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ORDINANCE NO. 2019-03

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER
SECTION 20.24.020 "SITE REGULATIONS BY DISTRICT: RESIDENTIAL TABLE
2.A" AND TABLE 2.B "SITE REGULATIONS BY DISTRICT: NON-RESIDENTIAL"
OF THE ALBANY MUNICIPAL CODE**

WHEREAS, Chapter 20 "Planning & Zoning" was comprehensively updated and adopted in 2004; and

WHEREAS, Chapter 20.24 "Development Standards" includes provisions which regulate side yard encroachments for residential development and lot area requirements for multi-family development in the City of Albany; and

WHEREAS, recent review of residential development applications and mixed-use development applications has required legal clarification and historical review of Code intent for Sections Section 20.24.020 "Site Regulations by District: Residential" and Table 2.B "Site Regulations by District: Non-Residential" respectively; and

WHEREAS, the Planning & Zoning Commission requested that these provisions be refined to reflect intent and provide clear language; and

WHEREAS, the Planning & Zoning Commission adopted Resolution of Intention 2018-03 to amend Section 20.24.020 "Site Regulations by District: Residential" on October 24, 2018 which clarifies language related to side yard encroachments; and

1 **WHEREAS**, the Planning & Zoning Commission held a public hearing to discuss the
2 proposed amendments on November 14, 2018; and
3

4 **WHEREAS**, the Planning & Zoning Commission adopted Resolution 2018-05
5 forwarding a recommendation to the City Council to amend Section 20.24.020 “Site Regulations
6 by District: Residential” on November 14, 2018; and
7
8

9
10 **WHEREAS**, a public hearing notice was published in the West County Times and posted
11 in three public places pursuant to California Government Code Section 65090 on November 2,
12 2018 for the Planning & Zoning Commission public hearing held on November 14, 2018; and
13

14 **WHEREAS**, the Planning & Zoning Commission adopted Resolution of Intention 2019-
15 02 to amend Section 20.24.020 Table 2.A “Site Regulations by District: Residential” and Table
16 2.B “Site Regulations by District: Non-Residential” of the Albany Municipal Code on January
17 23, 2019; and
18

19 **WHEREAS**, the Planning & Zoning Commission held a public hearing to discuss the
20 proposed amendments on February 13, 2019; and
21

22 **WHEREAS**, the Planning & Zoning Commission adopted Resolution of Intention 2019-
23 02 to amend Section 20.24.020 Table 2.A “Site Regulations by District: Residential” and Table
24 2.B “Site Regulations by District: Non-Residential” of the Albany Municipal Code on January
25 23, 2019; and
26
27
28

1 **WHEREAS**, a public hearing notice was published in the West County Times and posted
2 in three public places pursuant to California Government Code Section 65090 on February 1,
3 2019 for the Planning & Zoning Commission public hearing held on February 13, 2019; and
4

5
6 **WHEREAS**, the Planning & Zoning Commission held public hearings and considered all
7 public comments received, the presentation by City staff, the staff report, and all other pertinent
8 documents regarding the proposed request; and
9

10
11 **WHEREAS**, a public hearing notice was published in the West County Times and posted
12 in three public places pursuant to California Government Code Section 65090 on February 22,
13 2019 for the Albany City Council public hearing held on March 4, 2019; and
14

15 **WHEREAS**, the Albany City Council held a public hearing to discuss the proposed
16 amendments on March 4, 2019; and

17 **WHEREAS**, the Albany City Council held a public hearing and considered all public
18 comments received, the presentation by City staff, the staff report, and all other pertinent
19 documents regarding the proposed request;

20
21 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS**
22 **FOLLOWS:**

23 **SECTION 1: CHAPTER 20.24 “DEVELOPMENT STANDARDS” OF THE**
24 **ALBANY MUNICIPAL CODE, SECTION 20.24.020 TITLED “TABLES OF SITE**
25 **REGULATIONS BY DISTRICTS -RESIDENTIAL TABLE 2.A” IS HEREBY**
26 **AMENDED AS FOLLOWS:**

27 **20.24.020 **Tables of Site Regulations by Districts.****
28

A. Site Regulations by District – Residential: Table 2. A.

Table 2. A. prescribes development regulations for the various residential zoning districts.

Table 2.A. 20.24.020 Site Regulations by District: Residential					
Standard:	Zoning District:				
	R-1	R-2	R-3	R-4⁽¹⁾	RHD⁽²⁾
Maximum Density (Dwelling units/acre)	12 ⁽³⁾⁽¹⁰⁾	35	63	87	6 or 9 ⁽⁴⁾
Maximum FAR (Floor Area/Lot Area Ratio)					
Single-family dwelling	0.55 ⁽⁵⁾	0.55 ⁽⁵⁾	0.55 ⁽⁵⁾	N/A	0.50 ⁽⁸⁾
Multi-family dwelling			1.50 ⁽⁶⁾⁽⁷⁾		
Minimum Lot Area per Dwelling Unit (sq. ft.)	- N/A	- 1,250	- ⁽⁹⁾	- 500	-
Minimum Lot Size (sq. ft.) ⁽¹⁰⁾					
Single-family	3,750	3,750	3,750		5000 ⁽⁸⁾
Two-family	N/A	3,750	3,750		
Multiple-family	N/A	3,750	3,750		
Public/Quasi-public	10,000	10,000	10,000		
Minimum Lot Width (ft.)					
Single-family	35	35	50		50 ⁽⁸⁾
Two-family	N/A	37.5	50		
Multiple-family	N/A	37.5	50		
Public/Quasi-public	75	75	75		
Maximum Lot Coverage (% of lot area)					
Single-family					40% ⁽⁸⁾
Two-family	50%	50%	50%		
Multiple-family	N/A	50%	50%		
Public/Quasi-public	N/A ⁽¹¹⁾	50% ⁽¹¹⁾	70% ⁽¹¹⁾		
Maximum Building Height (ft.)					
Single-family	28 ⁽¹²⁾	28 ⁽¹²⁾	35		⁽¹³⁾⁽⁸⁾
Two-family	N/A	35/28 ⁽¹⁴⁾	35/28 ⁽¹⁴⁾		
Multiple-family	N/A	35/28 ⁽¹⁴⁾	35/28 ⁽¹⁴⁾		
Public/Quasi-public	35	35	35		

Table 2.A, Continued

Standard:	Zoning District				
	R-1	R-2	R-3	R4 ⁽¹⁾	RHD ⁽²⁾
Minimum Yard Setbacks (ft.)					
Single-, Two-, Multiple-family:					
Front	15 ⁽¹⁵⁾ (16)	15 ⁽¹⁵⁾ (16)	15 ⁽¹⁵⁾ (16)		15 ⁽⁸⁾⁽¹⁵⁾ (17) (8)
Side, interior					(17) (8)
Side, exterior	7.5	7.5 ⁽¹⁸⁾	7.5 ⁽¹⁸⁾		
Rear	20 (19)	15 (19)	15 (19)		20 ⁽⁸⁾
Single-family second story addition	(11)	(11)	(11)		
Public/Quasi-public					
Maximum Fence Height	See subsection 20.24.110				
Minimum Usable Open Space (Multi-family dwellings)	See subsection 20.24.090				
Accessory Buildings	See subsection 20.24.130				

Notes, Table 2. A:

1. In R-4 District, site regulations not specified will be determined by the Planning and Zoning Commission on consideration of an application for a use permit. Existing densities of developed sites are deemed to be conforming, but existing densities will not be permitted to be increased above the maximum density permitted in the R-3 District.

2. In the RHD District, all multiple-family development, and any single-family development which comprises 2 or more acres of land area, shall be processed as a Development Plan under Planned Unit Development procedures specified in subsection 20.100.060. See subsection 20.24.040 for development regulations applicable to the RHD District in addition to the regulations stated in this table.

3. The higher maximum density stated in the General Plan takes into account the pre-existence of substandard nonconforming lots.

4. The Albany General Plan divides the area subject to the RHD District into two density classifications:

- Low Density = 6 dwelling units/acre.
- High Density = 9 dwelling units/ acre.

Through the Planned Unit Development process (subsection 20.100.060) allowable density may be reduced according to slope density restrictions and/or the presence of natural topographic features.

The City may permit the transfer of density from one portion of a development site to another, upon making a finding that the density transfer is necessary to accomplish the purposes of this Chapter.

5. The Planning and Zoning Commission may approve a floor/area ratio of up to .60 based on determination that any of the following conditions exist:

- (a) The site is of such a size that application of the .55 floor/area ratio would result in a gross square footage of less than one thousand five hundred (1,500) square feet.
- (b) The site is in a zone other than R-1 and buildings on any surrounding properties

1 exceed FAR .60, and the higher FAR is warranted by considerations of harmonious
2 transition among properties.

3 (c) The proposed design has architectural features that contribute substantially to
4 neighborhood quality, which could not be achieved in a smaller building mass.

5 6. FAR may be increased to 1.75 where open space is provided at twice the minimum
6 requirement stated in Subsection 20.24.090.B.

7 7. Enclosed off-street parking shall be included in the calculation of the FAR, except that such
8 parking area that is located entirely below grade may be excluded. (See subsection
9 20.24.050.C)

10 8. Applies to single-family development in RHD District on land comprising less than 2 acres.
11 Also shall be considered to be the minimum standards required for development of a single-
12 family planned unit development on 2 acres or more, except that modified development
13 standards may be approved if deemed appropriate by the Planning and Zoning Commission
14 and City Council.

15 9. Reserved.—Varies by the number of dwelling units, according to the following schedule:

16	Number of Units	Minimum Lot Area Required (square feet)
17	3	3,750 (1,250 sq. ft./unit)
18	4	4,500 (1,125 sq. ft./unit)
19	5	5,000 (1,000 sq. ft./unit)
20	6	5,828
21	7	6,598
22	8	7,310
23	9	7,965
24	10	8,563
25	11	9,103
26	12	9,585
27	13	10,000 (770 sq. ft./unit)
28	14	10,640
	15	11,250
	16	11,840
	17	12,410
	18	12,960
	19	13,490
	20	14,000
	21	14,490 (690 sq. ft./unit)
	Over 22	690 sq. ft./unit

29 **Notes: Table 2.A, continued**

30 10. Existing lots which do not meet minimum area standards may be developed or improved
31 as provided in Section 20.44, Nonconforming Uses, Structures and Lots.

32 11. For public and quasi-public uses, lot coverage and yard setbacks will be determined by
33 the Planning and Zoning Commission on consideration of an application for a use permit or
34 design review.

1 12. Planning and Zoning Commission, subject to Design Review criteria, may grant a use
2 permit to allow greater height for second story additions, up to 35 feet, measured in
accordance with subsection 20.24.080, and based on at least one of the following findings:

3 *a. The existing house has a partial ground story that causes an increase in the overall height*
4 *of the building, and there are sound design reasons for considering a roof line which*
5 *exceeds twenty-eight (28) feet.*

6 *b. The natural downward or upward topography of the site causes an increase in the overall*
7 *height of the building. The minimum roof pitch has been maintained on the addition to be*
8 *consistent with the existing architectural design of the house. The height has been measured*
9 *from the natural or finished grade to the highest point of the roof.*

10 *c. The existing architectural character and design of the house is maintained.*
11 *Design factors have been considered to offset or minimize the increased height, such as*
12 *breakup in the mass and bulk, offsetting one or more portions of the addition from the*
13 *ground story wall line, and adding architectural details and elements such as horizontal trim*
14 *or other features to create interest.*

15 13. Height limits in RHD District are specified for single-family residences only. The
16 maximum building height for a single-family residence on a downhill site shall be thirty-five
17 (35) feet above the original grade of a site measured from the midpoint of the building
18 envelope. The maximum permitted height for a single-family residence on an uphill site shall
19 be twenty-eight (28) feet above the original grade of a site measured from the midpoint of
20 the building envelope.

21 14. Maximum building height is three stories and 35 feet, above natural or finished grade,
22 whichever is lower, except that the maximum height allowed at the front setback line shall be
23 28 feet plus a 45-degree daylight plane. (See subsection 20.24.070.B.)

24 15. Through lots are deemed to have two front property lines, one at each street, and front
25 yard setback requirements shall be applicable to both lines.

26 16. Ten percent (10%) of lot width, up to a maximum of 5 feet, with a minimum requirement
27 of 3 feet, except that the minimum setback for multi-family structures in the R-3 District is 5
28 feet.

17. Ten percent (10%) of lot width, or 5 feet, whichever is greater.

18. One (1) foot shall be added for each 12 feet of height above the lowest 15 feet of building
height.

Notes: Table 2.A, continued

19. Exceptions to setback requirements may be made in the case of a second story addition to a
single-family dwelling, as follows:

- (a) **Vertical Extension of Nonconforming Walls.** Existing, nonconforming walls, which encroach into required setback areas, shall be allowed to extend in a vertical plane up under or over an existing wall or foundation, which does not conform to the required setbacks, subject to design review by the Planning and Zoning Commission and obtaining a use permit. Existing walls which do not conform to the existing side or rear yard setbacks may be extended, subject to design review by the Planning and Zoning Commission and a use permit. Such extensions shall not further encroach on any required setback, (i.e., a nonconforming wall which encroaches one (1) foot into a required setback shall not be permitted to encroach two (2) feet) nor shall any extension create a new encroachment in another direction.

(b) **Horizontal Extension of Nonconforming Walls.** Existing, nonconforming walls which encroach into the required front yard or side yard setback areas may be extended in a horizontal plane, ~~Extension of existing walls which do not conform to the existing front yard setback is discouraged. Such walls may be extended in an existing vertical or horizontal plane,~~ subject to design review by the Planning and Zoning Commission and obtaining a use permit. Such extensions shall not further encroach on any required setback, (i.e., a nonconforming wall which encroaches one (1) foot into a required setback shall not be permitted to encroach two (2) feet nor shall any such extension create a new encroachment in another direction. Required conditional use permit and design review findings for the extension of a nonconforming front wall shall be made separately from findings required for extension of other nonconforming walls.

SECTION 2: CHAPTER 20.24 “DEVELOPMENT STANDARDS” OF THE ALBANY MUNICIPAL CODE, SECTION 20.24.020 TITLED “TABLES OF SITE REGULATIONS BY DISTRICTS -RESIDENTIAL TABLE 2.A” IS HEREBY AMENDED AS FOLLOWS:

B. Site Regulations by District – Nonresidential: Table 2. B.

Table 2. B. prescribes development regulations for the various, commercial, public and waterfront zoning districts.

Table 2.B. 20.24.020. Site Regulations by District: Nonresidential					
Standard:	Zoning District:				
	SC	SPC	CMX	WF⁽¹⁾	PF⁽¹⁾
Maximum Density (Dwelling units/acre where residential development is proposed)	20 unit minimum 63	20 unit minimum 63	N/A	N/A	N/A
Maximum FAR (Floor Area/Lot Area Ratio) Mixed-use Development (more than one use, including residential and commercial or other permitted nonresidential uses)	1.25	2.25	0.5	0.5	N/A
Commercial portion of any development (not to be exceeded, regardless of mix with other uses, or any bonus increase in the total FAR of development)	1.25	0.95	0.5	0.5	NA
Multi-family dwelling, where it is the sole use of a site, and subject to maximum density permitted in R-3 District (See Table 2-A)					
Live/work space	1.25	N/A	N/A	N/A	N/A

	N/A	N/A	(4)	N/A	N/A
1					
2	Minimum Lot Area per Dwelling Unit (sq. ft.)	(3)	(3)	(2)	N/A
3		N/A	N/A		
4	Minimum Lot Size (sq. ft.)	None	None	5000	None
5	Minimum Lot Width (ft.)	None	None	50	None
6	Maximum Lot Coverage (% of lot area)	100%	100%	80%	
7	Maximum Building Height (ft.)	35	38/20/12 (4)	45	40
8	Minimum Yard Setbacks (ft.)				
9	Front, or exterior side	(6) (7)	(6) (7)	None	(5)
10	Side, interior	(8)	(8)	(9)	
11	Rear	(8) (10)	(8) (10)	(9)	

Table 2.B. 20.24.020. Site Regulations by District: Nonresidential, continued					
Standard:		Zoning District:			
		SC	SPC	CMX	WF ⁽¹⁾ PF ⁽¹⁾
Maximum Fence Height		See subsection 20.24.110			
Minimum Usable Open Space (Multi-family dwellings)		See subsection 20.24.090			
Notes, Table 2. B:					
1. In the WF and PF Districts, and in cases of Public/Semi-public uses in all districts, site regulations not otherwise specified will be determined by the Planning and Zoning Commission on a use permit/design review basis.					
2. Live/work space will be included in the calculation of commercial floor area, and will be subject to the maximum FAR standards for each district. District standards for minimum lot area per dwelling shall not apply to live/work units. See Table 1 for land use permitting procedures for live/work in individual districts.					
3. Reserved. Same as R-3 District, See Note 9, Site Regulations Table 2A: Residential.					
4. Maximum building height is three stories and 38 feet, above grade, except that where the rear property line abuts a residential district, the maximum height shall be 20 feet in height at a point 10 feet back from the residential district property line, plus a 45 degree daylight plane to the maximum permitted height; or alternatively 12 feet in height at the property line, then, horizontally to a point 10 feet from the property line, plus a 35 degree from vertical daylight plane to the maximum permitted height. (See subsection 20.24.070.A., Figure 1.a & 1.b). If there is a difference in grade planes between two adjacent parcels, the Community Development Director shall determine appropriate grade plane to be used for daylight plane calculation. No projections shall be allowed in the area between the daylight planes and rear property line. Usable open spaces located on top of the structure, within ten feet of a residential district boundary, shall have a solid fence or wall six feet in height. The combined height of the structure and the wall shall comply with daylight plane requirements of this code.					
5. No enclosed structure shall be located within 100 feet of the shoreline, except as specified in the Waterfront Master Plan. Continuous public access to the water's edge shall be preserved and established consistent with <u>The Bay Trail—Planning for a Recreational Ring Around the Bay</u> , (ABAG, July 1989.)					
6. Through lots are deemed to have two front property lines, one at each street, and front yard setback requirements shall be applicable to both lines.					

1 7. None required along San Pablo Avenue. If front setback is provided, it shall not exceed a depth of four feet (4)
2 at street level. Where fronting a street immediately parallel to San Pablo Avenue: 15 feet, plus a daylight plane.
3 (See subsection 20.24.070.B) Where a property in the SC District has an exterior lot line at a street that intersects
4 with Solano Avenue, and any property located directly across such a street is in a residential district: 15 feet, plus
a daylight plane. (See subsection 20.24.070.B)

5 **Table 2.B. 20.24.020. Site Regulations by District: Nonresidential, continued**

6 Notes, Table 2. B, Nonresidential, continued

7 8. None, except where an interior side or rear yard of a nonresidential property abuts an R District: See
8 subsection 20.24.070.A.

9 9. The minimum setbacks where a lot abuts an R District shall be 10 feet at either side or rear yards.

10 10. May be waived by Planning and Zoning Commission, except where rear yard abuts an R District.

11 **SECTION 3: PUBLICATION AND EFFECTIVE DATE.**

12 This ordinance shall be posted at three public places within the City of Albany and shall
13 become effective thirty days after the date of its posting.
14

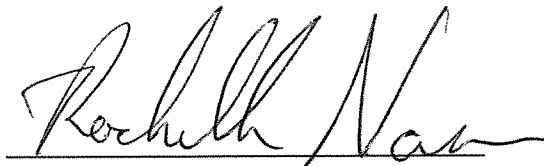
15 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on
16 the 18th day of March, 2019 by the following vote:

17 AYES: *Council Members Barnes, Maass, m^cQuaid, Pilch + Mayor Nason*

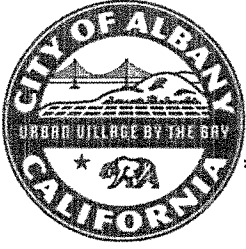
18 NOES: *none*

19 ABSENT: *none*

20 ABSTAIN: *none*

21 

22 ROCHELLE NASON, MAYOR
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City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

ORDINANCE NO. 2019-03

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

the 18th day of mARCH, 2019 by the following votes:

AYES: Council Members Barnes, Maass, McQuaid, Pilch, Mayor Nason

NOES: none

ABSTAINED: none

ABSENT: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

19th day of March, 2019.

Eileen Harrington

Eileen Harrington
DEPUTY CITY CLERK