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**ORDINANCE No. 09-011**  
**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING**  
**CHAPTER 20, PLANNING AND ZONING**  
**OF THE ALBANY MUNICIPAL CODE**

**WHEREAS**, the City of Albany has adopted a Zoning Ordinance in the form of Chapter XX of the Albany Municipal Code, Planning and Zoning; and

**WHEREAS**, on December 4, 2004, the City council adopted a substantial update to the Planning and Zoning Code; and

**WHEREAS**, during the course of implementation, a variety of applications have been received and processed pursuant to the new code; and

**WHEREAS**, whereas the Community Development Department has maintained a binder, available to the public, Commissioners, and staff to catalog areas of the new code that require correction or clarification; and

**WHEREAS**, the Planning and Zoning Commission discussed proposed changes at their regular meetings of September 23, 2008, October 14, 2008, October 28, 2008, November 25, 2008, December 9, 2008, January 27, 2009, March 24, 2009, April 14, 2009, May 12, 2009, May 26, 2009; June 9, 2009; and

**WHEREAS**, on November 25, 2008, the Planning and Zoning Commission approved a Resolution of Intention to Amend the Planning and Zoning Code; and

**WHEREAS**, the Albany Planning and Zoning Commission, on March 24, 2009, after due public notice, held a public hearing on the proposed amendments to Chapter XX to address corrections and clarifications to the Code, and

**WHEREAS**, pursuant to the California Environmental Quality Act, the City has determined that the Mitigated Negative Declaration of Environmental Impacts certified on December 4, 2004 is consistent with the proposed clarifications and corrections and no additional environmental review is required pursuant to CEQA Guidelines Section 15183 and Public Resources Code 21083.3; and

**WHEREAS**, the Albany City Council, on July 6, 2009, after due public notice, held a public hearing on the proposed amendments to Chapter XX to address corrections and clarifications to the Code.

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

1 **Section 1:** Chapter XX of the Albany Municipal Code, Section 20.08.020, titled  
2 “Definitions,” is hereby amended to include the following text:

3  
4 a. **Yard, front** means a yard of uniform depth extending across the full  
5 width of the lot inward from the front lot line. **The front lot line of a corner lot is**  
6 **the yard adjacent to the shorter street front shall be determined by the**  
7 **Community Development Director.**

8  
9 **Section 2:** Chapter XX of the Albany Municipal Code, Section 20.12.040, Table 1  
10 titled “Permitted land uses by district,” is hereby amended to include the following  
11 text:

12 Day Care Home, Residential

Land Use	R-1	R-2	R-3	R-4	RHD	SC	SPC	CM X	PF	W F
b) Large Family <sup>19</sup>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	<b><u>UP-M</u></b>	-	-	-	-	-

14  
15 **Section 3:** Chapter XX of the Albany Municipal Code, Section 20.12.040, Notes,  
16 Table 1 is hereby amended to add the following text:

17 19. Refer to Section 20.20.020.B.2.d. for special process of notice  
18 and hearing.

19 **Section 4:** Chapter XX of the Albany Municipal Code, Section  
20 20.20.020.B.2.d, is hereby amended to add the following text:

21 d. Public Notice and Hearing. At least ten (10) calendar days prior to a  
22 **decision-administrative public hearing** on a Minor Use Permit for a Large  
23 Family Day Care Home, notice of the proposed use and public hearing shall be  
24 mailed or delivered to owners of property within one hundred (100) feet of the  
25 exterior boundaries of the proposed day care home, **as described in subsection**  
26 **20.100.030.C. No hearing shall be held on the application unless a hearing**  
27 **is requested by the applicant or other affected person prior to the**  
28 **announced time of the decision. Upon request for a hearing, public notice**  
29 **shall be provided in the manner and form described in subsection**  
30 **20.100.010.E, except that notice shall not be mailed or delivered beyond**  
31 **one hundred (100) feet of the exterior boundaries of the proposed day care**  
32 **home.**

33  
34 **Section 5:** Chapter XX of the Albany Municipal Code, a new section shall be  
35 adopted, **Section 20.20.130, titled “Live Entertainment Permits,” and 20.20.070**  
36 **are hereby adopted to include the following text:**

37  
38 **20.20.130 A. Purpose. This section establishes regulations for the**  
39 **granting of an entertainment permit. The standards are in addition to the**  
40 **requirements of Albany Municipal Code Section 5-11.**

1 **B. Entertainment Permit Required. An entertainment permit**  
2 **shall be required for any place where entertainment is provided within a**  
3 **bar, cocktail lounge, tavern, café, restaurant, hotel, motel, or public place**  
4 **where food, alcoholic or other beverages, or other refreshments are**  
5 **served. See Municipal Code Section 5-1.**  
6

7 **20.20.070 4. Entertainment Permit. An entertainment permit shall**  
8 **be required for any place where entertainment is provided within a bar,**  
9 **cocktail lounge, tavern, café, restaurant, hotel, motel, or public place**  
10 **where food, alcoholic or other beverages, or other refreshments are**  
11 **served. See Municipal Code Section 5-1.**  
12

13 \* See “Section 23-25” for revisions to Municipal Code, 5-11. \*

14  
15 **Section 6:** Chapter XX of the Albany Municipal Code, Section 20.24.020 Table 2.A.,  
16 titled “ Site Regulations by District: Residential,” Note 14 is hereby amended to  
17 include the following text:  
18

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

24 **Section 7:** Chapter XX of the Albany Municipal Code, Section 20.24.020. Table  
25 2.A. titled “Site Regulations by District: Residential,” Note 19(a), is hereby amended  
26 to include the following text:  
27

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

30 (a) **Nonconforming walls shall be allowed to extend up over an existing wall**  
31 **or foundation. A second-story addition may be built over an existing wall**  
32 **or foundation**—which does not conform to the required setbacks, subject to  
33 design review by the Planning and Zoning Commission and obtaining a use  
34 permit. Existing walls which do not conform to the existing side or rear yard  
35 setbacks may be extended, **in an existing vertical or horizontal plane,**  
36 subject to design review by the Planning and Zoning Commission and a use  
37 permit. Such extensions shall not further encroach on any required setback,  
38 (i.e., a nonconforming wall which encroaches one (1) foot into a required  
39 setback shall not be permitted to encroach two (2) feet) nor shall any  
40 extension create a new encroachment in another direction.  
41

42 **Section 8:** Chapter XX of the Albany Municipal Code, Section 20.24.020. Table 2.B.  
43 Note 3, titled “Site Regulations by District: Nonresidential,” is hereby amended to  
44 include the following text:  
45

46 3. Same as R-3 District, See note **7.9** – Site regulations, Table 2A:Residential.

1  
2 **Section 9:** Chapter XX of the Albany Municipal Code, Section 20.24.020 Table  
3 2.B.Note 4, titled “Site Regulations by District: Nonresidential” is hereby amended to  
4 include the following text:

5  
6 Maximum building height is ~~three stories, or 38 feet~~, above grade, except that where  
7 the rear property line abuts a residential district, the maximum height shall be 20 feet  
8 plus a 45 degree day light plane, or at the rear property line shall be 12 feet plus  
9 a 45 degree daylight plane. either: 20 feet in height at a point 10 feet back from  
10 the residential district property line, plus a 45 degree daylight plane to the  
11 maximum permitted height; or alternatively 12 feet in height at the property  
12 line, then, horizontally to a point 10 feet from the property line, plus 35 degree  
13 from vertical daylight plane to the maximum permitted height. (See subsection  
14 20.24.070.A., Figure 1.a & 1.b). If there is a difference in grade planes between  
15 two adjacent parcels, the Community Development Director shall determine  
16 appropriate grade plane to be used for daylight plane calculation.

17  
18 No projections shall be allowed in the area between the daylight planes and rear  
19 property line.

20  
21  
22 **Section 10:** Chapter XX of the Albany Municipal Code, Section 20.24.050 B.1.c,  
23 titled “Floor-Area-Ratios” is hereby amended to include the following text:

24  
25 c. Any covered area on or below the first or main floor, ~~for which the~~  
26 average height of the four (4) corners is greater than six (6) feet, shall be  
27 included in the calculation of gross square footage, shall be calculated in the  
28 floor-area ratio if the average height of the perimeter is greater than four (4)  
29 feet, except a single parking area may be excluded as provided in paragraph B.1.b.  
30 above. Measurement of height shall be taken from the lower of natural or  
31 finished grade to the top of finished floor of the first, main or story above.

32  
33 **Section 11:** Chapter XX of the Albany Municipal Code, Section 20.24.070 A, titled  
34 “Setbacks with Daylight Planes, Interior Property Lines Abutting Residential District  
35 Boundaries,” is hereby amended to include the following text:

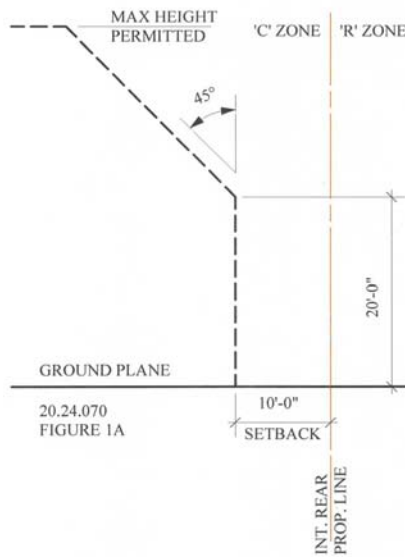
36  
37 **A.1.** Interior Property Lines Abutting Residential District Boundaries: The minimum  
38 setback where an interior lot line of a property in a Solano Commercial or San Pablo  
39 Commercial District abuts a residential district boundary shall be five (5) feet on the  
40 side.

41  
42 The minimum setback at the rear shall be one of the following two options: 1) A  
43 20 feet in height at a point 10 feet back from the property line, plus a 45 degree  
44 daylight plane to the maximum permitted height, or 2) A 12 feet in height at the  
45 property line, then, horizontally to a point 10 feet from the property line, plus 35  
46 degree from vertical daylight plane to the maximum permitted height. (See

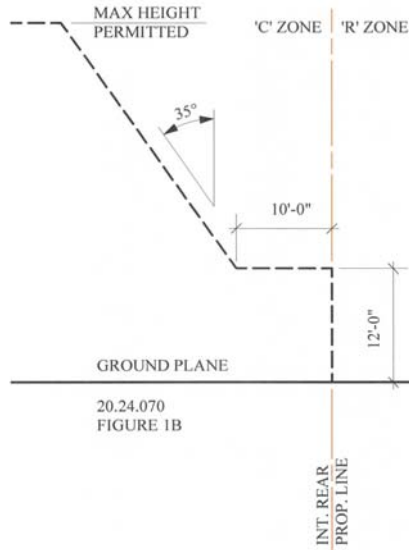
1 subsection 20.24.070.A., Figure 1.a & 1.b) If there is a difference in grade planes  
2 between two adjacent parcels, the Community Development Director shall  
3 determine appropriate grade plane to be used for daylight plane calculation.

4  
5 No projections shall be allowed in the area between the daylight planes and rear  
6 property line.

7  
8 and ten (10) feet on the rear. An additional setback for any portion of any  
9 structure extending above twenty (20) twelve (12) feet in height, up to the  
10 maximum height permitted in the Commercial District, shall be defined by a  
11 daylight plane extending from a base point located twenty (20) twelve (12) feet  
12 above the ground plane lower of natural or finished grade at the line of the  
13 minimum required setback, inclined away from the vertical at a forty-five (45o)  
14 thirty five (35) degree angle. (See Figure 1.a., below.) Alternatively the base  
15 point for the daylight plane may be located twelve (12) feet above the ground  
16 plane at the property line that abuts a residential district, with no setback from  
17 the property line required. (See Figure 1.b., below.)



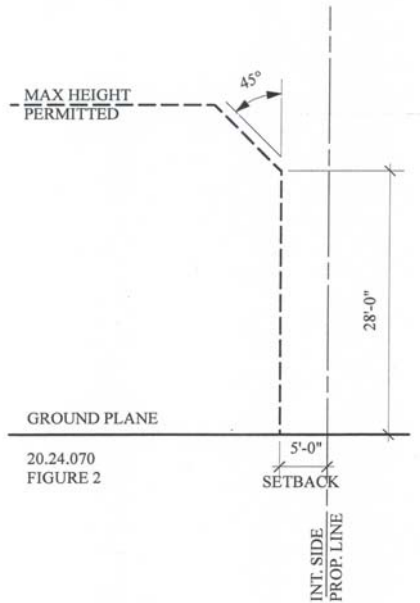
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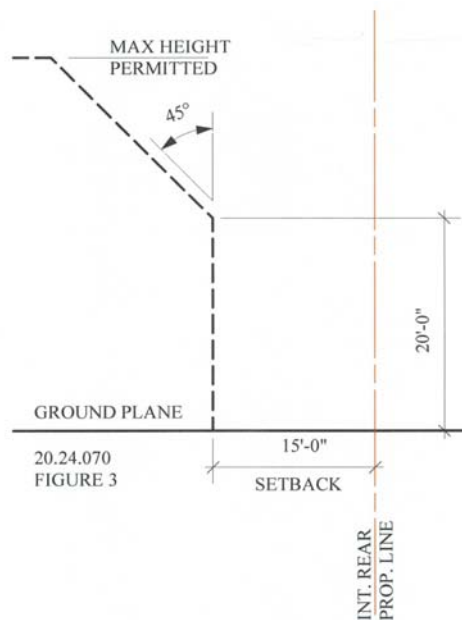
**Section 12:** Chapter XX of the Albany Municipal Code, Section 20.24.070, titled “Setbacks with Daylight Planes, Interior Property Lines Abutting Residential District Boundaries,” is hereby amended to include the following text:

**A2. The minimum setback, where an interior lot line of a property in a higher density residential district abuts a lower density residential district, and Municipal Code Section 20.24.030 does not apply, the minimum side yard setback shall be five (5) feet on the side. An additional setback for any portion of any structure extending above twenty (28) feet in height, up to the maximum height permitted in the zoning district, shall be defined by a daylight plane extending from a base point located twenty (28) feet above the ground plane at the line of the five (5) foot required side yard setback, inclined away from the vertical at a forty-five degree angle (See figure 2) 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.**



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**A.3. The minimum setback, where an interior lot line of a property in a higher density residential district abuts a lower density residential district, and Municipal Code Section 20.24.030 does not apply, shall be fifteen (15) feet at the rear. An additional rear yard setback for any portion of any structure extending above twenty (20) feet in height, up to the maximum height permitted in the district shall be defined by a daylight plane extended from a base point located twenty (20) feet above the ground plane at the line of the required setback, inclined away from the vertical at a forty-five (45) degree angle (See figure 3). 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.**



15

1  
2 **Section 13:** Chapter XX of the Albany Municipal Code, Section 20.24.070 B, titled  
3 “Setbacks with Daylight Planes, Exterior Property Lines at Streets Abutting  
4 Residential Districts,” is hereby amended to include the following text:  
5

6         2. Where a property in a Residential Medium Density District (R-2) or a  
7 Residential High Density District (R-3) has an exterior lot line ~~on either Kains~~  
8 ~~Avenue or Adams Street that abuts a residential district~~, the minimum setback  
9 from such lot line shall be fifteen (15) feet. An additional setback for any portion of  
10 any structure extending above twenty-eight (28) feet in height, up to the maximum  
11 height permitted, shall be defined by a daylight plane extending from a base point  
12 located twenty-eight (28) feet above the line of the minimum required setback,  
13 inclined away from the vertical at a forty-five (45) degree angle. See Figure 4. below.  
14

15 **Section 14:** Chapter XX of the Albany Municipal Code, Section 20.24.080 B, titled  
16 “Height Limits and Exceptions,” is hereby amended to include the following text:  
17

18         **B. General Exceptions.** Subject to approval of a ~~use permit design~~  
19 ~~review~~, towers, spires, cupolas, chimneys, elevator penthouses, water tanks,  
20 monuments, flagpoles, theatre scenery storage structures, fire towers, and similar  
21 structures may be erected to a height not more than ten (10) feet above the height  
22 limit prescribed by the regulations for the district in which the site is located,  
23 provided that no such structure shall be used for habitable space or advertising  
24 purposes, and provided that the aggregate of such structures does not cover more than  
25 ten (10%) percent of the roof area of the top floor of the structure to which they are  
26 attached. All structures that exceed the height limit shall be subject to design review.  
27

28 **Section 15:** Chapter XX of the Albany Municipal Code, Section 20.24.080 C, titled  
29 “Height Limits and Exceptions,” is hereby amended to include the following text:  
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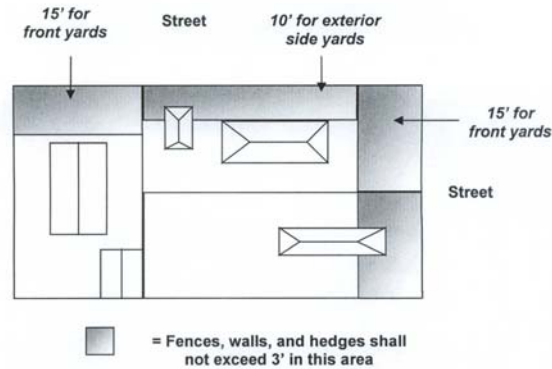
31         **C. Mechanical Appurtenances.** Mechanical appurtenances covering not  
32 more than twenty (20%) of the roof area of the top floor of any ~~nonresidential~~  
33 ~~nonresidential, mixed-use or multi-family structure~~ to which they are attached  
34 may exceed the height limit prescribed by the regulations for the district in which the  
35 site is located by six (6) feet subject to design review and provided that such  
36 structures are screened in accordance with subsection 20.24.110, and further provided  
37 that no screening is located within ten (10) feet of the perimeter of the plate line of  
38 the top story.  
39

40 **Section 16:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2, titled  
41 “Fences, Landscaping, Screening” is hereby amended to include the following text:  
42

43         2. In any R District any fence, wall hedge, or other visual obstruction shall not  
44 exceed three (3) feet in height within any ~~required front yard, or within fifteen (15)~~  
45 ~~feet of any front property line, whichever is less; except that~~ In no case shall such  
46 visual obstruction exceed three (3) feet in height within ten (10) feet of ~~the front~~



1 property line any property line abutting a street. No exceptions shall be made  
2 for residential structures with nonconforming front yard setbacks (see  
3 illustration below).  
4



MC 20.24.110

Areas Where the Height of Fences,  
Walls and Hedges are Limited to  
Three (3) Feet

5  
6  
7 **Section 17:** Chapter XX of the Albany Municipal Code, Section 20.24.110 C.2 and,  
8 titled “Fences, Landscaping, Screening,” is hereby amended to include the following  
9 text:

10 Exception to height limit in front yard: A structure designed to provide a decorative  
11 gateway, such as an arbor, trellis or pergola, may occupy an area not to exceed twenty  
12 (20) square feet, with a maximum horizontal dimension of six (6) feet and a  
13 maximum vertical dimension of ten (10) feet, subject to granting of a zoning permit  
14 administrative design review approval based on all of the following findings:

- 15  
16  
17 a. *The structure is not attached to the principal structure or any other*  
18 *structure other than a fence.*  
19  
20 b. *Structural bulk is minimized by the use of open materials such as lattice.*  
21  
22 c. *The location of the structure does not create a sight*  
23 *distance problem with respect to driveways or street intersections.*  
24  
25 d. *The design of the structure is appropriate to the main building and the*  
26 *landscaping of the property.*  
27

28 **Section 18:** Chapter XX of the Albany Municipal Code, Section 20.24.080 E.5, titled  
29 “Height Limits and Exceptions,” is hereby amended to include the following text,  
30 which will be repeated from Municipal Code Section 20.24.020 Table 2.A. Note 12:  
31

1 E.5. Planning and Zoning Commission, subject to Design Review criteria,  
2 may grant a use permit to allow greater height for second story additions, up to  
3 35 feet, measured in accordance with subsection 20.24.080, and based on all  
4 three (3) of the following findings:

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

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

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

18  
19 **Section 19:** Chapter XX of the Albany Municipal Code, Section 20.24.130 H, titled  
20 “Accessory Buildings,” is hereby amended to include the following text:

21  
22 H. Setbacks. Accessory buildings ~~located in rear setback areas~~ shall be within  
23 six (6”) inches of the side or rear lot line, or shall be set back at least three (3’)  
24 feet, and shall be subject to the following provisions:

- 25  
26 1. Accessory buildings shall not have openings (windows, doors, and vents)  
27 within three (3) feet of the property line. This includes openings on walls  
28 that are perpendicular to a property line. An exception shall be made for  
29 garage (vehicle) doors.  
30 2. Accessory buildings located on the street side yard of corner lots are  
31 required to meet the minimum setback requirements for the main building.  
32 3. ~~Accessory buildings on the interior side yard shall not encroach into~~  
33 ~~the required side yard setback.~~

34  
35 **Section 20:** Chapter XX of the Albany Municipal Code, Section 20.28.050.A.1.c and  
36 Table 6, titled “Parking Area Standards,” is hereby amended to include the following  
37 text:

- 38 c. Open Parking. The minimum dimensions for an open parking  
39 space meeting the parking requirements for a newly constructed  
40 single-family dwelling shall be eight (8) feet six (6) inches in  
41 width and eighteen (18) feet in length. The minimum width  
42 dimension for a double-car open parking space shall be sixteen  
43 (16) feet. ~~All minimum width dimensions shall be increased by~~  
44 ~~an additional one (1) foot of width adjacent to each wall, fence,~~  
45 ~~property line or other fixed obstruction that restricts access~~  
46 ~~abutting the long dimension of the parking space.~~

1

<b>Table 6. 20.28.050 Residential Parking Dimensions.</b>			
<b>Type of Parking</b>	<b>Width</b>	<b>Length</b>	<b>Height</b>
<i>Enclosed Parking:</i>			
Single space	8'6" <sup>*</sup>	19'	7'
Side-by-side spaces	16' <sup>**</sup>	19'	7'
<i>Covered Parking:</i>			
Single space	8'6" <sup>*</sup>	18'	7'
Side-by-side spaces	16' <sup>**</sup>	18'	7'
<i>Open Parking:</i>			
Single space	8'6" <sup>*</sup>	18'	N/A
Side-by-side spaces	16' <sup>**</sup>	18'	N/A
<i>Driveways</i>			
Single	7'	N/A	N/A
Double	15'	N/A	N/A

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~~\* One (1) additional foot in width shall be provided on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.~~

~~\*\* Minimum side-by-side, or double, parking space width is double the minimum single width minus one (1) foot. Additional width for obstructions is applicable.~~

~~Chapter XX of the Albany Municipal Code, Section 20.28.050 Table 6, titled "Residential Parking Dimensions," is hereby amended to include the following text:~~

~~\* One (1) additional foot in width shall be provide on each side abutting any wall, fence, property line, or other fixed obstruction that restricts vehicle access.~~

~~\*\* Minimum side-by-side, or double, parking space width is double the minimum single minus one (1) foot. Additional width for obstruction is applicable.~~

**Section 21:** Chapter XX of the Albany Municipal Code, **Section 20.40.080** titled **"Housing Provisions"** is hereby adopted to include the following text:

- A. A developer of any project subject to the requirements in this chapter may appeal to the city council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and either the amount of the fee charged or the inclusionary requirement.
- B. A developer subject to the requirements of this chapter who has received an approved tentative subdivision or parcel map, use permit or similar discretionary approval and who submits a new or revised tentative subdivision or parcel map, use permit or similar discretionary approval for the same property may appeal for a reduction, adjustment or waiver of the requirements with respect to

1 the number of lots or square footage of construction previously  
2 approved.

- 3 C. Any such appeal shall be made in writing and filed with the city clerk  
4 not later than ten (10) calendar days before the first public hearing on  
5 any discretionary approval or permit for the development, or if no  
6 such discretionary approval or permit is required, or if the action  
7 complained of occurs after the first public hearing on such permit or  
8 approval, then the appeal shall be filed within ten (10) calendar days  
9 after payment of the fees objected to. The appeal shall set forth in  
10 detail the factual and legal basis for the claim of waiver, reduction, or  
11 adjustment. The city council shall consider the appeal at the public  
12 hearing on the permit application or at a separate hearing within sixty  
13 (60) calendar days after the filing of substantial evidence to support  
14 the appeal including comparable technical information to support  
15 appellant’s position. No waiver shall be approved by the city council  
16 for a new tentative subdivision or parcel map, user permit or similar  
17 discretionary approval on property with an approved tentative  
18 subdivision or parcel map, use permit or similar discretionary permit  
19 unless the council finds that the new tentative subdivision or parcel  
20 map, user permit or similar discretionary approval is superior to the  
21 approved project both in its design and its mitigation of  
22 environmental impacts. The decision of the council shall be final. If a  
23 reduction, adjustment, or waiver is granted, any change in use within  
24 the project shall invalidate the waiver, adjustment, or reduction of the  
25 fee or inclusionary requirement

26  
27 **Section 22:** Chapter XX of the Albany Municipal Code, Section 20.100.080.C.1.  
28 titled “Administrative Actions Appealable.” is hereby amended to include the  
29 following text:

- 30 1. Any person aggrieved by a decision to grant or deny a permit or action  
31 taken by the Planning staff or any other City Official under the  
32 provisions of this chapter, or any person aggrieved by an  
33 administrative determination or interpretation made in conjunction  
34 with a decision to grant, deny or comply with a determination made  
35 pursuant to a provision of this **code chapter**, may appeal such action  
36 to the Planning and Zoning Commission.  
37

38 **Section 23:** Chapter V of the Albany Municipal Code, 5-11.6 “Entertainment  
39 Permits Required in Place Serving Food or Refreshments” is hereby amended to  
40 include the following text:

41  
42 No person shall provide or permit any entertainment in a bar, cocktail lounge,  
43 tavern, cafe, restaurant, hotel, motel, hall or public place where food, alcoholic or  
44 other beverages, or other refreshments are served, unless such person shall first obtain  
45 **an entertainment** permit to do so from the **City Council Planning and Zoning**  
46 **Commission** as hereinafter provided. (Ord. #80-08; 1958 Code §9.6)

1  
2 **Section 24:** Chapter V of the Albany Municipal Code, 5-11.9 “Administration;  
3 Rules and Regulations; Adoption of Rules and Regulations” is hereby amended to  
4 include the following text:  
5

6 The City Council, Planning and Zoning Commission or their duly  
7 authorized representative, is empowered to adopt reasonable rules and regulations or  
8 to impose reasonable conditions upon any permit issued for the purpose of  
9 implementing this section, with copies of such rules, regulations, or conditions to be  
10 provided to those permittees affected thereby and violation of such rules and  
11 regulations or conditions shall be deemed grounds for suspension or revocation of a  
12 permit. A copy of such rules and regulations shall be conspicuously posted in every  
13 room of the establishment wherein entertainment takes place. Such rules and  
14 regulations shall not be printed in type less than nine point. (Ord. #80-08; 1958 Code  
15 §9.9)  
16

17 **The term of an entertainment permit shall be limited to one (1) year. Upon filing**  
18 **an application of an extension of a valid entertainment permit, the Planning and**  
19 **Zoning Commission may consider extension of the entertainment permit in one**  
20 **year intervals. After granting two (2) 12-month extensions of an entertainment**  
21 **permit, extensions will not be required; however, the Planning and Zoning**  
22 **Commission shall have discretion to review an entertainment permit if issues of**  
23 **health, safety and/or welfare arise.**  
24

25 **Section 25:** Chapter V of the Albany Municipal Code, 5-11.12 “Exception,  
26 Application to Planning and Zoning Commission” is hereby amended to include the  
27 following text:  
28

29 Any person who shall desire to carry on or conduct any amusement or  
30 entertainment or dance during the hours prohibited by subsection 5-11.10 and for a  
31 longer period than one (1) night, shall file a written application therefore with the  
32 City Clerk for presentation to the City Council-Community Development  
33 Department for presentation to the Planning and Zoning Commission. Such  
34 application shall contain a detailed statement of the type of amusement or  
35 entertainment or dance which the applicant desires to carry on or conduct and a  
36 statement of the reasons which, in the applicant's opinion, warrant the granting of  
37 same. Such application shall be filed with the City Clerk at least fourteen (14) days  
38 prior to the date upon which the applicant desires the granting of such permission.  
39 Thereupon, the City Clerk shall refer the application to the Chief of Police or his  
40 agent for investigation pursuant to subsection 5-11.8 and his recommendation to the  
41 Council. The Council may grant such permission to applicant when, in its discretion,  
42 the nightly conduct of such amusement or entertainment or dance shall not be  
43 detrimental to the public health, safety, morals or welfare. (Ord. #80-08; 1958 Code  
44 §9.12)  
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**Section 26. Severability.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**Section 27: Publication and Effective Date.**

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

**PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on the \_\_\_ day of \_\_\_, 2009, by the following vote: