

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDINANCE NO. 2013-02**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER 15 OF THE CODE OF THE CITY OF ALBANY ENTITLED "SEWERS AND SANITATION."**

**WHEREAS**, the City Council finds that the maintenance of public health and welfare requires the periodic collection of solid waste, recyclables and organic materials from all properties in the City where such materials are produced or accumulated; and

**WHEREAS**, the provision of those collection services by the City directly benefits all such properties, as well as their owners and occupants, and those owners and occupants are therefore made liable for the charges established by the Council for the collection, removal and disposal of solid waste, recyclables, and organic materials; and

**WHEREAS**, particular sections within Chapter 15 of the City's Municipal Code require amendment to specify charges and procedures for collection of delinquent charges as well as provisions for proper storage of trash containers following service days.

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

1. Section 15-2.4 within Chapter 15 of the City of Albany Municipal Code shall be amended, to read as follows:

**15.2-4 Fee for Provision of Service by City's Franchisee; Collection of Delinquent Charges.**

1           a.       Every person who uses the collection services of the City's franchisee shall pay a  
2 fee for the services, as established in a resolution adopted by the City Council pursuant to the  
3 franchise agreement.  
4

5           b.       The City's franchisee shall bill customers directly for service.  
6

7           c.       The City's franchisee shall reconcile payments by customers against amounts  
8 billed to verify any delinquency in payment by customers.

9           d.       If a customer fails to pay a bill in full within ninety (90) days from the due date,  
10 the franchisee shall undertake collection of the bill. The franchisee shall provide delinquency  
11 notices to customers but may not discontinue service to their properties. Franchisee shall make  
12 reasonable efforts to obtain payment through such measures as late payment notices, telephone  
13 requests for payment, and assistance from collection agencies.  
14

15          e.       If a residential bill for a single family account remains unpaid after ninety (90) days from  
16 the original due date, the franchisee shall send a 90-day notice. The 90-day notice shall include a  
17 notice informing the owner of the delinquent status of the charges, of the potential for assessment  
18 upon the property tax roll and of the imposition of administrative charges in connection with  
19 such assessment.  
20

21               e. The delinquent charges which remain unpaid by the residential customer shall  
22 constitute an assessment against the property to which service was rendered and shall be  
23 collected at such time as established by the County Assessor for inclusion in the next property  
24 tax assessment. The City may enforce payment of such delinquent charges in the following  
25 manner:

26               (a) Upon receipt of verified information from the franchisee detailing delinquent charges  
27 and establishing that franchisee has made reasonable efforts to collect the delinquent charges,  
28

1 including provision of delinquent charge notices to the property owners, the Finance Director  
2 shall transmit to the City Council a report of delinquent charges. Once said report has been  
3 confirmed, the delinquent charges and the added costs shall be assessed upon the property and  
4 shall constitute a special assessment against the same.  
5

6 (b) The Finance Director shall turn over to the County Assessor for inclusion in the next  
7 property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent  
8 garbage collection service charges and administrative charges.  
9

10 (c) The assessment may be collected at the same time and in the manner as ordinary  
11 municipal taxes are collected and shall be subject to the same penalties and the same procedure  
12 of sale as provided for delinquent, ordinary, municipal taxes. The assessment shall be  
13 subordinate to all existing liens previously imposed upon the property and paramount to all other  
14 liens except for those of state, county and municipal taxes with which it shall be upon parity. The  
15 lien shall continue until the assessment and all interest and charges due and payable thereon are  
16 paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be  
17 applicable to the special assessments.  
18

19 f. Any notice required to be given pursuant to this chapter shall be deemed served as  
20 of the date of personal service upon the Owner or five days after deposit of said notice, postage  
21 prepaid in the United States Mail addressed to the Owner at the address listed on the most recent  
22 County Assessor's tax roll.  
23

24  
25 2. Section 15-2.8 within Chapter 15 of the City of Albany Municipal Code shall be  
26 amended, to read as follows:

27 **Section 15-2.8 Collection of Solid Waste and Recyclables Required.**  
28

1       a. *Failure to Subscribe Presumed to Create Nuisance.* If any person shall fail to subscribe  
2       for collection and disposal services of garbage as required by this section, it shall be  
3       presumed that a nuisance exists upon the premises which have not been provided with  
4       such collection and disposal service.  
5

6       b. *Notice of Required Collection.* If the City finds that any person has failed to  
7       subscribe for the collection and disposal of garbage as required by this section, it shall serve  
8       written notice upon the person, informing the person of the requirements of this section and that  
9       because of the failure to comply with such requirements, a nuisance is presumed to exist upon  
10      the premises owned, managed or controlled by such person which have not been provided with  
11      such collection and disposal service. The notice shall direct the person to subscribe with the  
12      contractor for the collection and disposal of garbage within ten (10) days after service of the  
13      notice.  
14

15       The notice shall further state that if the person shall fail to comply with its directions  
16      within the ten-day period, the City will abate the nuisance existing upon the premises by ordering  
17      the contractor to provide collection and disposal services for the premises, and that the charges of  
18      the contractor therefor, together with the administrative costs incurred by the City in the  
19      abatement of the nuisance, will be assessed and become a lien against the real property upon  
20      which the premises serviced are located.  
21

22       The notice specified herein shall be deemed served when it is deposited in the United  
23      States Post Office at Albany, California, with postage prepaid and addressed to the person  
24      entitled to notice at his last known place of address as shown on the assessment roll of the  
25      County, and if no such address is there shown or known, then to General Delivery, Albany,  
26  
27  
28

1 California. On the date and at the same time as a notice is mailed pursuant to this subsection, a  
2 copy of such notice shall be mailed to the contractor.  
3  
4

5 If the notice specified herein is required to be served upon any person other than the  
6 owner of record of any leased or rented premises, a copy of the notice shall, at the same time and  
7 in the same manner, be served upon the owner of record of such leased or rented premises.  
8

9 c. *Exemption if Premises Unoccupied.* The City Administrator may exempt from the  
10 requirements of this subsection any person who shows, and only so long as such person can  
11 continue to show, that the premises are unoccupied.  
12

13 d. *Abatement of Nuisance.* If the City finds that any person upon whom notice was  
14 served pursuant to paragraph c. of this subsection has failed within the time specified therein to  
15 subscribe for the collection and disposal of garbage, the City is authorized to order the City's  
16 designated solid waste collector to provide such collection and disposal services and to remove  
17 any accumulated garbage. The contractor shall, during the period it provides services ordered by  
18 the City, charge the City therefor at the applicable rate specified in the contract with the City,  
19 and may charge the city any additional amount which may be necessary for the removal and  
20 disposal of accumulated garbage found upon the premises at the time service is ordered by the  
21 City. The City shall become liable to pay such charges only when they have, pursuant to  
22 paragraph f. of this subsection, become a lien upon the real property upon which the premises are  
23 located.  
24

25 e. *Lien for Charges and Cost of Abatement.* The City shall, with respect to each  
26 parcel of real property provided with the collection and disposal of garbage pursuant to its order,  
27 keep an account of the charges presented to the City therefor by the contractor, together with the  
28

1 administrative costs incurred by the city in the abatement of the nuisance pursuant to this  
2 subsection. The City shall present the accumulated charges and administrative costs to the City  
3 Council in a proposed resolution. Such resolution shall be filed with the City Clerk for adoption  
4 by the City Council. Such charges and costs shall, pursuant to such resolution, be assessed and  
5 become a lien against the real property served pursuant to the City's order; provided, however,  
6 that such charges and costs may be paid at any time before they become a lien as herein  
7 provided.

8  
9  
10  
11 f. *Removal by Persons Owning, Managing or Controlling Property.* No provision in  
12 this subsection shall be construed to prevent any persons from removing materials from premises  
13 owned, managed or controlled by them, for the purposes of disposal, recycling, or composting  
14 such materials. Such removal shall not constitute an exemption from the requirements of this  
15 section.

16 (Ord. # 04-01, §1)

17 g. *Accessibility and Location of Garbage Cans.* Garbage containers shall be easily  
18 accessible to the garbage collector. Garbage cans shall not be kept within the public right of way  
19 except on collection day.

20  
21  
22 Publication and Effective Date

23 This ordinance shall be posted at three public places within the City of Albany, and shall take  
24 effect ninety days after the date of its adoption.

25  
26  
27  
28  

---

Peggy Thomsen, Mayor