

ORDINANCE NO. 2025-04

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING
ALBANY MUNICIPAL CODE SECTION 18-1
“ADMINISTRATIVE NUISANCE ABATEMENT”**

WHEREAS, the Administrative Nuisance sections of the City’s Municipal Code were last updated in 2009; and

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

WHEREAS, the proposed action helps fulfill City Council Strategic Plan Goal 6/Objective 1: “Identify resources and options to enhance code enforcement programs.”

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

**SECTION 1: CHAPTER 18 OF THE ALBANY MUNICIPAL CODE,
SECTION 18-1 TITLED “ADMINISTRATIVE NUISANCE ABATEMENT” IS
HEREBY AMENDED AS FOLLOWS:**

The ordinance codified in this section shall hereafter be referred to and cited as the Administrative Nuisance Abatement Ordinance.

§ 18-1.2. Findings and Purpose. [Ord. #03-03, § 8.20.2]

The purpose of this section is to establish an abatement procedure to be utilized for serious and/ or persistent situations which are considered to warrant the need for official abatement through the process set forth herein. This section is not intended to be used by citizens to ~~insist that any or all~~ respond to citizen complaints regarding any violation of this Code. ~~should be abated and/or pursued by the procedures set forth in this section.~~ The City reserves the

1 right to address abatement in a variety of ways to try to emphasize cooperative compliance
2 while maintaining the priority of the use of City resources.

3
4 The City Council finds and determines that the existence of any condition constituting a public
5 nuisance, as defined herein, is injurious and inimical to the public health, safety and general
6 welfare, diminishes property values and degrades the quality of life within the City. The
7 purpose of this chapter is to protect the public from health and safety hazards resulting from
8 the neglect, misuse or deterioration of property, to preserve property values, and to maintain
9 the social and economic viability of the community, to facilitate enforcement efforts for
10 violations of State, Federal, and local laws, to require conformance to all laws and regulations,
11 and to provide processes to address harms and wrongdoings within the City.

12 This process provides alternative remedies to enable the City to institute civil suits to enjoin
13 public nuisances by providing the administrative body with the authority to impose orders and
14 conditions to abate and to halt public nuisances.

15
16 **§ 18-1.3. Definitions. [Ord. #03-03, § 8.20.3]**

17
18 Except where the context otherwise requires, the following definitions shall govern the
19 construction of this section:

20 ATTRACTIVE NUISANCE — Shall mean any condition, machine or instrumentality which
21 is unsafe or unprotected and thereby dangerous to young children, and which may reasonably
22 be expected to attract young children to the property and to risk injury by playing with, in or
23 on it.

24 BLIGHTING — Shall mean any property or its condition which constitutes a public nuisance
25 or adversely affects neighboring properties or which is detrimental to the health or safety of
26 individuals residing within the community.

27 ~~BOARD — See Hearing Board.~~

28 CITY — Shall mean the City of Albany, its officers, employees or agents.

1 CITY CODES — Shall mean the Albany Municipal Code ("this Code"), or any other code,
2 ordinance, or implementing resolution adopted by the City Council.

3 CODE ENFORCEMENT OFFICER OR ENFORCEMENT OFFICIAL — Shall mean any
4 person designated by the City ~~Administrator~~ Manager and authorized by law to enforce the
5 provisions of City Codes or State law.

6 ~~HEARING BOARD — Shall mean the City Council or such other body or person that it~~
7 ~~designates to act as the Hearing Board or Hearing Officer. The City Council may~~
8 ~~designate one (1) or more members of the City Council to serve as the Hearing Board or~~
9 ~~Hearing Officer. Whenever Hearing Board appears it shall mean Board or Officer.~~

10 HEARING OFFICER — Shall mean that person designated by the City Council to serve as
11 the Hearing ~~Board~~ Officer.

12 OCCUPANT — Shall mean and include but is not limited to the owner, the owner's agent or
13 employee, a lessee, the lessee's agent or employee, a tenant, the tenant's property within the
14 jurisdiction of the City, or any other individual having charge or control over the operation or
15 management of the property. If the owner is the occupant of the property, provisions relating
16 to the owner and the occupant shall be treated as relating to one (1) person.

17 OWNER — Shall mean the owner of record as shown on the last equalized assessment roll of
18 the county. For purposes of providing notice to an owner of any action or proceeding under
19 this section, "owner" includes the actual owner of record, or part owner, or such owner's agent,
20 employee or other legal representative.

21 PERSON — Shall mean any person, firm, partnership, association, corporation, organization
22 or entity of any kind, or such person's authorized representative.

23 PROPERTY — Shall mean and include any grounds, lot, parcel, tract or other piece of land,
24 as well as any building, structure or other appurtenance located thereon.

25 PUBLIC NUISANCE — Shall mean an activity or condition which, in the opinion of the City,
26 violates a provision of a City Code, or anything which is injurious to health, or safety, or an
27 obstruction to the free use of property, so as to unreasonably interfere with the comfortable
28 enjoyment of life or property by the occupant(s) of adjacent or neighboring property or by any
29

1 number of persons in the City irrespective of whether the annoyance or damage inflicted upon
2 individuals is unequal.

3 **RESPONSIBLE PARTY** — Shall mean each person committing the violation or causing
4 **a condition on a parcel of real property located within the City of Albany to violate the**
5 **Albany Municipal Code; each person who has an ownership interest in that property;**
6 **and each person who although not an owner, nevertheless has a legal right or a legal**
7 **obligation to exercise possession and control over that property. In the event the person**
8 **who commits the violation or causes the violating condition is a minor, then the minor's**
9 **parents or legal guardian shall be deemed the responsible party. In the event the violation**
10 **or violating condition is most reasonably attributable to a business and not to an**
11 **employee, then that business, to the extent it is a legal entity such that it can sue and be**
12 **sued in its own name, and each person who is an owner of that business shall each be**
13 **deemed responsible parties.**

14 SUBSTANDARD PROPERTIES — Shall mean any property which is in such condition as to
15 threaten health or safety, depreciate values, impair investments and/or cause substantial
16 diminution of property rights of adjacent properties. Examples of such conditions are set forth
17 in subsection 18-1.6 of this section, describing prohibited activities and unlawful conditions
18 and substandard buildings as defined in the Health and Safety Code.1

19
20 **§ 18-1.4. Declaration of Nuisance. [Ord. #03-03, § 8.20.4]**

21
22 a. It is declared to be a public nuisance for any person owning, leasing, occupying using
23 or having charge or possession of any public or private property in the City, or any other
24 person, to cause, or to permit, or to maintain any prohibited activity or unlawful condition or
25 an attractive nuisance thereon as described in this section.

26 b. The City Council shall have the power to declare by resolution or ordinance that a
27 particular activity or condition other than and in addition to those described herein shall
28 constitute a public nuisance subject to abatement.

1 **§ 18-1.5. Responsibility for Enforcement. [Ord. #03-03, § 8.20.5]**

2
3 The administration and enforcement of this section shall be the responsibility of the City
4 **Manager** ~~Administrator~~, including but not limited to any administrative official designated
5 by the City ~~Administrator~~ **Manager**, the Code Enforcement Official, and City Attorney, all
6 of whom shall perform all duties in the manner authorized by law.
7

8 **§ 18-1.6. Prohibited Activities and Unlawful Conditions. [Ord. #03-03, § 8.20.6]**

9
10 a. It is unlawful for any person owning, leasing, occupying, using or having charge or
11 possession of any private property in the City, or any other person, to cause, or to permit, or to
12 maintain thereon the following:

13 1. Inadequately maintained landscaping, which shall include, ~~without limitation, areas~~
14 ~~with~~ overgrown vegetation, **lawns with grass in excess of six inches (6") in height**, or dead
15 or diseased trees, shrubs or other vegetation, **weeds, vegetation likely to** ~~which~~ create a fire
16 hazard, or harbor wild animals or other vectors, or are dangerous to the public health, safety
17 and welfare, or interfere with the flow of vehicular or pedestrian traffic, or obstruct visibility
18 in the public right-of-way;

19 2. Buildings, structures or their appurtenances which are deemed to be substandard, or a
20 public nuisance, or whose condition, or existence is in violation of any provision of City Codes
21 or the provisions of the California Health and Safety Code;

22 3. Buildings or structures which are abandoned, **partially** boarded up, partially destroyed,
23 or partially constructed after building permits have expired;

24 **4. Buildings or other structures that are vacant and unsecured, providing access**
25 **through a doorway, window, or other opening that is not closed or secured by a lock;**

26 **5. Broken or missing windows or doors in a building or structure;**

27 **6. Windows or doors that remain boarded up or sealed after 10 calendar days**
28 **written City notice to a responsible person requesting the removal of these coverings and**
29 **the installation of fully functional or operable windows or doors;**

1 **7. Items of junk, trash, debris, or other abandoned personal property that are visible**
2 **from public or private real property;**

3 **8. Abandoned, dismantled, inoperable, or wrecked boats, campers, motorcycles,**
4 **trailers, vehicles, or parts thereof, unless kept, placed, parked, or stored inside of a**
5 **garage;**

6 **9. Graffiti or other defacement of real or personal property on a building, structure,**
7 **vehicle, or portion thereof, that is visible from a public or private real property;**

8 **10.4.** Private property, the topography, geology or configuration of which, whether in a
9 natural state or as a result of grading operations, excavation or fill, causes erosion subsidence
10 or surface water drainage problems of such magnitude as to be injurious or potentially injurious
11 to the public health, safety and welfare, or to adjacent properties;

12 **11. Any attractive nuisance, including any condition, machine or instrumentality that**
13 **is unsafe or unprotected and thereby dangerous to young children and may reasonably**
14 **be expected to attract young children to the property and to risk injury by playing with,**
15 **in or on it;**

16 **12. Any condition, use, or activity that constitutes a public nuisance as defined by**
17 **Sections 3479 or 3480 of the California Civil Code, and any future amendments thereto;**

18 **5.13.** A violation of any provision of a City permit approval or City Code.

19
20 b. It is unlawful for any person owning, leasing, occupying, using, or having charge or
21 possession of any private property in the City to fail or refuse to remove from any public
22 property, or any sidewalk, alley, or other public right-of-way abutting or adjoining such
23 property, all loose earth, mounds of soil, dry or dead vegetation, tin cans, furniture (i.e., chairs,
24 tables) signs, abandoned asphalt or concrete, rubbish, refuse and waste material of any kind,
25 or any other unsanitary substance, object, obstruction or condition which may endanger or
26 injure neighboring property or the health, safety or welfare of the residents in the vicinity of
27 such property, or which may obstruct such public property or any sidewalk, alley, or other
28 public right-of-way and thereby endanger or injure persons traveling thereon.

1 **§ 18-1.7. Entry Onto Private Property. [Ord. #03-03, § 8.20.7]**

2
3 Whenever necessary to make an inspection to enforce any of the provisions of City Codes, or
4 when any ~~Code~~ Enforcement Official has reasonable cause to believe that there exists, upon
5 any property a condition or violation which makes such property unsafe or constitutes a public
6 nuisance, or whenever necessary to abate a nuisance, the ~~Code~~ Enforcement Official, or ~~his or~~
7 ~~her~~ their duly authorized representative, may enter such property at all reasonable times to
8 inspect the same or to perform any action authorized to be taken pursuant to the provisions of
9 this section. If the property is occupied, the ~~Code~~ Enforcement Official shall first present
10 proper credentials and request entry; and if such property is unoccupied, the City Official shall
11 first make a reasonable effort to locate the owner or occupant of the property and request entry.
12 If entry is refused, or cannot be obtained, the ~~Code~~ Enforcement Official, or ~~his or her~~ their
13 duly authorized representative, shall have recourse to every remedy authorized by law to secure
14 entry, or to abate the nuisance, including an inspection/abatement warrant issued by any court
15 having jurisdiction.

16
17 **§ 18-1.8. Authority of ~~Code~~ Enforcement Official. [Ord. #03-03, § 8.20.8]**

18
19 Whenever the ~~Code~~ Enforcement Official has inspected or caused to be inspected any property
20 and has determined that an unlawful condition constituting a public nuisance exists thereon,
21 the ~~Code~~ Enforcement Official may use the procedures set forth in this section for the
22 abatement of such public nuisance that is being committed on ~~public~~ any property or may
23 utilize any other procedure authorized by law; provided, however, that if the public nuisance
24 is determined to be imminently dangerous to life or adjacent property as to require immediate
25 removal, repair or demolition, the ~~Code~~ Enforcement Official may initiate summary abatement
26 procedures pursuant to this section.

1 § 18-1.9. Emergency or Summary Abatement. [Ord. #03-03, § 8.20.9]
2

3 a. Notwithstanding any provision of this Code to the contrary, if in the reasonable
4 opinion of the ~~Code~~ Enforcement Official there exists a condition which constitutes an
5 imminent threat of serious injury or harm to any persons or ~~f~~ property ~~that is likely to occur~~
6 ~~during the pendency of abatement proceedings~~, such Official may cause the condition to be
7 summarily abated in accordance with the following procedure.

8 1. The Enforcement Official shall attempt to contact the owner or occupant or user of the
9 property to notify the responsible individual that the condition must be immediately abated so
10 as to eliminate the imminent threat of serious injury or harm to persons or property;
11 provided, however, that the Enforcement Official may dispense with this requirement if
12 in their discretion the nature or severity of the imminent threat justifies summary
13 abatement without notice. ~~or to eliminate the wrongful or unpermitted use of public~~
14 ~~property.~~

15 2. If the Enforcement Official is unable to make contact, or if after contact, the owner or
16 occupant or user does not take immediate action to abate the imminent threat of harm
17 ~~within the prescribed time~~, the ~~Code~~ Enforcement Official is authorized to take all actions
18 deemed necessary to ~~remove, repair or isolate such~~ abate the dangerous condition(s),
19 utilizing the City's own forces or private contractors, or any combination thereof, without
20 further notice.

21 3. The Enforcement Official shall keep an itemized account of the costs incurred by the
22 City in abating the public nuisance. Such costs may be recovered by the City in the same
23 manner that abatement costs are recovered pursuant to this section or pursuant to applicable
24 provisions of City Codes.

25 4. Within 10 business days following emergency action of City personnel to abate an
26 imminent hazard, the City must serve the owner with a "Notice of Emergency
27 Abatement". A Notice of Emergency Abatement shall contain (1) a brief description of
28 the condition and reasons why it constituted an imminent threat, (2) a brief description
29

1 of the law prohibiting or pertaining to the imminent threat, and (3) a brief description of
2 the actions the City took to abate the imminent threat.

3 **3.5. The City's determination that a nuisance condition constituted an imminent**
4 **threat may be appealed in the manner set forth in Section 18-1.12.**

5 b. Nothing in this section shall prevent public safety officials from taking such actions in
6 emergency situations or as part of their law enforcement duties as they may deem necessary or
7 appropriate in order to protect the public health, safety and general welfare.

8
9 **§ 18-1.10. Compliance Order. [Ord. #03-03, § 8.20.10]**

10
11 a. Whenever the Enforcement Official determines that a violation of any provision of
12 City Codes or this section is occurring or exists, the Official may issue a written compliance
13 order, ~~a cease and desist order, or such other order~~ to any ~~person~~ responsible party for the
14 violation.

15 b. Any order issued pursuant to this section shall contain the following information:

16 1. The date and location of the violation;

17 2. The Code section violated ~~or~~ and a description of the violation;

18 3. The actions required to correct the violation;

19 4. The time period after which administrative penalties will begin to accrue if compliance
20 with the order has not been achieved;

21 5. Either a copy of this section or an explanation of the consequences of noncompliance
22 with this ~~section~~ Code and a description of the hearing procedure and appeal process.

23
24 **§ 18-1.11. Method of Service. [Ord. #03-03, § 8.20.111]**

25
26 **Notwithstanding any other provision of this Code, any notice required to be served under**
27 **the Albany Municipal Code may be served by any of the following methods:**

28 a. ~~Where any provision of this section requires the service of any notice or order,~~
29 ~~unless different provisions herein are otherwise specifically made, s~~ Such notice may be

1 given either by personal delivery thereof to the person to be notified or by deposit in the United
2 States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at
3 ~~his or her~~ their last known business or residence address as the same appears in the public
4 records or other records pertaining to the matter to which such notice is directed. Service by
5 mail shall be deemed to have been completed at the time of deposit in the mail.

6 b. Where real property is involved, written notice ~~shall~~ may be mailed to the property
7 owner at the address as shown on the last equalized county assessment roll, unless such
8 property is owned by the City of Albany.

9 ~~c. Where personal service or service by mail upon the property owner is~~
10 ~~unsuccessful, Service may be completed by posting the notice in a conspicuous place on~~
11 ~~the Subject Property and mailing a copy of the notice to them via first class mail. a copy~~
12 ~~of the order shall be conspicuously posted at the property which is the subject of the~~
13 ~~order.~~

14 d. The failure of any person to receive any notice required under this section shall not
15 affect the validity of any proceedings taken under this Chapter section.

16
17 § 18-1.12. Hearing. [Ord. #03-03, § 8.20.121]
18

19 ~~a. If the Enforcement Official determines that all violations have been corrected~~
20 ~~within the time specified in the compliance order, no further action shall be taken~~ Within
21 10 days from the date of giving notice to abate, a Compliance Order, or any other notice
22 pursuant to this Chapter, the responsible party may file an appeal to the determination
23 of the violation with the City Manager, or their designee. Any appeal shall be in writing
24 and shall identify the Subject Property of the notice to abate, Compliance Order, or other
25 notice. The City Manager, or their designee, shall cause the matter to be set for a hearing
26 before a hearing officer.

27 ~~b. If full compliance is not achieved within the time specified in the compliance order~~
28 ~~and its summary abatement is not undertaken, the Enforcement Official shall refer this~~
29 ~~matter to the City Clerk, who shall set a hearing before the Hearing Board or such other~~

1 ~~body or person so designated by the City Council to serve as a Hearing Board or Hearing~~
2 ~~Officer. Nothing herein shall prohibit the City Council from designating itself or~~
3 ~~members of the City Council to serve as a Hearing Board~~ Notice of the date of hearing
4 shall be given in writing pursuant to 18-1.13.

5 c. At the time fixed in the hearing notice, the Hearing Officer shall consider any
6 written or oral evidence and hear the testimony of all competent persons desiring to
7 testify respecting the conditions constituting a violation or nuisance. The City bears the
8 burden of proof to establish a violation exists by a preponderance of evidence.

9 d. At the conclusion of the hearing, the Hearing Officer shall determine whether or
10 not a nuisance or violation exists, and if the Hearing Officer so concludes, they may
11 declare the condition existing to be a nuisance and direct the responsible person(s) to
12 abate the violation within ten (10) days after the date the Hearing Officer's order is
13 served on the responsible party. Service shall be made pursuant to 18-1.11. The Hearing
14 Officer may grant additional time to abate the violation if, in their opinion, good cause
15 exists for such additional time. The order shall state the applicable procedure to appeal
16 as described in subsection (e) below.

17 e. The decision of the Hearing Officer on the determination of a violation is final.
18 Any appeal of the Hearing Officer's decision shall be governed by California Code of
19 Civil Procedure section 1094.6 or such section as may be amended from time to time.

20 b.f. Failure of the violator to timely file an appeal is a waiver of the right to appeal the
21 compliance order or notice to abate or any other notice issued under this Chapter. In this
22 event, the compliance order or notice is final and binding.

23 ~~The City Council may designate a person to serve as a fact finder Hearing Officer,~~
24 ~~hereinafter referred to as fact finder. The fact finder shall schedule and hold a hearing~~
25 ~~to receive all information and thereafter present to the City Council a report and~~
26 ~~recommendations based on the information presented at the hearing. The City Council~~
27 ~~shall render such decision in the discretion after consideration of the fact finder's report~~
28 ~~and such other additional information as the City Council decides to have presented to~~
29 ~~it.~~

1 ~~e. The City Clerk, or designee, shall serve as Secretary to the Hearing Board and~~
2 ~~shall cause a written notice of the hearing to be served on the violator and, where real~~
3 ~~property other than real property owned by the City is involved, a notice of hearing shall~~
4 ~~be served on the property owner at the address as it appears on the last equalized County~~
5 ~~assessment roll available on the date the notice is prepared.~~

6
7 **§ 18-1.13. Notice of Hearing. [Ord. #03-03, § 8.20.13]**
8

9 a. Every notice of hearing on a compliance order or any other notice shall contain the
10 date, time and place at which the hearing shall be conducted by the Hearing **Board Officer**.

11 b. Each hearing shall be set for a date not less than fifteen (15) days nor more than sixty
12 (60) days from the date ~~of the notice~~ the appeal was filed unless ~~the Code Enforcement~~
13 ~~Official determines that the matter is urgent or that~~ good cause exists for an extension of
14 time.

15 ~~b.c.~~ Notice of the hearing shall be served in compliance with this Chapter at least ten
16 (10) days before the hearing date.

17 ~~e. This hearing serves to provide the full opportunity of a person subject to a~~
18 ~~compliance or cease and desist order to object to the determination that a violation has~~
19 ~~occurred and/or that the violation has continued to exist. The failure of any person~~
20 ~~subject to a compliance order, pursuant to this section, to appear at the hearing shall~~
21 ~~constitute a failure to exhaust administrative remedies.~~

22
23 **~~§ 18-1.14. Hearing Findings and Order. [Ord. #03-03, § 8.20.14]~~**
24

25 ~~a. At the place and time set forth in the notice of hearing, the Hearing Board or~~
26 ~~Hearing Officer hereinafter referred to as "Board" shall conduct a hearing on the~~
27 ~~compliance order issued pursuant to this section.~~

28 ~~b. The Board shall consider any written or oral evidence consistent with its rules and~~
29 ~~procedures regarding the violation and compliance by the violator or by the real property~~

owner.

~~c. Within a reasonable time following the conclusion of the hearing, the Board shall make findings and issue its determination regarding:~~

~~1. The existence of the violation;~~

~~2. The failure of the violator or owner to take required corrective action within the required time period.~~

~~d. The Board shall issue written findings on each violation. The findings shall be supported by evidence received at the hearing.~~

~~e. If the Board finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within the time period specified in the compliance order, the Board shall issue an administrative order.~~

~~f. If the Board finds that no violation has occurred or that the violation was corrected within the time period specified in the compliance order, the Board shall issue a finding of those facts. §~~

~~18-1.15. Administrative Order. [Ord. #03-03, § 8.20.15]~~

~~If the Board determines that a violation occurred which was not corrected within the time period specified in the compliance order, the Board shall issue an administrative order which imposes any or all of the following:~~

~~a. An order to correct, including a schedule for correction where appropriate;~~

~~b. An order to discontinue, permanently or temporarily, the use of certain activity at the subject property and to eliminate, lessen, or prevent the continuation, exacerbation, or reoccurrence of the activity and/or impacts of the activity which constitutes a public nuisance.~~

~~c. An order authorizing the City to abate the nuisance where appropriate;~~

~~d. Such other orders as deemed necessary to achieve compliance with this section and all other laws and regulations.~~

1 e. ~~Administrative penalties;~~

2 f. ~~Administrative costs.~~

3
4 **§ 18-1.16. Administrative Penalties. [Ord. #03-03, § 8.20.16]**

5
6 a. The **Board City** may impose administrative penalties for the violation of any provision
7 of City Codes in an amount not to exceed a maximum of one thousand (\$1,000.00) dollars per
8 day for each ongoing violation, exclusive of administrative costs, ~~interest and restitution for~~
9 ~~compliance reinspections, for any related series of violations.~~

10 b. In determining the amount of the administrative penalty, the **Board Enforcement**
11 **Official** may take any or all of the following factors into consideration:

- 12 1. The duration of the violation;
13 2. The frequency, recurrence and number of violations, related or unrelated, by the same
14 violator;
15 3. The seriousness of the violation;
16 4. The good faith efforts of the violator to achieve compliance;
17 5. The economic impact of the penalty on the violator;
18 6. The impact of the violation on the community;
19 7. Such other factors as justice may require.

20 c. Administrative penalties imposed by the **Board Enforcement Official** shall accrue
21 from the date specified in the compliance order and shall cease to accrue on the date the
22 violation is corrected as determined by the **Code Enforcement Official**, ~~or~~ the **Board City, or**
23 **a Hearing Officer or other judicial officer.**

24 d. The **Board City**, in its discretion, may suspend the imposition of applicable penalties
25 for any period of time which:

- 26 1. The violator has filed for necessary permits; and
27 2. Such permits are required to achieve compliance; and
28 3. Such permit applications are actively pending before the City, State or other appropriate
29 governmental agency.

1 e. Administrative penalties assessed by the **Board Enforcement Official** shall be due by
2 the date specified in the administrative order and shall accrue interest at the maximum amount
3 allowed under the law.

4 f. Administrative penalties assessed by the **Board Enforcement Official** are a debt owed
5 to the City and, in addition to all other means of enforcement, if the violation is located on real
6 property, may be enforced by means of a lien against the real property on which the violation
7 occurred.

8 g. If the violation is not corrected as specified in the **Board's City's** order to correct,
9 administrative penalties shall continue to accrue on a daily basis until the violation is corrected,
10 subject to the maximum set forth in this section.

11 h. If the violator gives written notice to the **Code** Enforcement Official that the violation
12 has been corrected and if the **Code** Enforcement Official finds that compliance has been
13 achieved, that **Enforcement** Official shall deem the date the written notice was postmarked or
14 personally delivered to the **Enforcement** Official or the date of the final inspection, whichever
15 first occurred, to be the date the violation was corrected. If no written notice is provided to the
16 **Code** Enforcement Official, the violation will be deemed corrected on the date of the final
17 inspection.

18 **h.i. A responsible party may appeal the issuance of any civil penalty pursuant to the**
19 **procedures set forth in this Chapter.**

20
21 **§ 18-1.17. Administrative Costs. [Ord. #03-03, § 8.20.17]**

22
23 **a. — The Board shall assess administrative costs against the violator when it finds that**
24 **a violation has occurred and that compliance has not been achieved within the time**
25 **specified in the compliance order.**

26 **b.a. — The administrative costs may include any and all costs incurred by the City in**
27 **connection with the matter before the Hearing Board including, but not limited to, costs**
28 **of investigation, staffing costs incurred in preparation for the hearing and for the hearing**
29 **itself, costs for all reinspections necessary to monitor or enforce the compliance order or**

1 ~~administrative order, and if applicable, the costs of abatement, and attorneys' fees to the~~
2 ~~extent authorized by law. Any costs or other charges not paid when due shall accrue~~
3 ~~interest at the maximum rate allowed by law.~~

4
5 **§ 18-1.18. Failure to Comply with Administrative Order. [Ord. #03-03, § 8.20.18]**

6
7 Failure to pay the assessed administrative penalties and administrative costs specified in the
8 **administrative compliance** order ~~of or in~~ the **Administrative Hearing Board Officer's**
9 **order, such penalties and costs** may be enforced as:

- 10 a. A personal obligation of the ~~violation~~ **responsible party**; and/or
11 b. If the violation is in connection with real property, **the administrative cost may**
12 **become** a lien upon the property. The lien shall remain in effect until all of the ~~administrative~~
13 ~~penalties, interest and~~ administrative costs are paid in full.

14
15 **§ 18-1.19. Right of Judicial Review. [Ord. #03-03, § 8.20.19]**

16
17 Any person aggrieved by an administrative order or decision of the Hearing **Board Officer**
18 may obtain review of the administrative order or decision in the Superior Court by filing with
19 the court a petition for writ of mandate in accordance with Section 1094.6 of the Code of Civil
20 Procedure of the State of California.

21
22 **§ 18-1.20. Recovery of Costs and Penalties. [Ord. #03-03, § 8.20.20]**

23
24 The City may collect administrative penalties and costs by use of all available legal means and
25 remedies, including without limitation recordation and foreclosure of a lien pursuant to this
26 section, or by means of alternative lien procedures authorized by City Codes or State law.

27
28 ~~**§ 18-1.21. Report of Compliance After Administrative Order. [Ord. #03-03, § 8.20.21]**~~

1 ~~If the Enforcement Official determines that compliance has been achieved after a~~
2 ~~compliance order has been sustained by the Board Hearing Officer, the Enforcement~~
3 ~~Official shall file a report with the Board notify the responsible party indicating that~~
4 ~~compliance has been achieved.~~

5
6 ~~§ 18-1.22. Compliance Dispute. [Ord. #03-03, § 8.20.221~~

7
8 ~~a. — If the Enforcement Official does not file a compliance report, a violator who~~
9 ~~believes that compliance has been achieved may request a compliance hearing before the~~
10 ~~Hearing Board by filing a request for a hearing with the Secretary to the Board.~~

11 ~~b. — The hearing shall be noticed and conducted in the same manner as a hearing on a~~
12 ~~compliance order as provided in this section.~~

13 ~~c.a. — The Board shall determine if compliance has been achieved and, if so, when it was~~
14 ~~achieved.~~

15
16 ~~§ 18-1.23. Abatement by City. [Ord. #03-03, § 8.20.231~~

17
18 If ordered by the ~~Board~~ City or a Hearing Officer, and/or if undertaken pursuant to court
19 order, in addition to any other available legal or equitable remedies, the City is authorized to
20 abate a public nuisance by City staff or private contractor and the City and its agents are
21 expressly authorized to ~~enter the premises for such purpose~~ abate the violation or
22 nuisance. A warrant must be obtained prior to entry absent consent or imminent danger.

23
24 ~~§ 18-1.24. Report of Costs—City Abatement. [Ord. #03-03, § 8.20.241~~

25
26 a. Whenever the City incurs costs in abating a public nuisance or seeking to abate a
27 public nuisance, the costs and expenses of such code enforcement efforts may be charged
28 against the owner of the property or against the responsible party who is the subject of
29 the abatement efforts. The City may commence cost recovery proceedings at any time.

1 ~~Whenever a nuisance is abated by City forces or private contract, the costs and expenses~~
2 ~~of such abatement shall be charged against the owner of the property or against the~~
3 ~~individual who is the subject of the abatement proceeding.~~

4 b. The ~~Code~~ Enforcement Official shall keep an accounting of all costs and incidental
5 expenses incurred by the City in connection with the abatement of a public nuisance by City
6 forces or private contractors., The City and shall ~~serve~~ submit an itemized report of abatement
7 costs upon each responsible party and other persons with a recorded interest in the
8 subject property identifying all nuisance abatement costs related to a nuisance abatement
9 action and demanding payment to the Board and shall send a bill to the person or
10 property to be charged. The itemized report shall further indicate that any unpaid
11 amounts may become a lien and special assessment against the property. Timely, full
12 payment of the abatement costs must be remitted by a responsible person to the City
13 within 45 calendar days of the date of service of the itemized report of abatement costs.
14 The person so charged may file an appeal ~~protest~~ with the City Clerk, as set forth in 18-1.12.
15 The appeal shall have the same procedures as set forth in this section, except the scope of
16 the appeal shall be limited to the appropriateness of the amount of the abatement costs.
17 Any amount confirmed must be tendered to the City within 30 calendar days of the date
18 of service of the Hearing Officer's decision. The City may collect its abatement costs in
19 any manner allowed by law. ~~who shall schedule a protest hearing before the Hearing~~
20 ~~Board. The report of abatement costs, and a notice of the time and place when a hearing~~
21 ~~will be conducted by the Hearing Board to consider confirmation of such report, shall be~~
22 ~~served by~~

23 b.c. The failure of any person who has been served with a notice pursuant to this
24 section to file a timely appeal or fails to appear at the hearing constitutes a waiver of the
25 appeal and the determination by the City is final.

26 ~~the Secretary to the Board or City Clerk upon the property owner or person at least ten~~
27 ~~(10) days prior to the scheduled date of the hearing. The Hearing Board, after the~~
28 ~~hearing, shall adopt a statement confirming, discharging or modifying the amount of~~
29 ~~costs.~~

1 ~~e. — The failure of any person who has been served with notice pursuant to this section~~
2 ~~to appear at the protest hearing shall constitute a failure to exhaust administrative~~
3 ~~remedies.~~

4
5 ~~§ 18-1.25. Lien Procedure. [Ord. #03-03, § 8.20.25]~~

6
7 ~~a. — Whenever the amount of any administrative penalty and/or administrative cost~~
8 ~~imposed by the Board pursuant to this section in connection with real property has not~~
9 ~~been satisfied in full within ninety (90) days and/or has not been successfully challenged~~
10 ~~by a timely writ of mandate, this obligation may constitute a lien or special assessment~~
11 ~~against the real property on which the violation occurred.~~

12 ~~b. — The lien provided herein shall have no force and effect until recorded with the~~
13 ~~County Recorder. Once recorded, the resolution imposing the lien shall have the force~~
14 ~~and effect and priority of a judgment lien governed by the provisions of Section 697.340~~
15 ~~of the Code of Civil Procedure and may be extended as provided in Sections 683.110 to~~
16 ~~683.220, inclusive, of the Code of Civil Procedure.~~

17 ~~c. — Interest shall accrue on the principal amount of the order or judgment remaining~~
18 ~~unsatisfied pursuant to law.~~

19 ~~d. — Prior to recording any such lien, the Code Enforcement Official shall prepare and~~
20 ~~file with the City Clerk a report stating the amounts assessed by the Board which remain~~
21 ~~due and owing.~~

22
23 ~~§ 18-1.26. Public Hearing and Protest. [Ord. #03-03, § 8.20.26]~~

24
25 ~~a. — Any person whose real property is subject to a lien as a result of proceedings under~~
26 ~~this section may file a written protest with the City Clerk within fifteen (15) days from~~
27 ~~the date of notice of lien.~~

28 ~~b. — Each written protest or objection must contain a description of the property in~~
29 ~~which the protesting party is interested and the grounds of such protest or objection.~~

1 ~~e. The City Clerk shall fix a time, date and place for hearing any protests or~~
2 ~~objections to the imposition of a lien by the City Council.~~

3 ~~d. The City Clerk shall cause written notice to be served on the property owner not~~
4 ~~less than ten (10) days prior to the date set for the hearing.~~

5 ~~e. Following the hearing, any lien levied against real property shall be approved by~~
6 ~~resolution of the City Council in the manner provided herein.~~

7
8 **~~§ 18-1.27. Recording of Lien. [Ord. #03-03, § 8.20.27]~~**

9
10 ~~Following the adoption of a resolution by the City Council imposing a lien, the City Clerk~~
11 ~~shall file the same as a judgment lien or tax lien in the office of the County Recorder of~~
12 ~~Alameda,~~

13 ~~California. The lien may carry such additional administrative charges as set forth by~~
14 ~~resolution of the City Council.~~

15
16 **~~§ 18-1.28. Satisfaction of Lien. [Ord. #03-03, § 8.20.28]~~**

17
18 ~~Once payment in full is received by the City for outstanding penalties and/or costs, the~~
19 ~~City Clerk shall either record a notice of satisfaction or provide the property owner or~~
20 ~~financial institution with a notice of satisfaction so they may record this notice with the~~
21 ~~office of the County Recorder. Such notice of satisfaction shall cancel the City's lien.~~

22
23 **~~§ 18-1.29. Collection of Costs as Nuisance Abatement Lien. [Ord. #03-03, § 8.20.29]~~**

24
25 a. Pursuant to Sections 38773 **et seq.**~~1~~ of the Government Code, an administrative order
26 for the collection of abatement costs ~~or penalties~~ may be levied by the City Council as a
27 nuisance abatement lien against the property on which the nuisance ~~was abated~~ **exists or**
28 **existed. If the nuisance abatement costs are upheld, in full or in part, by the Hearing**
29 **Officer, or if the time for requesting a hearing has elapsed and the itemized report of**

1 abatement costs has not been paid in full within the time designated by this chapter, the
2 City may record a lien against the nuisance property for any unpaid amount. Before
3 recording a lien, the City shall serve notice of the lien by certified mail on all persons or
4 entities with a recorded interest in the subject property. In addition, the owner of record
5 shall be served in accordance with Government Code sections 38773 et seq. In such event,
6 ~~notice of intent to record such lien shall be served upon the owner of the property, as~~
7 ~~shown by the latest available County assessment roll, in the same manner as service of a~~
8 ~~summons in a civil action in accordance with Article 3 (commencing with Section 415.10)~~
9 ~~of Chapter 4, Title 5, Part 2 of the Code of Civil Procedure. If the property owner, after~~
10 ~~diligent search, cannot be found, the notice may be served by posting a copy thereof in a~~
11 ~~conspicuous place upon the property for a period of ten (10) days and publication thereof~~
12 ~~in a newspaper of general circulation in the City.~~

13 b. ~~The notice shall specify the time, date and place for hearing any protests or~~
14 ~~objections to the imposition of a lien by the City Council.~~

15 e.b. ~~Following the adoption of a resolution by the City Council imposing the lien, the~~
16 ~~City Clerk shall cause the same to be recorded in the~~ The nuisance abatement lien shall ~~be recorded in the~~
17 office of the County Recorder of Alameda County, California, and from the date of recording,
18 the nuisance abatement lien shall have the force, effect and priority of a judgment lien and shall
19 continue in effect until discharged by the City. The lien may carry such additional
20 administrative charges as set forth by resolution of the City Council.

21 d.c. The nuisance abatement lien recorded pursuant to this subsection shall identify the City
22 as the agency for whose benefit the lien is established, the amount of the lien, the date of the
23 order for abatement of the nuisance, ~~the date of the order for collection of abatement costs,~~
24 the address, legal description and assessor's parcel number of the property on which the lien is
25 imposed, and the name and address of the recorded owner of the property.

26 e.d. The nuisance abatement lien may be foreclosed by an action brought by the City for a
27 money judgment. All costs and expenses relating to the processing, recording and enforcement
28 of the abatement lien, including recording fees, noticing costs and attorneys' fees shall be added
29 to the amount of the lien and shall be secured thereby.

1 f.e. Upon payment or other satisfaction of the abatement lien, a notice of discharge shall be
2 prepared and recorded by the City Clerk in accordance with applicable provisions of this code
3 and State law.

4
5 **§ 18-1.30. Collection of Costs as a Special Assessment. [Ord. #03-03, § 8.20.30]**
6

7 a. As an alternative to any other lien described in this section or authorized by law, if the
8 nuisance abatement costs are upheld, in full or in part, by the Hearing Officer, or if the
9 time for requesting a hearing has lapsed and the itemized report of abatement costs has
10 not been paid in full within the time designated by this chapter, the City may an
11 administrative order for the collection of abatement costs or penalties may be levied by
12 the City Council as a special assessment against the real property on which the violation
13 occurred pursuant to Section 38773.5 of the Government Code and applicable provisions of
14 this section. ~~In such event, notice of intent to record such lien~~ Before levying a special
15 assessment, notice of the special assessment shall be served upon ~~the owner~~ all person or
16 entities with a recorded interest in of the property ~~if the property owner's identity can be~~
17 ~~determined from the County Assessor's or County Recorder's records~~, by certified mail
18 ~~not less than ten (10) days prior to the time set for hearing~~ at the time the special
19 assessment is imposed. The notice shall specify that the property may be sold after three (3)
20 years by the Tax Collector for unpaid delinquent assessments.

21 b. The notice of special assessment is entitled to recordation with the Alameda
22 County Recorder's Office. A ~~certified copy of the resolution imposing the lien~~ notice of
23 special assessment shall be transmitted to the County Tax Assessor and Tax Collector,
24 whereupon the Tax Assessor and Tax Collector shall add the amount of the ~~lien as a~~ special
25 assessment on the next regular bill for real estate taxes levied against the property identified in
26 the ~~resolution~~ notice of special assessment. Thereafter, the special assessment shall be
27 collected at the same time and in the same manner as ordinary municipal taxes are collected,
28 and shall be subject to the same penalties and the same procedure and sale in the case of
29

1 delinquency as provided by law for ordinary municipal taxes. After recordation, the special
2 assessment may be foreclosed on as alien in the manner and means provided by law.

3
4 **§ 18-1.31. Nonexclusive Regulations. [Ord. #03-03, § 8.20.31]**

5
6 The regulations, remedies, procedures, and penalties provided by this Chapter are
7 cumulative to each other and to any other available under City, State, or federal law. The
8 procedures set forth in this section are not exclusive and do not, in any manner, limit or
9 restrict the City in the enforcement of other City ordinances or the abatement of public
10 nuisances in any manner provided by law. Nothing in this section shall limit or prevent
11 the City from initiating a criminal or civil action to abate a public nuisance, in addition
12 to, or as an alternative to administrative abatement proceedings, or from recovering the
13 costs and expenses of abatement by means of an administrative or judicial proceeding,
14 or by any other remedy or procedure authorized by law. The provisions of this section
15 may be enforced by injunction issued by the Superior Court upon a suit brought by the
16 City.

17
18 **§ 18-1.32 Recovery of Attorney's Fees and Costs**

19
20 **a. A prevailing party in any administrative action to cause the abatement of a public**
21 **nuisance as defined in this Chapter, or in any appeal or other judicial action arising**
22 **therefrom, may recover reasonable attorney's fees in accordance with the following**
23 **subsections.**

24 **b. Attorney's fees are not recoverable by any person as a prevailing party unless the**
25 **City Manager, or a designee thereof, or an attorney for and on behalf of the City, elects**
26 **in writing to seek recovery of the City's attorney's fees at the initiation of that individual**
27 **action or proceeding. Failure to make such an election precludes any entitlement to, or**
28 **award of, attorney's fees in favor of any person or the City.**

1 c. The City is the prevailing party when an administrative or judicial determination
2 is made or affirmed by which a person is found to be responsible for one or more
3 conditions or activities that constitute a public nuisance. A person is the prevailing party
4 only when a final administrative or judicial determination completely absolves that
5 person of responsibility for all conditions or activities that were alleged, in that action or
6 proceeding, to constitute a public nuisance.

7 d. Provided that the City has made an election to seek attorney's fees, an award of
8 attorney's fees to a person may not exceed the amount of reasonable attorney's fees
9 incurred by the City in that action or proceeding.

10 e. Attorney's fees and costs related to nuisance abatement actions are considered
11 administrative costs pursuant to Government Code section 38773.5 and Chapters 1-12
12 and 18-1 of this Code.

14 § 18-1.33 Enforcement

16 a. Violation Unlawful. It is unlawful and declared a public nuisance for any person to
17 violate any provision of this Chapter. It is unlawful and declared a public nuisance for
18 any person to violate any order of a Hearing Officer made under this chapter.

19 b. Criminal Penalties. Any person who violates any provision of this Chapter is guilty of
20 a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment in the County
21 jail not exceeding six months, or by both such fine and imprisonment, except the City
22 Attorney may prosecute a violation of this Chapter as an infraction, in their discretion,
23 subject to the penalties in Section 1-9 of this Code.

24 c. Administrative Citations and Administrative Penalties. Violation of this Chapter may
25 be punished by issuance of an administrative citation fine, as set forth in Chapter 1.11 of
26 this Code and Administrative Penalties, as set forth in Section 18-1.16 of this Chapter.

27 d. Civil or Equitable Enforcement. The City Attorney is authorized to bring a civil or
28 equitable action, at their discretion, to seek the abatement of any violation of this
29 Chapter.

1 e. Ongoing Violations. Each and every day a violation is maintained, caused, allowed,
2 aided, abetted, concealed, suffered, or permitted is a separate offense.

3
4 § 18-1.34 Recordation of Substandard Property

5
6 a. Notwithstanding any provision of the Albany Municipal Code to the contrary, if
7 the City determines that any property, building or structure, or any part thereof, is in
8 violation of any provision of the Albany Municipal Code and said violation has not been
9 fully abated or corrected, as determined by the City, in the manner and time provided in
10 a written notice to a responsible party, then the City, in its sole discretion, may record a
11 notice of substandard property with the Alameda County Recorder's Office against said
12 premises. As used herein, "fully abated or corrected" includes, but is not limited to, the
13 procurement of all required City approvals, permits, licenses and the passage of all City
14 required inspections.

15 b. The City may record a notice of substandard property without the issuance of a
16 notice of abatement provided that a written notice of violation or a written notice of
17 correction to a responsible party previously disclosed that a substandard notice may be
18 recorded against a property if a violation is not fully abated or corrected in the manner
19 and time delineated in said notice.

20 c. A notice of substandard property may be recorded after service of a notice of
21 abatement provided that: (1) the notice of abatement contained this disclosure, (2) the
22 public nuisance was not, as determined by the City, fully abated or corrected in the
23 manner and time specified in the notice of abatement, and, (3) a timely and proper appeal
24 to the notice of abatement was not made.

25 d. The form that constitutes a notice of substandard property shall be approved by
26 the City Attorney or the City Prosecutor.

27 e. The City shall record a notice of rescission of substandard property with the
28 Alameda County Recorder's Office within 10 business days of its determination that a
29 violation or a public nuisance has been fully abated or corrected.

1 f. The City shall cause copies of recorded notices of substandard property and
2 notices of rescission of substandard property to be served on all persons having an
3 ownership interest in the subject real property as shown in the last equalized assessment
4 roll of the Alameda County Assessor's Office. Service thereof shall be by first class mail.
5 Failure of any person to receive such notices shall not invalidate any action or proceeding
6 pursuant to this chapter.

7
8 **SECTION 2: SEVERABILITY.**

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

13
14 **SECTION 3: PUBLICATION AND EFFECTIVE DATE.**

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

17
18
19 
20 ROBIN D. LOPEZ, MAYOR
21
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28
29



City of Albany

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

ORDINANCE NO. 2025-04

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.*