City Clerk

**APPROVED AS TO FORM:**

  
William D. Ross, City Attorney

## City of American Canyon Administrative Citation Program

American Canyon Municipal Code Chapter 9.12 provides for the issuance of Administrative Citations for Municipal and Zoning Code violations, failure to comply with conditions to an entitlement such as a Use Permit or Design Permit, and applicable State Codes. There are three levels of citations that can be issued progressively for a violation. The fines, as indicated on the front of the citation, are \$100.00 for the First Citation, \$200.00 for the Second Citation and \$500.00 for the Third and subsequent Citations for violations of the same Ordinance, entitlement, or State Code within one year. **These fines are cumulative and citations may be issued each day the violation exists.** A warning, if issued, does not incur a fine and, therefore, may not be appealed.

### Rights of Appeal

You have the right to appeal this Administrative Citation within fifteen (15) days from the Citation/correction date together with an advanced deposit of the fine along with a Request for Hearing form. An appeal must be in writing to the address on the front of this citation and to the attention of "Administrative Citation Hearing Officer." A properly filed appeal will result in an administrative hearing.

Failure of any person to properly file a written appeal within fifteen (15) CONSECUTIVE days from the citation/correction date shall constitute a waiver of his or her right to an administrative hearing and adjudication of the Administrative Citation or any portion thereof and the total amount of the fine.

### How to Pay Fine

The amount of the fine is indicated on the front of this Administrative Citation. Prior to receiving an invoice from the Finance Department, you may pay by mail or in person at 300 Crawford Road, Finance Department, American Canyon City Hall. Payment should be made by personal check, cashier's check, or money order, payable to the City of American Canyon. Please write the citation or account number on your check or money order.

If the citation is not paid or appealed within the statutory time, you will receive an invoice from the City's Finance Department. Please follow the instructions on the invoice to ensure proper processing of your payment. Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City of American Canyon.

### Consequences of Failure to Pay the Fine

The failure of any person to pay the fine assessed by the Administrative Citation within the time specified on the Citation or on the invoice from the Finance Department may result in a claim with the Small Claims Court or any legal remedy available to collect such money. The City has the authority to collect all costs associated with the filing of such actions. Failure to pay fine requirements may be found in American Canyon Municipal Code Section 9.12.110.



### **Consequences of Failure to Correct Violations**

There are numerous enforcement options that can be used to encourage the correction of violations. These options include, but are not limited to: civil penalties, abatement, criminal prosecution, civil litigation, recording the violation with the County Recorder and forfeiture of certain State tax benefits for substandard residential rental property. These options can empower the City to collect fines up to \$100,000.00, to demolish structures or make necessary repairs at the owner's expense, and to incarcerate violators. Any of these options or others may be used if the administrative citations do not achieve compliance.

If you need further clarification about payment of the citation, please call (707) 647-4354 for the Finance Department.

If you need further information about the violations and/or how to comply, please call the Enforcement Officer that signed the Administrative Citation.

A full description of the hearing process for the City's administrative hearings for Municipal Code violations, failure to comply with conditions to an entitlement, or applicable State Codes and your rights in that process are found in American Canyon Municipal Code Sections 9.12.090 and 9.12.110.

**NOTICE OF APPEAL  
and  
REQUEST FOR HEARING**

CITY OF AMERICAN CANYON  
Planning Department  
300 Crawford Road  
American Canyon, Ca. 94503-1331  
(707) 647-4336

ATTENTION:        **Administrative Hearing Officer**

In regards to property located at \_\_\_\_\_, in the City of American Canyon, California an appeal is hereby made relative to Citation No. \_\_\_\_\_

It is the desire of the appellant to contest this Citation before an Administrative Hearing Officer.

In order to process this appeal the amount of the fine on the citation must first be paid to the Finance Department of the City of American Canyon along with this NOTICE OF APPEAL.

This appeal must be filed within FIFTEEN (15) DAYS from the correction date on the Administrative Citation.

\_\_\_\_\_  
Citation Date                      Today's Date

\_\_\_\_\_  
Name of appellant (Please Print)

\_\_\_\_\_  
Signature of appellant

\_\_\_\_\_  
Address of property where Alleged Violation occurred

\_\_\_\_\_  
Appellants Mailing Address (if different)