

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING
ALBANY MUNICIPAL CODE SECTION 1-1 “DEFINITIONS”
AND SECTION 1-11 “ADMINISTRATIVE CITATIONS”**

WHEREAS, the proposed amendments reflect changes in state law, case law, and best practices; and

NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: CHAPTER 1 OF THE ALBANY MUNICIPAL CODE, SECTION 1-2 TITLED “DEFINITIONS” IS HEREBY AMENDED AS FOLLOWS:

§ 1-2.1. Definitions. [Ord. #58-043, 1958 Code § 1.2; New]

For the purpose of this Code, and in the interpretation and application of all other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

CITY — "The City" or "this City" shall be construed as if followed by the words "of Albany."

CITY COUNCIL OR COUNCIL — Shall mean the City Council of the City of Albany.

CLERK OR CITY CLERK — Shall mean the municipal clerk duly appointed pursuant to law.

CODE — Shall mean "The Code of the City of Albany, California (1988)".

COUNTY — Shall mean the County of Alameda of this State.

DAY — Shall mean the period of time between any midnight and the midnight following.

1 DAYTIME/NIGHTTIME — "Daytime" shall mean the period of time between sunrise and
2 sunset. "Nighttime" shall mean the period of time between sunset and sunrise.

3 DEPARTMENT — Shall mean an organizational unit of the government established or
4 designated by ordinance or this Code as a department, together with any agency or
5 instrumentality of the government assigned to such organizational unit by the City Council.

6 HEALTH DEPARTMENT — Shall mean and include the Health Officer of the City and ~~his~~
7 their deputies, and the County Health Officer and ~~his~~ their deputies whenever the City has
8 entered into a contract with the County for the performance by health officers or other
9 employees of the County of public health services.

10 IN THE CITY — Shall mean and include all territory over which the City now has, or shall
11 hereafter acquire, the jurisdiction for the exercise of its police powers or other regulatory
12 powers.

13 JOINT AUTHORITY — Shall mean all words giving a joint authority to three (3) or more
14 persons or officers shall be construed as giving such authority to a majority of such persons or
15 officers.

16 LICENSED — Shall mean licensed in accordance with the appropriate section or chapter of
17 this Code.

18 MONTH — Shall mean a calendar month unless otherwise specifically provided.

19 OATH — Shall be construed to include an affirmation where an affirmation may be substituted
20 for an oath. In such cases, the words "swear" and "sworn" shall be equivalent to the words
21 "affirm" and "affirmed".

22 OFFICER OR OFFICIAL (and the title of an officer or official) — Shall be construed as if the
23 words "of the City of Albany" followed it.

24 OR, AND — "Or" may be read "and," and "and" may be read "or," if the sense required it.

25 ORDINANCE — Shall mean any act of local legislation heretofore or hereafter adopted, and
26 including this Code, so long as it shall have been adopted by the procedure required for the
27 adoption of an ordinance and so long as it shall remain in force and effect pursuant to law.

28 OWNER — Shall mean and include any part owner, joint owner, tenant in common, tenant in
29 partnership, joint tenant or tenant by entirety, of the whole or of a part of such building or land.

1 PERSON — Shall mean any individual, natural person, partnerships, joint ventures, societies,
2 associations, clubs, trustees, trusts, corporations or unincorporated groups, or any officers,
3 agents, employees, servants, factors or any kind of personal representatives of any thereof in
4 any capacity, acting either for ~~himself~~ themselves or for any other person, under either personal
5 appointment or pursuant to law.

6 PERSONAL PROPERTY — Shall mean and include every species of property except real
7 property, as defined in this section.

8 PRECEDING AND FOLLOWING — Shall mean next before and next after, respectively.

9 PROCESS — Shall mean a writ or summons issued in the course of judicial proceedings of
10 either a civil or criminal nature.

11 PROPERTY — Shall mean real and personal property.

12 PUBLIC GROUNDS, PUBLIC SQUARES, PUBLIC PLACE OR PUBLIC PLACES — Shall
13 severally be construed to mean any and every public ground, public square, public park or
14 other public place within the City.

15 REAL PROPERTY — Shall mean lands, tenements and hereditaments.

16 RESOLUTION — Shall mean and include any act or regulation of the City Council required
17 to be reduced to writing, but which may be finally passed at the meeting at which it is
18 introduced.

19 **RESPONSIBLE PARTY -- Shall mean each person committing the violation or causing**
20 **a condition on a parcel of real property located within the City of Albany to violate the**
21 **Albany Municipal Code; each person who has an ownership interest in that property;**
22 **and each person who although not an owner, nevertheless has a legal right or a legal**
23 **obligation to exercise possession and control over that property. In the event the person**
24 **who commits the violation or causes the violating condition is a minor, then the minor's**
25 **parents or legal guardian shall be deemed the responsible party. In the event the violation**
26 **or violating condition is most reasonably attributable to a business and not to an**
27 **employee, then that business, to the extent it is a legal entity such that it can sue and be**
28 **sued in its own name, and each person who is an owner of that business shall each be**
29 **deemed responsible parties.**

1 ROADWAY — Shall mean that portion of a highway improved, designed or ordinarily used
2 for vehicular travel.

3 SIDEWALK — Shall mean any portion of a street between the curb line and the adjacent
4 property line, intended for the use of pedestrians, excluding parkways.

5 SIGNATURE OR SUBSCRIPTION — Shall mean a mark when the signer or subscriber
6 cannot write, such signer's or subscriber's name being written near the mark by a witness who
7 writes ~~his~~ their own name near the signer's or subscriber's name; but a signature or subscription
8 by mark can be acknowledged or can serve as a signature or subscription to a sworn statement
9 only when two (2) witnesses so sign their own names thereto.

10 STATE — Shall mean the State of California.

11 STREET — Shall mean and include a street, avenue, road, alley, lane, highway, boulevard,
12 concourse, driveway, culvert, sidewalk and crosswalk, and every class of road, square, place
13 or municipal parking field used by the general public.

14 TENANT OR OCCUPANT — When applied to a building or land, shall mean and include
15 any person holding a written or oral lease or who occupies, the whole or a part of such building
16 or land, either alone or with others.

17 WEEK — Shall mean seven (7) consecutive days.

18 YEAR — Shall mean a calendar year except where otherwise provided.

19
20 **SECTION 2: CHAPTER 1 OF THE ALBANY MUNICIPAL CODE, SECTION**
21 **1-11 TITLED “ADMINISTRATIVE CITATIONS” IS HEREBY AMENDED AS**
22 **FOLLOWS:**

23
24 **§ 1-11.1. Title. [Ord. #09-01, § 11**

25 This section shall be known as the "Administrative Citation Ordinance."
26
27
28
29

1 **§ 1-11.2. Purpose. [Ord. #09-01, § 11**

2
3 a. This section provides for administrative citations pursuant to the City's police and
4 Charter powers.

5 b. The procedures and remedies established in this section shall be in addition to civil,
6 criminal, or other legal remedies established by law, which may be pursued to address
7 violations of the Albany Municipal Code or applicable State Codes.

8 c. Use of this section is in the sole discretion of the City and the City Council hereby finds
9 and determines that enforcement of the City of Albany Municipal Code, other ordinances
10 adopted by the City, and conditions on entitlements are matters of local concern and serve
11 important public purposes.

12 Consistent with its powers as a Charter City, the City of Albany adopts this Administrative
13 Citation Program provision in order to achieve the following goals:

- 14 1. To protect the public health, safety, and welfare of the citizens of the City of Albany;
- 15 2. To gain compliance with the Municipal Code and State Codes, ordinances, and
16 regulations in a timely and efficient manner;
- 17 3. To provide for an administrative process to appeal the imposition of Administrative
18 citations and fines;
- 19 4. To provide a method to hold parties responsible when they fail or refuse to comply with
20 the provisions of the Municipal Code, other ordinances adopted by the City, and conditions on
21 entitlements; and
- 22 5. To minimize the expense and delay where the sole remedy is to pursue responsible
23 parties in the civil or criminal justice system.

24
25 **§ 1-11.3. Applicability. [Ord. #09-01, § 11**

26
27 a. The City's philosophy for enforcing its ordinances is to obtain voluntary compliance
28 through education and, when necessary, as determined in the sole discretion of the City, a
29 persuasive administrative process. The City's police and Charter powers, as well as State law

1 grant the City various authorities to issue criminal and administrative citations, to file civil
2 lawsuits, to order abatement of nuisances, to abate nuisances itself, and to impose
3 administrative penalties.

4 b. The role of administrative penalties in the code enforcement process is to give violators
5 a strong financial incentive to cure their violations—~~potentially up to ten thousand~~
6 ~~(\$10,000.00) dollars per violation, although in most cases the penalty will be less.~~

7
8 1. An administrative citation starts the administrative process. When an administrative
9 citation is issued to a violator, an applicable penalty is imposed and the responsible violator is
10 obligated to correct the violation.

11 2. A violator has the right to appeal both the City's initial determination that ~~he or she~~
12 ~~has~~ they have violated an ordinance, and the amount of the penalty imposed by the City.
13 Appeals are heard by a City Hearing Officer (Sections ~~1-1-1.09~~ 1-11.9 to 1-11.12 of this
14 ~~section~~ Chapter), and if desired, the violator can challenge in a court of law the Hearing
15 Officer's decision.

16 3. A violation that poses an imminent hazard may also be abated as a public nuisance
17 under the applicable Uniform Code (e.g. Housing Code, Fire Code, Building Code, etc.). This
18 procedure is advisable in cases where a violation has been determined to be an imminent threat
19 to public safety, such as where a building is at risk of collapse or fire.

20 21 **§ 1-11.4. Administrative Penalty Defined. [Ord. #09-01, § 11**

22
23 An administrative penalty is a monetary penalty, or fine, imposed by the City but subject to
24 review by a court. An administrative penalty is designed to deter violations of City ordinances
25 and to create a speedy and efficient way to gain compliance. It is a civil matter, not a criminal
26 proceeding. The amounts of penalties are set forth by resolution of the City Council.

1 **§ 1-11.5. Enforcement Office—Defined—Authority. [Ord. #09-01, § 11**

2
3 For the purposes of this section, "enforcement officer" shall mean any City employee or agent
4 of the City given the authority to enforce any provision of this Code. Designated enforcement
5 officers shall have the authority to issue administrative citations pursuant to this section.
6

7 **§ 1-11.6. Administrative Citation—Content. [Ord. #09-01, § 11**

8
9 a. Each Administrative Citation shall contain accurate information applicable to the
10 circumstances of the violation and the remedies required. Such information shall include:

11 1. Date, approximate time, and address, or definite description of the location here the
12 violation(s) was observed;

13 2. The Code sections or conditions violated and a description of the violation(s);

14 3. An order prohibiting the continuation or repeated occurrence of the Code violation
15 described on the administrative citation;

16 4. An order to the responsible person to correct the violations within the time specified
17 (compliance date), and an explanation of the consequences of failure to correct the violation(s)
18 including the fine for the violation;

19 5. The amount of the fine and/or penalty and interest for the violation(s);

20 6. An explanation of how the fine shall be paid and the time period by which it shall be
21 paid;

22 7. Identification of rights of appeal, including the time within which the citation may be
23 contested and the place to obtain a Request for Hearing Form to contest administrative citation;
24 and

25 8. The name and signature of the Enforcement Officer.

26 b. In addition to the administrative citation and penalty authorized by this chapter, an
27 order to correct a violation under paragraph c of this section may be enforced as set forth in
28 the chapter applicable to that violation.
29

1 c. In the case of a continuing violation pertaining to building, plumbing, electrical, or
2 other similar structural or zoning issues that do not create an immediate danger to health or
3 safety, a reasonable time not to exceed six (6) months shall be provided to remedy or correct
4 the violation prior to imposition of fines or penalties. ~~In determining what is a reasonable~~
5 ~~time, the City may consider the estimate of local professionals including licensed~~
6 ~~contractors.~~ In the case of such violations, the time within which the violation must be
7 corrected in order to avoid a fine shall also be specified on the administrative citation.

8
9 **§ 1-11.7. Administrative Citation—Responsibility for Correction and Compliance. [Ord.**
10 **#09-01, § 11**

11
12 ~~a. — Ultimately, the property owner is responsible for ensuring Code violations are~~
13 ~~corrected. The property owner/landlord must put the property into a condition fit for~~
14 ~~occupation, and repair all subsequent dilapidations that render the property~~
15 ~~untenantable, except dilapidations or injuries as a result of the tenant's lack of ordinary~~
16 ~~care (California Civil Code Section 1941).~~

17 ~~b.a. — Tenants who rent or lease property have an obligation to keep the property in~~
18 ~~good condition, and free from code violations. The tenant is required to take reasonable~~
19 ~~and ordinary care of rented property and is responsible for correcting damages caused~~
20 ~~by him or her. The tenant bears responsibility for correction if the tenant's violation~~
21 ~~contributes substantially to the existence of the dilapidation for which the correction is~~
22 ~~required (California Civil Code Sections 1928, 1929 and 1941.2).~~

23
24 **“Responsible party” means each person committing the violation or causing a**
25 **condition on a parcel of real property located within the City of Albany to violate the**
26 **Albany Municipal Code; each person who has an ownership interest in that property;**
27 **and each person who although not an owner, nevertheless has a legal right or a legal**
28 **obligation to exercise possession and control over that property. In the event the person**
29 **who commits the violation or causes the violating condition is a minor, then the minor's**

1 parents or legal guardian shall be deemed the responsible party. In the event the violation
2 or violating condition is most reasonably attributable to a business and not to an
3 employee, then that business, to the extent it is a legal entity such that it can sue and be
4 sued in its own name, and each person who is an owner of that business shall each be
5 deemed responsible parties.

6
7 **§ 1-11.8. Administrative Citation—Compliance. [Ord. #09-01, § 11**

8
9 Upon receipt of an administrative citation, the responsible party must do the following:

- 10 a. Pay the fine to the City within fifteen (15) days from the date the administrative citation
11 was issued. All fines assessed shall be payable to the City of Albany. Payment of a fine shall
12 not excuse or discharge the failure to correct the violation(s), nor shall it bar further
13 enforcement action by the City; and
- 14 b. Remedy the violation(s). If the responsible person fails to correct the violation(s),
15 subsequent administrative citations may be issued for the same violation(s). The amount of the
16 fine for failure to correct the violation shall increase at a rate specified in this section or in the
17 Master Fee Resolution.

18
19 **§ 1-11.9. Administrative Citation—Request for Hearing. [Ord. #09-01, § 11**

20
21 Any recipient of an administrative citation may contest that there was a violation of the
22 Municipal Code, other ordinances adopted by the City, or conditions on entitlements; or contest
23 that ~~he or she is~~ they are the responsible party by paying the specified fine to the City; and
24 completing a Request for Hearing Form and returning it to the City Clerk, or designee, within
25 fifteen (15) days from the date the citation was issued.

1 **§ 1-11.10. Administrative Citation Appeal Hearing. [Ord. #09-01, § 11**
2

3 The City Administrator, or designee, shall designate the Hearing Officer for the administrative
4 citation hearing. The employment, performance evaluation, compensation, and benefits of the
5 Hearing Officer, if any, shall not be directly or indirectly conditioned upon the ~~amount of~~
6 ~~finer upheld by the Hearing Officer~~ **the outcome or result of the appeal hearing.**
7

8 **§ 1-11.11. Administrative Citation Appeal Hearing Procedure. [Ord. #09-01, § 11**
9

10 a. No hearing to contest an administrative citation before a Hearing Officer shall be held
11 unless and until the specified fine has been paid and a Request for Hearing Form has been
12 completed and submitted to the City pursuant to subsection 1-11.09 of this chapter.

13 b. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen
14 (15) and not more than thirty (30) days from the date that the request for hearing is filed in
15 accordance with the provisions of this section. The person requesting the hearing shall be
16 notified of the time and place set for the hearing at least ten (10) days prior to the date of the
17 hearing.

18 c. The Hearing Officer shall ensure a record of the hearing is made.

19 d. The Hearing Officer shall consider all relevant evidence including whether the
20 violation(s) occurred and whether the responsible person has caused or maintained, the
21 violation(s) of the Municipal Code, other applicable State Codes, other ordinances adopted by
22 the City, and conditions on entitlements on the date(s) specified in the administrative citation.

23 e. The responsible party contesting the administrative citation shall be given the
24 opportunity to testify and present witnesses and evidence concerning the citation. The failure
25 of any recipient of the administrative citation to appear at the administrative citation hearing
26 without a showing of good cause shall constitute a forfeiture of any fine already paid and a
27 failure to exhaust their administrative remedies.
28
29

1 f. The administrative notice and citation ~~and any additional documents submitted by~~
2 ~~the Enforcement Officer~~ shall constitute prima facie evidence of the respective facts
3 contained in those documents. If the Enforcement Officer submits an additional written report
4 concerning the administrative citation to the Hearing Officer for consideration at the hearing,
5 then a copy of this report also shall be served by mail on the person requesting the hearing at
6 least five (5) days prior to the date of the hearing.

7 g. The Enforcement Officer or ~~his or her~~ their designee will be in attendance at the
8 hearings to present the City's case; the responsible party may also have in attendance other
9 parties of ~~his or her~~ their choosing.

10 h. The Hearing Officer may continue the hearing and request additional information from
11 the Enforcement Officer or the recipient of the administrative citation prior to issuing a written
12 decision.

13
14 **§ 1-11.12. Administrative Citation Appeal Hearing Decision. [Ord. #09-01, § 11**

15
16 a. After considering all of the testimony and evidence submitted at the hearing, the
17 Hearing Officer shall issue a written decision containing findings of fact and an evaluation of
18 the sufficiency of evidence to support the finding of a violation. The written decision shall be
19 prepared and mailed to the appellant (appealing responsible party) within ten (10) days of the
20 conclusion of the hearing to uphold or deny of the administrative citation and shall list in the
21 decision the reasons for that decision.

22 The decision of the Hearing Officer shall be final. The recipient of the administrative citation
23 shall be notified that a decision has been rendered and receive a copy of the Hearing Officer's
24 written decision by mail.

25 b. If the Hearing Officer determines that the administrative citation should be upheld, then
26 the fine amount on deposit shall be retained by the City. If the Hearing Officer determines that
27 the administrative citation should be invalidated, any fine already paid to the City shall be
28 refunded within thirty (30) days. If for whatever reason the full fine was not deposited with the
29 City, the Hearing Officer shall determine the full amount of the fine, together with any

1 penalties and interest. **The hearing order shall set forth the appeal procedures as set forth**
2 **in Government Code section 53069.4 and Code of Civil Procedure 1094.6.**

3
4 **§ 1-11.13. Administrative Citation Fine Amounts. [Ord. #09-01, § 11**

5
6 a. The amount of the penalties for violations that are cited pursuant to this chapter are set
7 forth in the City of Albany Master Fee Resolution.

8 b. A ten (10%) percent late payment fee shall be imposed on any fine that is not paid
9 within thirty (30) days of the issuance of the citation.

10 c. The administrative fines outlined in this chapter are levied in addition to any recovery
11 of costs outlined in the Albany Municipal Code.

12 d. Each and every day a violation of the provisions of the Code exists constitutes a
13 separate and distinct offense and shall be subject to a citation.

14
15 **§ 1-11.14. Administrative Citation Failure to Pay Fines. [Ord. #09-01, § 11**

16
17 The failure of any person to pay the civil fines assessed by an administrative citation within
18 the time specified on the citation or after an administrative hearing will result in the collection
19 of the fine by the City. The City may pursue any available legal remedy to collect civil fines,
20 including but not limited to judgments, liens, small claims actions, and collections. The City
21 may also recover its collections costs according to proof.

22
23 **§ 1-11.15. Administrative Citation Right to Judicial Review. [Ord. #09-01, § 11**

24
25 Any person aggrieved by an administrative decision of a Hearing Officer on the administrative
26 citation may obtain review of the administrative decision by filing a petition for review with
27 the Alameda County Superior Court in accordance with the timelines and provisions as set
28 forth in California Government Code Section 53069.4. ~~This Government Code section shall~~
29 ~~be limited to proceedings under Chapter 1-11 of the Albany Municipal Code.~~

1
2 **§ 1-11.16. Correction Notice. [Ord. #09-01, § 11**

3
4 a. In lieu of an administrative citation, a Correction Notice may be issued to the
5 responsible party as a warning the first time a violation occurs. Issuing a Correction Notice in
6 lieu of an administrative citation is discretionary for the Enforcement Officer based on the
7 circumstances and appropriateness to warn a first-time violator.

8 b. In such cases when a Correction Notice is issued for a first-time violation, an
9 administrative citation will be issued for the violation(s) with appropriate fine(s) if the violation
10 is not corrected by the compliance date specified in the Correction Notice.

11 c. Whenever a Correction Notice is issued, such notice may be given by either personal
12 delivery to the person to be notified, by posting same on real property owned by the responsible
13 party, or by deposit in the United States Mail in a sealed envelope postage prepaid, addressed
14 to such person to be notified at ~~his~~ their last known business or residence address as the same
15 appears in the last equalized County assessment roll or as known to the Enforcement Officer.
16 Service by United States Mail shall be deemed completed at the time of deposit in the United
17 States Mail receptacle. The failure of any person to receive notice properly given shall not
18 affect the validity of any proceedings hereunder.

19 d. The Enforcement Officer may attempt to locate and personally serve the responsible
20 party and obtain ~~his or her~~ their signature on the administrative citation. If the responsible
21 party served refuses or fails to sign the administrative citation, the failure or refusal to sign
22 shall not affect the validity of the administrative citation or of subsequent proceedings.

23
24 **§ 1-11.17. Correction Notice Content. [Ord. #09-01, § 11**

25
26 Each Correction Notice shall contain the following information:

27 a. Date, approximate time, and address or definite description of the location where the
28 violation(s) was observed;

29 b. The Code sections or conditions violated and a description of the violation(s);

1 c. An order to the responsible party to correct the violations within the time specified
2 (compliance date), and an explanation of the consequences of failure to correct the violation(s)
3 including the fine for the violation;

4 d. The name and signature of the Enforcement Officer.
5

6 **§ 1-11.18. Correction Notice Compliance. [Ord. #09-01, § 11**
7

8 Upon receipt of a Correction Notice, the responsible party must remedy the violation(s) and
9 notify the Enforcement Officer at the address provided on the Notice that the correction has
10 been accomplished. If the violation(s) is corrected before the compliance date provided, no
11 fine shall be imposed.
12

13 **SECTION 3: SEVERABILITY.**

14 If any provision of this ordinance and Chapter is found to be unconstitutional or
15 otherwise invalid by any court of competent jurisdiction, that invalidity will not affect the
16 remaining provisions of this ordinance and Chapter, which can be implemented without the
17 invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.
18

19 **SECTION 4: PUBLICATION AND EFFECTIVE DATE.**

20 This ordinance shall be posted at three public places within the City of Albany and shall
21 become effective thirty days after the date of its posting.
22

23
24 
25 ROBIN D. LOPEZ, MAYOR
26
27
28
29



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

ORDINANCE NO. 2025-03

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 21st day of July, 2025, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, McQuaid, Miki and

Mayor López

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

22nd day of July, 2025.

Anne Hsu
CITY CLERK

*Albany is committed to providing a healthy, safe, and accessible city,
and strives to lift every voice in our community.*