

**ORDINANCE NO. 2022-04**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING  
SECTION 2-3.1 OF THE ALBANY MUNICIPAL CODE RELATING TO  
APPOINTMENT OF THE ADMINISTRATIVE OFFICER**

**WHEREAS**, Albany Municipal Code (“AMC”) section 2-3.1 establishes the process for appointing, removing, and making severance payments to the Administrative Officer of the City of Albany (the “City”); and

**WHEREAS**, the City wishes to amend section 2-3.1 to be gender neutral and delete the provision requiring the City to continue to pay the Administrative Officer for 90 days upon removal from office by the City Council.

**NOW THEREFORE, THE ALBANY CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**SECTION 2:** All amendments to the Albany Municipal Code as provided in this Ordinance are displayed with additions shown in underline and deletions shown in ~~strikethrough~~.

**SECTION 3:** The City Council finds that this Ordinance is not subject to the requirements of the California Environmental Quality Act (“CEQA”) for the following reasons:

- A. This Ordinance is not a “project” within the meaning of Section 15378 of the State CEQA Guidelines. (See State CEQA Guidelines, § 15060, subd. (c)(3) [“An activity is not subject to CEQA if ... [t]he activity is not a project as defined in Section 15378”].) Here, the Ordinance is not a “project” within the meaning of Section 15378 because the Ordinance has no potential “for resulting in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (State CEQA Guidelines, § 15378.)

1 B. In the alternative, and if a project, this Ordinance is exempt under State CEQA  
2 (California Environmental Quality Act) Guidelines section 15061(b)(3), the common  
3 sense exemption, because it can be seen with certainty that there is no possibility that the  
4 activity in question may have a significant effect on the environment.

5 **SECTION 4:** Section 2-3.1 of the Albany Municipal Code is hereby amended to read as  
6 follows:

7  
8 **“2-3.1 Appointment.**

9 The Administrative Officer shall be appointed by the City Council and serve at and during  
10 the pleasure of the Council; provided, however, the Administrative Officer shall not be  
11 removed from office during or within a period of ninety (90) days next succeeding any  
12 general municipal election in the City at which election a member of the Council is elected,  
13 except by a unanimous vote of the members of the Council. Such person shall be chosen on  
14 the basis of ~~his or her~~ their executive and administrative qualifications.

15 The purpose of this provision is to permit any newly elected member of the Council to  
16 observe the actions and ability of the Administrative Officer in the performance of the powers  
17 and duties of the office.

18 ~~As severance consideration when removed from the office by the City Council, the~~  
19 ~~Administrative Officer shall be entitled to be paid for a period of ninety (90) days after~~  
20 ~~receiving formal notice of termination.”~~

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22 **SECTION 5: SEVERABILITY.**

23 If any provision of this Ordinance or its application to any person or circumstances is  
24 held invalid, such invalidity has no effect on the other provisions or applications of the  
25 Ordinance that can be given effect without the invalid provision or application, and to this  
26 extent, the provisions of this Ordinance are severable. The City Council declares that it would  
27 have adopted this Ordinance irrespective of the invalidity of any portion thereof.  
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**SECTION 6: PUBLICATION AND EFFECTIVE DATE.**

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

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the 6th day of September, 2022, by the following vote:

AYES: Council Members Gary, McQuaid, Nason, Tiedemann and Mayor Jordan

NOES: None

ABSENT: None

ABSTAIN: None

  
PRESTON JORDAN, MAYOR



# City of Albany

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(510) 528-5710 • [www.albanyca.org](http://www.albanyca.org)

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

The 6th day of September, 2022, by the following votes:

AYES: Council Members Gary, McQuaid, Nason, Tiedemann and Mayor Jordan

NOES: None

ABSENT: None

ABSTAINED: None

RECUSED: None

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 7th  
day of September , 2022.

Anne Hsu  
CITY CLERK