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ORDINANCE NO. 2022-09

**AN URGENCY ORDINANCE OF THE CITY OF ALBANY, CALIFORNIA,
ADDING A NEW SECTION 2-1.3 TO THE ALBANY MUNICIPAL CODE
ESTABLISHING PROCEDURES FOR FILLING A VACANT SEAT
ON THE CITY COUNCIL BY APPOINTMENT, FOR THE IMMEDIATE
PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY,
AND DECLARING SAME TO BE AN URGENCY MEASURE
TO TAKE EFFECT IMMEDIATELY**

WHEREAS, on October 17, 2022 City Council Member Ge’Nell Gary announced her resignation with last day of service being November 7, 2022; and

WHEREAS, Section 5.02 of the City Charter specifies that all City elected office vacancies “shall be filled by the Council; such appointee to hold office until the next feasible general municipal election, when a successor shall be chosen by the electors for the unexpired term”; and

WHEREAS, Section 5.02 of the City Charter further specifies that “The Council shall by ordinance establish procedures for filling a vacancy by appointment”; and

WHEREAS, said ordinance establishing procedures for filling a vacancy has yet to be adopted; and

WHEREAS, the City of Albany General Municipal Election was recently held on November 8, 2022 which included five candidates on the ballot for the office of City Council with two seats up for election; and

WHEREAS, the City Council held a special meeting on November 9, 2022 to discuss the procedures for filling a vacant seat on the City Council by appointment; and

WHEREAS, the City Council finds that this Ordinance is necessary to effectively act in accordance with the requirements of the City Charter to timely fill a vacant seat on the City Council by appointment; and

1
2 **WHEREAS**, any and all other legal prerequisites relating to the adoption of this
3 Ordinance have occurred.

4
5 **NOW THEREFORE, THE ALBANY CITY COUNCIL DOES ORDAIN AS**
6 **FOLLOWS:**

7
8 **SECTION 1:** The recitals above are each incorporated by reference and adopted as findings
9 by the City Council.

10 **SECTION 2: Declaration of Urgency.** The City Council finds that the recitals set forth above
11 are true and correct and hereby adopts and incorporates the recitals herein as findings in support
12 of this Ordinance. Pursuant to City Charter Section 5.02, the City Council must take action
13 within 60 days to fill a vacant seat on the City Council and must establish procedures for filling
14 said vacancy. Further, the recent General Municipal Election resulted in the voters electing two
15 candidates to fill seats on the City Council, and this third unexpected vacancy should coincide
16 with the Oath of Office Ceremony for all new members of the City Council. To this end, the
17 City Council finds that for the immediate preservation of the public peace declares this
18 Urgency Ordinance to take effect immediately upon adoption by a four-fifths vote of the City
19 Council.

20
21 **SECTION 3:** In accordance with the Albany City Charter Section 5.02 the procedure for filling
22 a vacant seat on the Council specifically and solely for November/December 2022 is as
23 follows: recognizing the fact there was recently a city council election in Albany and there
24 were multiple candidates, 2 of which were duly elected, the City Council shall appoint the
25 candidate not elected for a contested City Council seat who received the highest number of
26 votes, provided said candidate received at least three-fourths (3/4) of the election threshold for
27 this election in the final round in the ranked choice tabulation to a seat on the City Council for
28 a 2 year term commencing on December 12, 2022 and ending December 2024.



City of Albany

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ORDINANCE NO. 2022-09

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

The 15th day of November, 2022, by the following votes:

AYES: Council Members 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

16th day of November, 2022.

Anne Hsu
CITY CLERK