

RESOLUTION NO. 2024-56

**A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING FOR
THE PLACEMENT OF A SPECIAL TAX MEASURE ON THE NOVEMBER 5, 2024
GENERAL MUNICIPAL ELECTION BALLOT FOR SUBMITTING TO THE
VOTERS AN ORDINANCE AMENDING ARTICLE 14 OF CHAPTER IV TO
ENACT A SPECIAL PARCEL TAX TO FUND THE REPAIR AND UPGRADE OF
PUBLIC SIDEWALKS AND PATHWAYS AND REMOVAL OF OBSTRUCTIONS
TO IMPROVE SAFETY AND ACCESSIBILITY**

WHEREAS, Section 2.01 of the Albany City Charter provides that the City’s General Municipal Election will be held on each even year and shall be consolidated with the Statewide General Election to be held in said City on Tuesday, November 5, 2024; and

WHEREAS, the City of Albany is a charter city and pursuant to Article XI, Section 7 of the California Constitution and Section 1.03 of the Albany City Charter is empowered to exercise all powers necessary and appropriate for a municipal corporation and the general welfare of its inhabitants; and

WHEREAS, Section 5.01 of the Albany City Charter provides that except as otherwise provided in the Charter or City ordinances, City elections shall be conducted in accordance with the State Elections Code; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has the authority and desires to submit a ballot measure to the voters of the City of Albany for their approval and adoption at the General Municipal Election to be held in the City on November 5, 2024; and

WHEREAS, Ordinance No. 2016-03, or Measure P1, was approved by City of Albany voters at the November 8, 2016 election, adding the “City of Albany Safe and Accessible Sidewalks Special Parcel Tax” under Article 14 of Chapter IV of the Albany Municipal Code Municipal Code; and

1 **WHEREAS**, the current proposed ballot measure is an ordinance amending Article 14
2 of Chapter IV of the Albany Municipal Code to replace the City’s current special parcel tax for
3 safe and accessible sidewalks; and

4 **WHEREAS**, the updated special parcel tax would:

5 (A) Charge property owners on a land basis at a tax rate of \$0.017 per lot square foot,
6 subject to an annual inflationary adjustment up to 3%, for a maximum \$6,000 tax
7 per parcel, subject to the same adjustment, as assigned in the ordinance; and

8 (B) Incorporate an exemption or rebate from the tax for residences owned or rented by
9 qualifying very low-income residents, respectively, or a 50% discount or rebate for
10 qualifying low-income residents who own or rent their residence, respectively, as
11 defined in the ordinance.
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13 **WHEREAS**, the specific terms of the special parcel tax are provided for in the
14 ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” and by this
15 reference made an operative part hereof, and in accordance with all applicable laws; and

16 **WHEREAS**, on November 6, 1996, the voters of the State of California approved
17 Proposition 218 (California Constitution, Article XIII C), an amendment to the State
18 Constitution which requires that all special taxes which are imposed, extended or increased
19 must be submitted to the electorate and approved by a two-thirds (2/3) vote of the qualified
20 electors voting in the election; and
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22 **WHEREAS**, the proposed amendments which increase the rate of the special parcel tax
23 to fund the repair and upgrade of public sidewalks and pathways constitute a tax “increase”
24 subject to Proposition 218; and
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1 **WHEREAS**, pursuant to Proposition 218 (California Constitution, Article XIII C,
2 Section 2(b)), a local election for the approval of an increase to a special tax may be scheduled
3 for any date authorized by the California Elections Code; and

4 **WHEREAS**, the next regularly scheduled general election for City Council members
5 on November 5, 2024 is a date authorized under the California Elections Code for the placement
6 of a special tax measure; and

7 **WHEREAS**, pursuant to California Government Code Section 50077, on June 17,
8 2024, the City Council held a public hearing after due notice regarding calling for an election
9 on the Sidewalk and Pathway Tax Measure; and

10 **WHEREAS**, pursuant to Albany City Charter Section 2.05, “[T]he affirmative vote of
11 a majority of the Council shall be necessary to adopt any ordinances, resolutions or claims
12 against the City, which vote shall be taken by ayes and noes and entered upon the record”.

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15 **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY**
16 **RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

17 **Section 1** Recitals. The City Council hereby finds and determines that the
18 foregoing recitals are true and correct, are incorporated herein and by this reference made an
19 operative part hereof.

20
21 **Section 2** Submission of Ballot Measure. Pursuant to Albany City Charter Section
22 2.05, California Elections Code Section 9222, and any other applicable requirements of the
23 laws of the State of California relating to the City of Albany, the City Council, by a simple
24 majority vote of its members, hereby orders the Sidewalk and Pathway Tax Measure to be
25 submitted to the voters of the City at the General Municipal Election to be held on Tuesday,
26 November 5, 2024.
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1 **Section 3** There is hereby called and ordered to be held in the City of Albany,
2 California on November 5, 2024, a General Municipal Election for the purposes of submitting
3 to the voters the Sidewalk and Pathway Tax Measure as set forth in Exhibit A.

4 **Section 4** The City Council hereby orders that the ballot question for the Measure
5 shall be presented and printed upon the ballot submitted to the qualified voters in the manner
6 and form set forth in this Section 4. On the ballot to be submitted to the qualified voters at the
7 General Municipal Election to be held on November 5, 2024, in addition to any other matters
8 required by law, there shall be printed substantially the following ballot question:
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10 **REPAIR AND UPGRADE OF PUBLIC SIDEWALKS AND PATHWAYS AND**
11 **REMOVAL OF OBSTRUCTIONS TO IMPROVE SAFETY AND ACCESSIBILITY**

"Shall a measure to impose a special parcel tax on non-exempt property at \$0.017 per lot square foot to repair and upgrade public sidewalks and pathways to improve safety and accessibility, replacing the existing special parcel tax imposed for sidewalk repair, subject to an annual consumer price index adjustment up to 3%, capped for larger parcels at a maximum \$6,000 tax per parcel, providing an estimated \$392,282 annually, until June 30, 2035, be adopted?"	YES
	NO

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18 **Section 5** This Measure requires the approval of a two-thirds (2/3) supermajority
19 of the qualified electors casting votes at the General Municipal Election.

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21 **Section 6** Conduct of Election. The City Clerk is authorized, instructed, and
22 directed to coordinate with the Alameda County Registrar of Voters/Elections Official to
23 procure and furnish any and all official ballots, printed matter and all supplies, equipment and
24 paraphernalia that may be necessary in order to properly and lawfully conduct the election.

25 **Section 7** Impartial Analysis. Pursuant to California Elections Code Section
26 9280, the City Council hereby directs the City Clerk to transmit a copy of the Measure to the
27 City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to
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1 exceed 500 words in length, showing the effect of the Measure on the existing law and the
2 operation of the Measure, and transmit such impartial analysis to the City Clerk not later than
3 the deadline for submittal of primary arguments for or against the Measure. The impartial
4 analysis shall include a statement indicating whether the Measure was placed on the ballot by
5 a petition signed by the requisite number of voters or by the City Council. In the event the
6 entire text of the Measure is not printed on the ballot, nor in the voter information portion of
7 the sample ballot, there shall be printed immediately below the impartial analysis, in no less
8 than 10-font bold type, the following: **“The above statement is an impartial analysis of
9 Ordinance or Measure _____. If you desire a copy of the Ordinance or Measure, please
10 call the Office of the City Clerk at [insert phone number] and a copy will be mailed at no
11 cost to you.”**

12
13 **Section 8** The City Clerk is hereby directed to cause notice of the Measure to be
14 published in a newspaper of general circulation, or any other newspaper designated as an
15 official newspaper of the City of Albany in accordance with Elections Code Section 12111
16 and Government Code Section 6061.

17 **Section 9** Placement on the Ballot. The full text of the Measure shall be printed
18 in the voter information guide, and a statement shall be printed in the ballot pursuant to
19 Elections Code Section 9223 advising voters that they may obtain a copy of this Resolution
20 and the Measure, at no cost, upon request made to the City Clerk.

21
22 **Section 10** Public Examination. Pursuant to California Elections Code Section
23 9295, the Measure will be available for public examination for no fewer than ten (10) calendar
24 days prior to being submitted for printing in the voter information guide. The City Clerk shall
25 post notice in the Clerk’s office of the specific dates that the examination period will run.
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1 **Section 11** That in all particulars not recited in this Resolution, said election shall
2 be held and conducted as provided by law for holding Municipal Elections in the City of
3 Albany.

4 **Section 12** That the General Municipal Election, to be held in the City of Albany,
5 shall be canvassed by the Registrar of Voters of the County of Alameda, State of California.

6 **Section 13** That the City Clerk of the City of Albany is hereby authorized,
7 instructed, and directed to provide the Alameda County Registrar of Voters with all pertinent
8 information and material as required.

9 **Section 14** That the City Clerk of the City of Albany is hereby authorized and
10 directed to file a copy of this Resolution upon its adoption with the appropriate County
11 agencies. With the concurrence of the City Attorney, the City Clerk is hereby authorized to
12 make such minor, technical and clarifying changes to this Resolution and/or the Exhibits hereto
13 as may be deemed necessary and appropriate.

14 **Section 15** The Voter Information Guide shall include the ballot questions' wording
15 to the voters as set forth above, and the exact wording of the proposed Albany Municipal Code
16 sections as shown in the Exhibit "A" attached hereto.

17 **Section 16** The approval of this Resolution is exempt from the California
18 Environmental Quality Act (CEQA). The Sidewalk and Pathway Tax Measure to be submitted
19 to the voters is a special parcel tax to fund the repair and upgrade of sidewalks. However, the
20 funding is not committed to any specific project or service; and any future decisions to approve
21 particular projects or services utilizing the tax proceeds will be subject to environmental review
22 as appropriate at the earliest feasible time prior to the point at which such future decisions are
23 made. As such, under CEQA Guidelines Section 15378(b)(4), this Measure is not a project
24 within the meaning of CEQA because it creates a government funding mechanism that does not
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1 involve any commitment to any specific project that may result in a potentially significant
2 physical impact on the environment. If revenue from this Measure were used for a purpose that
3 would have any such effect, the City would undertake the required CEQA review for that
4 particular project at the earliest feasible time prior to approval of the project. Therefore, under
5 CEQA Guidelines Section 15060, review under CEQA is not required prior to enactment of the
6 Measure.

7 The undersigned hereby certifies that the foregoing is a full, true, and complete copy of
8 the Resolution duly passed and adopted by the City Council of the City of Albany at a regular
9 meeting thereof on the 17th day of June, 2024.

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JOHN MIKI, MAYOR

15 **ATTACHMENT:**

16 Exhibit A – Proposed Sidewalk and Pathway Special Tax Ordinance
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City of Albany

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RESOLUTION NO. 2024-56

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

The 16th day of June, 2024, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, Tiedemann and Mayor Miki

NOES: none

ABSENT: Council Member López

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 17th
day of June, 2024.

Anne Hsu
CITY CLERK

1 **EXHIBIT A**

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“Shall a measure to impose a special parcel tax on non-exempt property at \$0.017 per lot square foot to repair and upgrade public sidewalks and pathways to improve safety and accessibility, replacing the existing special parcel tax imposed for sidewalk repair, subject to an annual consumer price index adjustment up to 3%, capped for larger parcels at a maximum \$6,000 tax per parcel, providing an estimated \$392,282 annually, until June 30, 2035, be adopted?”	YES
	NO

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9 **ORDINANCE NO. 2024-02**

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11 **AN ORDINANCE OF THE CITY OF ALBANY, CALIFORNIA, ENACTING**

12 **A SPECIAL PARCEL TAX TO FUND REPAIRING AND UPGRADING**

13 **PUBLIC SIDEWALKS AND PATHWAYS AND REMOVING OBSTRUCTIONS**

14 **TO IMPROVE SAFETY AND ACCESSIBILITY**

15 **WHEREAS**, Albany residents have identified safe, passable sidewalks and pathways

16 as an important aspect of quality of life and a high priority for investment by the City to ensure

17 that pedestrians, including individuals with disabilities that affect mobility, and people biking

18 are able to move safely through the City without using cars; and

19 **WHEREAS**, the City of Albany, like all California cities, has faced decreasing

20 revenues to make essential infrastructure investments, resulting in deferred maintenance to

21 many public facilities, including sidewalks and pathways; and

22 **WHEREAS**, a continued dedicated source of additional funding to invest in deferred

23 maintenance to Albany’s public sidewalks and pathways is important to the City’s ability to

24 address in a timely way needed repairs and upgrades to its sidewalks and pathways and to

25 remove obstructions to improve safety and accessibility; and

26 **WHEREAS**, delaying maintenance and repairs to Albany’s sidewalks and pathways

27 increases the replacement costs in the long-run, and the City is committed to repairing

28 deteriorating sidewalks and pathways before the costs become more expensive in the future;

and

1 **WHEREAS**, with a dedicated source of funding to address needed sidewalk and
2 pathway repairs and upgrades, the City can continue to accelerate urgent work to improve the
3 safety and quality of Albany’s sidewalks and pathways, avoiding the steeper costs of deferring
4 the work later. Repairing and upgrading Albany’s sidewalks and pathways and removing
5 mobility obstacles will improve opportunities for residents and visitors to safely use alternative
6 modes of transit to get around the City to play, work, and shop; and

7 **WHEREAS**, in 2010, the City approved a Climate Action Plan, which included a
8 vision for an interconnected transportation system and land use pattern that shifts travel from
9 autos to walking, biking, and public transit; and

10 **WHEREAS**, Climate Action Plan Measure TL 1.3 calls for implementation of
11 improvements to encourage walking in the community by eliminating obstacles such as
12 deteriorated sidewalks; and

13 **WHEREAS**, in 2012, the City approved an Active Transportation Plan that includes a
14 detailed strategy to encourage pedestrian travel throughout the City. A key part of this strategy
15 is improving the safety and convenience of pedestrian facilities; and

16 **WHEREAS**, in April 2016, the City adopted an updated General Plan that includes a
17 variety of policies that will lead to improvements to sidewalks; and

18 **WHEREAS**, General Plan Policy T-2.10 calls for the City to establish reliable and
19 sustained funding sources to ensure maintenance of transportation facilities including
20 sidewalks; and

21 **WHEREAS**, General Plan Policy T-3.6 calls for priority walking corridors to be
22 identified and targeted for sidewalk improvements including maintenance; and

23 **WHEREAS**, in light of the foregoing benefits and considerations, in 2016, Albany’s
24 voters previously adopted Ordinance No. 2016-03 pursuant to Measure P1, enacting the City
25 of Albany’s Safe and Accessible Sidewalks Special Parcel Tax in order to create a guaranteed
26 source of local funding for Albany’s public sidewalks that must be spent locally for Albany
27 residents; and

28 **WHEREAS**, since Albany adopted its special tax pursuant to Measure P1, Albany
identified additional revenue requirements and adjustments to the City’s Sidewalk Repair

1 Policy that are advisable for a continued successful sidewalk repair program, as described more
2 fully in the Sidewalk and Pathway Repair Policy, attached hereto as Exhibit A, which
3 necessitate an increase and extension to the special tax; and

4 **WHEREAS**, the proposed increased and extended special tax to be submitted to the
5 voters is authorized by Article XIII A of the California Constitution and Section 50075 of the
6 California Government Code. It will be approved if two-thirds of voters voting on the measure
7 vote in favor of it.

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10 **NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN**
11 **AS FOLLOWS:**

12
13 Section 1. Article 4-14 is hereby added to Chapter IV of the Albany Municipal
14 Code, is hereby amended in its entirety and replaced as follows:

15
16 4.14 SAFE AND ACCESSIBLE SIDEWALKS AND PATHWAYS SPECIAL
17 PARCEL TAX

18
19 4.14.1 TITLE. This Article shall be known as the “City of Albany Safe and
20 Accessible Sidewalks and Pathways Special Parcel Tax.”

21
22 4.14.2 DEFINITIONS.

23 A. “City” means the City of Albany.

24 B. “Consumer Price Index” or “CPI” means Consumer Price Index for All
25 Urban Consumers (CPI-U) for San Francisco-Oakland-San Jose as published by the U.S.
26 Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued
27 or revised, such other government index or computation with which it is replaced shall be used
28 in order to obtain substantially the same result as would be obtained if the Consumer Price
Index had not been discontinued or revised.

1 C. "Multi-family residential parcel" means all parcels that are improved
2 with more than one residential unit.

3 D. "Owner" means the owner or owners of the real property located within
4 the City.

5 E. "Parcel" means any real property designated by an assessor's parcel map
6 and parcel number and carried on the secured property tax roll of the County of Alameda.

7 F. "Sidewalk maintenance and obstruction removal" means repairing and
8 upgrading public sidewalks and Class I multiuse pathways, and removing obstructions to
9 improve safety and accessibility, and includes but is not limited to the following:

- 10 1. Relocation of shallow utility lines located within area of sidewalk
11 repair;
- 12 2. Grinding of stumps of removed trees;
- 13 3. Replacement of soil or mulch in landscape strips as necessary to
14 avoid a hazardous condition;
- 15 4. Repair of private driveway if necessary to maintain functionality of
16 the existing driveway;
- 17 5. Funding for expedited repairs in locations with occupants that have
18 special access needs (e.g., limited mobility, special events, etc.);
- 19 6. Extending the length of sidewalk or pathway to be repaired beyond
20 the area of immediate hazard in order that the repaired sidewalk or
21 pathway can tie into an existing sidewalk in relatively good
22 condition;
- 23 7. Widening sidewalks to five (5) feet where feasible and appropriate;
- 24 8. Sidewalk shaving and similar measures which address defects
25 without replacement;
- 26 9. Funding program support costs including staff, design, and
27 administrative costs and a comprehensive survey of the public right-
28 of-way every 5 years.

1 G. "Single-family residential parcel" means all parcels which are improved
2 with only one residential unit.

3 H. "Special tax" means the special tax imposed by this Article.
4

5 4.14.3 TAX IMPOSED.

6 A. An annual special tax in the amounts set forth in Section 4-14.4 is hereby
7 imposed on every parcel of real property within the City.

8 B. The special tax constitutes a debt owed by the owner of each parcel of
9 real property to the City.

10 C. The special tax shall be levied and collected on each parcel of real
11 property within the City for which the owner receives a separate ad valorem property tax bill,
12 at the same time and manner, and subject to the same penalties and procedures as ad valorem
13 property taxes collected by the County of Alameda except as otherwise set forth in this Article.

14 D. If the owner of real property is by law exempt from ad valorem taxation,
15 the parcel tax imposed herein shall be assessed to the holder of the possessory interest in such
16 parcel, unless such holder is also by law exempt from ad valorem taxation. The special parcel
17 tax shall not apply to: (A) any person, entity, parcel, or property as to whom or which is beyond
18 the power of the City to impose the tax herein provided; and (B) any person qualifying for an
19 exemption described in Section 4.14.3(E) below.

20 E. The tax imposed by this Section shall be subject to the exemptions and
21 discounts set forth in this Section.

22 1. Single-family residential parcels and units on multi-family
23 residential parcels shall be exempt from the special tax if they are
24 owned and occupied by a person or persons whose combined family
25 income, from all sources for the previous calendar year, is at or
26 below the income level qualifying as "very low-income" for a family
27 of such size under Section 8 of the United States Housing Act of
28 1937 (42 U.S.C.A. Sections 1437 *et seq.*), for such year. This
application process will be in the form of self-certification under

1 penalty of perjury. Owners must apply for the exemption provided
2 for in this Section annually by application to the Finance Director in
3 the manner and at the time set forth by the Finance Director. Such
4 applications shall be on forms provided by the Finance Director and
5 shall provide such information as the Finance Director may require.
6 If the Finance Director determines the need to audit an application,
7 the Finance Director may require additional information, including,
8 but not limited to, federal income tax returns and W-2 forms of
9 owner-occupants eligible for this exemption.

10 2. Renters who reside in a rental unit within the City of Albany whose
11 combined family income, from all sources for the previous calendar
12 year, is at or below the income level qualifying as “very low-
13 income” for a family of such size under Section 8 of the United State
14 Housing Act of 1937 (42 U.S.C.A. Sections 1437 *et seq.*), for such
15 year may apply for a rebate of the special tax imposed by this Section
16 that applies to the rental unit in which they reside. Renters must
17 apply for the exemption provided for in this Section annually by
18 application to the Finance Director in the manner and at the time set
19 forth by the Finance Director. Such applications shall be on forms
20 provided by the Finance Director and shall provide such information
21 as the Finance Director may require. If the Finance Director
22 determines the need to audit an application, the Finance Director
23 may require additional information, including, but no limited to,
24 federal income tax returns and W-2 forms of renter occupants
25 eligible for this exemption. Only one such rebate shall be allowed
26 annually to a rental unit.

27 3. Single-family residential parcels and units on multi-family
28 residential parcels shall receive a 50% discount on the effective rate
for the special tax if they are owned and occupied by a person or

1 persons whose combined family income, from all sources for the
2 previous calendar year, is at or below the income level qualifying as
3 “low-income” for a family of such size under Section 8 of the United
4 States Housing Act of 1937 (42 U.S.C.A. Sections 1437 *et seq.*), for
5 such year. This application process will be in the form of self-
6 certification under penalty of perjury. Owners must apply for the
7 exemption provided for in this Section annually by application to the
8 Finance Director in the manner and at the time set forth by the
9 Finance Director. Such applications shall be on forms provided by
10 the Finance Director and shall provide such information as the
11 Finance Director may require. If the Finance Director determines the
12 need to audit an application, the Finance Director may require
13 additional information, including, but not limited to, federal income
14 tax returns and W-2 forms of owner-occupants eligible for this
15 exemption.

- 16 4. Renters who reside in a rental unit within the City of Albany whose
17 combined family income, from all sources for the previous calendar
18 year, is at or below the income level qualifying as “low-income” for
19 a family of such size under Section 8 of the United State Housing
20 Act of 1937 (42 U.S.C.A. Sections 1437 *et seq.*), for such year may
21 apply for a rebate of 50% of the special tax imposed by this Section
22 that applies to the rental unit in which they reside. Renters must
23 apply for the exemption provided for in this Section annually by
24 application to the Finance Director in the manner and at the time set
25 forth by the Finance Director. Such applications shall be on forms
26 provided by the Finance Director and shall provide such information
27 as the Finance Director may require. If the Finance Director
28 determines the need to audit an application, the Finance Director
may require additional information, including, but no limited to,

1 federal income tax returns and W-2 forms of renter occupants
2 eligible for this exemption. Only one such rebate shall be allowed
3 annually to a rental unit.
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5 4.14.4 TAX RATES.

6 A. The rate of the special tax for fiscal year commencing July 1, 2025, shall
7 be \$0.017 per lot square foot, provided that the special tax shall not exceed \$6,000 for any one
8 parcel in the noted fiscal year.

9 B. The tax rate noted above shall apply beginning July 1, 2025, and ending
10 June 30, 2026. Commencing July 1, 2026, the tax per year shall be adjusted as set forth in this
11 Section to reflect any increase in the Consumer Price Index beyond the first fiscal year the tax
12 is levied. The increase shall apply both to the tax rate and to the cap per parcel. The tax rate
13 per year on each parcel for each year subsequent to the first year shall be an amount determined
14 as follows:

15
16 Tax rate for the current year = Tax rate for the preceding year X Change in Consumer
17 Price Index from April of the immediately
18 preceding year to April of the current year or
19 1.03, whichever is less
20

21 In no event shall the special tax rate for any type of parcel for any year be
22 less than the amount established for the preceding year.

23 C. The assessment roll data of the Alameda County Tax Assessor as of
24 January 1 of each year and City records shall be used to determine the lot square footage of
25 each parcel of real property for purposes of determining the amount of the special tax for each
26 parcel and data related to each parcel necessary to determine applicability of exemptions.

27 D. For parcels divided by Tax Rate Area lines, the amount of the special
28 tax for the portion of the parcel within Alameda County shall be calculated at the same rates
as set forth above. For properties wholly within Alameda County and divided by Tax Rate

1 Area lines into multiple parcels, the property shall be taxed as a single parcel at the rates set
2 forth above.

3
4 4.14.5 COLLECTION OF TAX. The special tax shall be collected in the same
5 manner as ordinary ad valorem taxes are collected and shall have the same lien priority and be
6 subject to the same penalties and the same procedure and sale in cases of delinquency as
7 provided for ad valorem taxes collected by the County of Alameda. The City Council may
8 provide for other alternative methods of collection of the special tax by resolution.

9
10 4.14.6 COLLECTION OF UNPAID TAX. The amount of the special tax, any
11 penalty, and any interest imposed under the provisions of this Article shall be deemed a debt
12 to the City. Any person owing money under the provisions of this Article shall be personally
13 liable to an action brought in the name of the City, at its option, for the recovery for such
14 amount.

15
16 4.14.7 USE OF TAX REVENUE.

17 A. Revenue from the special tax, including penalties and interest thereon,
18 shall be used for sidewalk maintenance and obstruction removal as such term is defined in
19 Section 4.14.2(F), including but not limited to, repairing and upgrading public sidewalks and
20 Class I multiuse pathways and removing obstructions to improve safety and accessibility
21 consistent with the Sidewalk and Pathway Repair Policy adopted by the City Council. The
22 currently approved Sidewalk and Pathway Repair Policy is attached as Exhibit A. The City
23 Council may amend the Sidewalk and Pathway Repair Policy from time to time at its
24 discretion, which changes shall be incorporated into this Article. In no case, however, shall
25 changes to the Sidewalk and Pathway Repair Policy authorize the use of special tax revenue
26 for projects unrelated to repairing and upgrading public sidewalks and Class I multiuse
27 pathways and removing obstructions from public sidewalks to improve safety and accessibility
28 or for other purpose authorized in this Article.

1 B. At the City Council’s discretion, revenue from the special tax, including
2 penalties and interest thereon, may also be used to pay for the costs of holding an election to
3 seek voter approval of this Article, for the costs of administering the special tax, and for the
4 costs of defending the special tax and this Article, including attorneys’ fees and related costs.
5

6 4.14.8 ACCOUNTABILITY. In accordance with the requirements of
7 California Government Code Sections 50075.1 and 50075.3, the following accountability
8 measures, among others, shall apply to the special tax:

9 A. A separate, special account, referred to as the Safe and Passable
10 Sidewalk and Pathway Special Tax Fund, shall be utilized, into which the proceeds of the
11 special tax, including penalties and interest earned on such proceeds, must continue to be
12 deposited.

13 B. The specific purposes of the special tax are for the funding of public
14 sidewalk maintenance and obstruction removal projects and for related election,
15 administration, and legal fees as set forth in Section 4-14.7. The proceeds of the special tax
16 shall be applied only to those specific purposes.

17 C. The Finance Director shall annually prepare and submit to the City
18 Council a report regarding the special tax funds collected and expended, as well as any other
19 information required by Government Code sections 50075.1 and 50075.3. The report may be
20 presented as a separate section within the Annual Comprehensive Financial Report.
21

22 4.14.9 ADMINISTRATION OF TAX. The City Council may establish rules
23 and regulations that it determines are necessary and desirable for the administration and
24 implementation of this Article.
25

26 4.14.10 AMENDMENTS. This Article may only be amended by a vote of the
27 people if the amendment would result in the special tax being imposed, extended, or increased
28 in a manner not authorized by this Article as originally approved by the voters, or if the
amendment would substantially alter the purpose of the special tax. The City Council may

1 enact other amendments including but not limited to amendments necessary to implement or
2 administer the special tax.

3
4 4.14.11 EXPIRATION OF TAX. The authority to levy the special tax shall
5 remain in effect until June 30, 2035, and as of that date is repealed unless a later ordinance is
6 adopted and approved by the voters that either deletes or extends that date. Special taxes
7 imposed in 2035 shall remain due and owing until paid, even after the authority to impose the
8 special tax has expired.

9
10 Section 2. The People of the City of Albany find that all Recitals contained in this
11 Ordinance are true and correct and are incorporated herein by reference.

12
13 Section 3. Reserved.

14
15 Section 4. This Ordinance is exempt from the California Environmental Quality
16 Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et
17 seq., “CEQA Guidelines”). The special tax authorized by this Ordinance is a special tax that
18 can only be used to fund the projects, facilities, and services described in the Ordinance but
19 does not approve any of the described projects or services. As such, under CEQA Guidelines
20 section 15378(b)(4), the special tax is not a project within the meaning of CEQA because it
21 creates a government funding mechanism that does not involve any commitment to any specific
22 project or service that may result in a potentially significant physical impact on the
23 environment. If revenue from the tax were used for a purpose that would have such effect, the
24 City would undertake the required CEQA review for that particular project or service.
25 Therefore, pursuant to CEQA Guidelines Section 15060, review of the Ordinance under CEQA
26 is not required. Prior to commencement of any project or service funded by the special tax,
27 any necessary environmental review required by CEQA shall be completed. The City shall
28 perform CEQA analysis for the project prior to approving the project or service, if the project
or service requires analysis under CEQA.

1 Section 5. If any provision of this Ordinance is held by any court or by any Federal
2 or State agency of competent jurisdiction, to be invalid as conflicting with any Federal or State
3 law, rule or regulation now or hereafter in effect, or is held by such court or agency to be
4 modified in any way in order to conform to the requirements of any such law, rule or regulation,
5 such provision shall be considered a separate, distinct, and independent part of this ordinance,
6 and such holding shall not affect the validity and enforceability of all other provisions hereof.
7 In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or
8 otherwise changed, so that the provision thereof which had previously been held invalid or
9 modified is no longer in conflict with such law, rule or regulation, said provision shall
10 thereupon return to full force and effect and shall thereafter be binding. If any section,
11 subsection, phrase, clause, sentence, or word in this Ordinance shall for any reason be held
12 invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the
13 remainder of this Ordinance but shall be confined to the article, section, subsection,
14 subdivision, clause, sentence or word so held invalid or unconstitutional.

15
16 Section 6. This Ordinance shall be considered adopted on the date that the City
17 Council declares the results of the election at which it was voted upon and shall be effective
18 immediately because it is an ordinance relating to taxes.

1 Ordinance No. 2024-02 was submitted to the People of the City of Albany at the
2 November 5, 2024 general municipal election. It was approved by the following vote of the
3 People:

4 YES: _____

5 NO: _____

6
7 Ordinance No. 2024-02 was thereby adopted by the voters at the November 5, 2024
8 election and took effect upon adoption of a resolution declaring the results of the election at a
9 regular meeting of the City Council held on _____, 2024, by the following vote:

10 AYES:

11 NOES:

12 ABSENT:

13
14 I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly
15 and regularly adopted by the People of the City of Albany, California.

16
17
18 _____
Anne Hsu, City Clerk

19
20
21 **ATTACHMENT:**

22 Exhibit A - Resolution Adopting a Sidewalk and Pathway Repair Policy
23
24
25
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28

ORDINANCE NO. 2024-02 – EXHIBIT A
RESOLUTION NO. 2024-55 ADOPTING A SIDEWALK AND PATHWAY REPAIR POLICY
APPROVED BY ALBANY CITY COUNCIL JUNE 17, 2024

[ATTACH EXHIBIT]

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RESOLUTION NO. 2024-55

**A RESOLUTION OF THE ALBANY CITY COUNCIL ADOPTING
A SIDEWALK AND PATHWAY REPAIR POLICY, REPLACING THE PRIOR**

WHEREAS, the residents of Albany have recognized the need for safe, passable sidewalks to improve walkability throughout the City’s entire network; and

WHEREAS, under Section 5610 of the California Streets and Highways Code and per Albany Municipal Code Section 14-1.5b, property owners and persons in possession of property are required to maintain adjacent public sidewalks in a safe condition; and

WHEREAS, in November 2016, Albany voters approved Measure P1, a parcel tax for the purposes of publicly funding repairs to the City sidewalks; and

WHEREAS, the Sidewalk Program funded by this tax has been successful, completing eight project Phases of sidewalk upgrade and repair, funded by approximately \$1.17 million in tax revenues; and

WHEREAS, in the process of preparing a ballot measure for the November 2024 election to renew and update said parcel tax, additional scope items for holistic Sidewalk Program activities were identified that the Council directed to be added to the Sidewalk Repair Policy as eligible uses of tax funds, as appropriate under §4.14 of the Albany Municipal Code.

NOW, THEREFORE, BE IT RESOLVED, that the Albany City Council hereby adopts the Sidewalk and Pathway Repair Policy (Exhibit A attached), replacing the prior Sidewalk Repair Policy.



JOHN MIKI, MAYOR

ATTACHMENT: Exhibit A – Sidewalk and Pathway Repair Policy

1 **EXHIBIT A**

2 **SIDEWALK AND PATHWAY REPAIR POLICY**

3 **Purpose**

4
5 The purpose of the Sidewalk and Pathway Repair Policy is to improve continuous
6 sidewalk and pathway passability in public right of way by repairing sidewalk and
7 Class I multiuse pathway damage and removing vegetation obstructions.

8 **Legal Responsibility**

9 Under Section 5610 of the California Streets and Highways Code and per Albany
10 Municipal Code Section 14-1.5b, property owners and persons in possession of
11 property are required to maintain adjacent public sidewalks in a safe condition. The
12 existence of this program does not abrogate the responsibility of the property owners
13 to maintain their frontage improvements in a safe manner. As part of the administration
14 of the Sidewalk Program, city staff are to use City newsletter, web page, and outreach
15 events to provide information to property owners regarding their responsibilities for
16 sidewalks.

17 **Repair Program**

18 The City of Albany will annually determine priority areas for repair. The City will
19 manage and pay the entire project cost of priority sidewalk and Class I multiuse
20 pathway repairs. Upon completion of the repair, the City will issue a certificate of
21 compliance that returns responsibility for all future maintenance and repair of adjacent
22 sidewalks to the property owner pursuant to existing State law. The Transportation
23 Commission will annually propose prioritization of projects to the City Council as well
24 as review sidewalk repair criteria. As part of the scope of work for a sidewalk repair
25 project, expenditure of funds associated with the following is authorized:

- 26 a) Relocation of shallow utility lines located within area of sidewalk repair;
- 27 b) Grinding of stumps of removed trees;
- 28 c) Replacement of soil or mulch in landscape strips as necessary to avoid a
29 hazardous condition;
- 30 d) Repair of private driveway if necessary to maintain functionality of the existing
31 driveway;
- 32 e) Funding for expedited repairs in locations with occupants that have special
33 access needs (e.g., limited mobility, special events, etc.);
- 34 f) Extending the length of sidewalk or pathway to be repaired beyond the area of
35 immediate hazard in order that the repaired sidewalk or pathway can tie into an
36 existing sidewalk in relatively good condition;
- 37 g) Widening sidewalks to five (5) feet where feasible and appropriate;
- 38 h) Sidewalk shaving and similar measures which address defects without
39 replacement;
- 40 i) Funding program support costs including staff, design, and administrative costs
41 and a comprehensive survey of the public right-of-way every 5 years.

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Public Notice for Repair Program

A public notice will be mailed to all property owners adjacent to proposed areas of work ten days before the Transportation Commission’s review of the proposed scope of work. The notice will advise property owners that street trees may be subject to removal and that property owners are required to cut back other vegetation in the area of work. The notice will also advise owners that work may be underway for up to two weeks, and solicit requests for information regarding occupants that may have special access needs that will affect the timing of construction.

Point of Permit Program

The City of Albany will require that specified construction projects above \$100,000 valuation will trigger a requirement that the property owner repair the sidewalk to City specifications. The City will conduct a no-cost inspection upon application. The property owner will be responsible for all repair costs if the scope of the projected project would otherwise trigger sidewalk repairs, such as sewer lateral upgrades, cross-sidewalk drains, new driveway or curb-cuts, etc.

Streetscape Improvement Projects

For sidewalks that that are in locations with fully funded streetscape-related Capital Improvement Projects, the need for repair will be evaluated on a case by case basis. The requirement for property owner repair will be deferred or an interim safety and accessibility solution may be acceptable.

Refinements to Street Tree Program

The City will evaluate situations where street trees are causing structural damage to sidewalks. A range of options will be considered including root pruning, enlarging tree wells, realignment or ramping of sidewalks around or over roots, or alternative paving materials that extend the functional life of the sidewalk. If a street tree that is causing damage is known to cause uplift relative to other tree species, the tree shall be removed as part of the repair project and replaced with a species not expected to damage sidewalks. City staff shall have authority to remove any tree without public notice if during construction, roots are found in locations that indicate that a new sidewalk will be damaged in the relatively near future and removal of the root is determined by the City Arborist to substantially weaken the health of the tree.