

**Procedures for City of Albany Community Development Department
Use of Administration Citation Ordinance
Working Draft – March 24, 2009**

PURPOSE

Within the City of Albany, as an older built-out higher density community, there are many long-standing code violations. In addition, new construction is nearly always of an in-fill nature, and thus has the potential to significantly affect the quality of life of neighboring residents and businesses. Similarly, deterioration of an existing structure has a greater impact due to the density of the City.

Currently, the City of Albany does not have a full-time professionally staffed code enforcement division. As a result, City staff work on code enforcement activities is secondary to other responsibilities, and thus not all code violations can realistically be addressed.

Historically, the City's general philosophy of obtaining code compliance has been through education, dialogue between parties, and other cooperative efforts. In an effort to improve the effectiveness of the City's code enforcement efforts, the City of Albany adopted an administrative citation ordinance in February 2009. The ordinance creates an administrative citation process, including authorization of a monetary penalty.

POLICY

In situations where collaborative efforts are unsuccessful, city staff is authorized to prioritize code enforcement activities first to those situations where an immediate risk to health and safety of individuals exist. Situations that constitute an immediate risk to health and safety of individuals include:

- Buildings designed for habitation that are clearly in dangerous or unsafe condition as defined by the Uniform Code of Dangerous Buildings;
- Buildings designed for non-habitable uses that are clearly being occupied in an illegal and likely dangerous manner;
- Potential release of materials that appear to be pollutants, hazardous materials, or untreated sewage;
- Conditions that notably exacerbate the risk of flooding, urban wildfire, or that create a traffic hazard; and
- Other conditions that clearly are an immediate substantial risk to safety of occupants, construction workers, or passers-by.

Second priority should be given to situations related to significantly improving quality of life or preventing substantial property damage. In setting priorities for quality of life and property damage violations, city staff shall consider the amount of resources required to

address the situation relative to the amount of improvement expected. Situations that constitute an impact on quality of life or risk of property damage include:

- Construction or occupancy of structures in violation of substantive elements of the California Building Code, California Health and Safety Code, Albany Municipal Code, or Planning and Zoning Conditions of Approval;
- Violation of construction hours/excessive noise;
- Work in public right-of way without permit, damage to public right of way/infrastructure, graffiti on public property, or trash, debris, mud, or dirt in the public right of way;
- Overgrown landscaping creating public safety risk; and
- Trash and debris on private property creating a public nuisance.

In general, the following items not subject to Community Development Department code enforcement activities:

- Activities primarily regulated and enforced by other government agencies such as CalOSHA, Vector Control, etc. (except for initial referrals between agencies and cooperation/collaboration on enforcement);
- Private nuisances or other private matters between limited number of property owners or occupants such as property line disputes, prescriptive easements, fence/landscaping issues, storm water damage, etc.;
- Abandoned vehicles, parking enforcement;
- Improper storage of trash/recycling bins;
- Graffiti on private property;
- Vacant structures or lack of maintenance of landscaping (unless a public safety risk); and
- Permanent conversion of required parking areas to other uses.

Unless restricted by law, the City will maintain the confidentiality of the source of any complaint. Reports concerning violations inside a building or not visible from the public right-of-way, however, may require a written complaint from the reporting party, which may become a public document

The City's code enforcement efforts are not be used as a substitute for private resolution of disputes through small claims court, mediation, etc. Whenever practical, complainants should demonstrate good faith efforts to resolve the issue without assistance from the City.

The City's code enforcement authority are to be applied in a consistent manner, and should be limited to physical condition of a property, not to the behavior of the occupants or owners. Furthermore, the City's code enforcement activities are not be excessive or harassing in nature.

Code enforcement activities that require a substantial investment in time or exposes the City to a potential legal challenge, are subject to review by the City Attorney and City Council.

The amount of time provided to property owners to address violations should be reasonable, and reflect the amount of time a person would normally require to hire competent professionals to do the work in a quality manner. City staff is encouraged to take a flexible approach to obtaining compliance where age, infirmity, or other legitimate circumstances may hamper the violator's ability to effect corrections according to a rigid schedule.

No more than two extensions of time may be granted by staff without review by relevant hearing boards or hearing officers. The sum of the extensions by staff shall not exceed 100% of the original time allotted for compliance.

City staff shall not enter private property without permission of the property owner, unless expressly authorized by state or local regulations, or unless the staff person has reasonable cause to believe there is an unsafe, dangerous, or hazardous situation that requires immediate attention. A reasonable effort should be made to first locate the owner of the property or a person having charge or control of the property before entering a property.

PROCEDURES

Violations associated with active construction projects:

1. Request inspection of property
2. Issue "Stop Work – Notice of Violation" Order. Post on property and send a copy to the property owner.
3. Send "Correction Notice" letter to property owner if no action is taken (to be reviewed by Community Development Director, with copy to the City Attorney)
4. Issue Administrative Citation if items in "Correction Notice" not addressed

Abandoned, deteriorated, or other non-construction properties

1. Send courtesy notice letter to property owner
2. If situation unresolved, send written request for inspection of property
3. Seek inspection warrant if inadequate response to request for inspection
4. Inspect property
5. Issue "Correction Notice" based on inspection
6. Issue Administrative Citation if items in "Correction Notice" not addressed
7. Secure the building and post "No trespassing – Subject to Arrest" signs.

The amount of the penalty would be established in the City's master fee schedule. Staff will prepare amendments to the master fee schedule with penalties starting at \$250 per

violation, and penalty doubling if violations are not corrected within the timeframe provided.

Appeal Procedures

Forthcoming