



1           **WHEREAS**, the City of Albany most recently approved a comprehensive update to  
2 Section 20.40.040 “Density Bonus” Section upon adoption of Ordinance No. 2018-04 on July  
3 16, 2018; and

4  
5           **WHEREAS**, since the July 2018 amendments, the State Legislature approved and the  
6 Governor signed legislation that have substantially amended State Density Bonus Law,  
7 rendering several sections of the City’s local ordinance invalid and/or obsolete; and

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9           **WHEREAS**, in 2023, the Albany City Council adopted the 2023-2031 Housing  
10 Element, which included:

- 11           • **Policy 1.7 – Scattered Site Affordable Housing.** Encourage small affordable  
12 housing developments consisting of 2-4 unit buildings located on scattered sites, in  
13 addition to encouraging traditional affordable housing developments on larger,  
14 higher-density mixed use sites. This includes the acquisition and rehabilitation of  
15 existing small multi-unit buildings as affordable rental housing or limited equity  
16 cooperatives.
- 17           • **Policy 2.1 – Housing Diversity.** Encourage a mix of unit types to respond to the  
18 diverse needs of Albany’s households, and to provide housing for residents at all  
19 stages of their lives.
- 20           • **Policy 2.3 – Housing Affordability.** Continue to encourage the construction of  
21 housing affordable to very low-, low-, and moderate-income households, in  
22 addition to market rate housing. Projects which combine market rate housing and  
23 affordable housing, using mechanisms such as the City's inclusionary ordinance,  
24 are encouraged.
- 25           • **Program 2.I: Density Bonuses.** Update the Density Bonus Ordinance (Albany  
26 Municipal Code 20.40.040) to eliminate the requirement that all bonuses,  
27 incentives, and concessions must be approved by the City Council. Increase public  
28 awareness and understanding of density bonuses, including requirements for  
29 concessions and waivers.

- 1           • **Policy 3.1 – Senior Housing.** Encourage the production of housing for Albany’s  
2           older adults. This should include both for-profit, market-rate housing with  
3           amenities for seniors, and affordable below market rate housing specifically  
4           designed to meet the needs of seniors.
- 5           • **Policy 6.5 – Incentives.** Support financial and regulatory incentives for low- and  
6           moderate-income housing in Albany. This could include fee reductions and  
7           deferrals, expedited review procedures, and other incentives that facilitate  
8           affordable housing developments.

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10           **WHEREAS,** the Planning and Zoning Code amendments bring the City’s local  
11 ordinance into compliance with State law and satisfy Housing Element Program 2.I; and reflect  
12 the provisions of AB 2097 and implement goals, policies, and programs of the Housing  
13 Element with respect to Equitable Access to Housing, Housing Production, and Elimination of  
14 Housing Constraints; and

15  
16           **WHEREAS,** at a duly noticed public hearing held on May 22, 2024, the Planning and  
17 Zoning Commission considered the amendments and voted 3-1-0-1 to adopt a Planning &  
18 Zoning resolution recommending to the City Council to amend the Zoning Ordinance; and

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20           **WHEREAS,** consideration of the ordinance is categorically exempt from the  
21 California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the CEQA  
22 Guidelines because the scope of this Ordinance is limited to implementing State law, and in  
23 itself does not authorize a discretionary activity that results in a physical change to the  
24 environment; and

25  
26           **WHEREAS,** a public hearing notice was posted in three public places pursuant to  
27 California Government Code Section on August 22, 2024; and

1           **WHEREAS**, the Albany City Council held a public hearing to discuss the proposed  
2 amendments on September 3, 2024; and  
3

4           **WHEREAS**, the Albany City Council held a public hearing on September 3, 2024 to  
5 discuss the proposed amendments, considered all public comments received, the presentation  
6 by City staff, the staff report, and all other pertinent documents regarding the proposed request.  
7

8 ***NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:***

9  
10           **SECTION 1: CHAPTER 20 OF THE ALBANY MUNICIPAL CODE, SECTION**  
11 **20.40 TITLED “HOUSING PROVISIONS” IS HEREBY REPEALED AND**  
12 **REPLACED AS SPECIFIED IN EXHIBIT A:**  
13

14           **SECTION 2: CHAPTER 20 OF THE ALBANY MUNICIPAL CODE, SECTION**  
15 **20.08.020 TITLED “DEFINITIONS” IS HEREBY AMENDED AS SPECIFIED IN**  
16 **EXHIBIT B:**  
17

18           **SECTION 3: CHAPTER 20 OF THE ALBANY MUNICIPAL CODE, SECTION**  
19 **20.16.020 TITLED “RESIDENTIAL USE CLASSIFICATONS” IS HEREBY**  
20 **AMENDED AS SPECIFIED IN EXHIBIT B:**  
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22           **SECTION 9: PUBLICATION AND EFFECTIVE DATE.**

23           This Ordinance shall be posted at three public places within the City of Albany and  
24 shall become effective thirty days after the date of its posting.  
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26   
27 \_\_\_\_\_  
28 JOHN MIKI, MAYOR

28 **ATTACHMENTS:**

29 EXHIBIT A – Zoning Ordinance Repeal & Replace AMC Section 20.40  
EXHIBIT B – Zoning Ordinance Amendments AMC Sections 20.08.020 and 20.16.020



§ 20.40  
**HOUSING PROVISIONS**

§ 20.40.010 **Purpose and Intent.**  
[Ord. No. 05-06]

The purpose of this section is to advance the goals of the Housing Element of the Albany General Plan, specifically, to facilitate the availability of a variety of housing to meet the needs of all economic segments of the community, and to expand housing opportunities for those with special needs, including the elderly, persons with disabilities, and those experiencing homelessness. This chapter provides for the implementation of Housing Element policies and programs intended to promote new housing that is affordable to lower-income households and senior citizens; encourage innovative housing concepts; permit emergency and transitional housing; and assure accessibility to housing by persons with disabilities. This section also establishes implementing procedures for State Density Bonus Law, pursuant to California Government Code Sections 65915 et seq. Should anything in this section conflict with Government Code section 65915 et seq., the Government Code will prevail.

§ 20.40.020 **Definitions.**  
[Ord. No. 05-06]

Specialized terms as used in this section are defined below. Generalized terms are defined in Section 20.08, Definitions.

**ADMINISTRATIVE REGULATIONS**

Guidelines and procedures promulgated by the Community Development Director, which may be modified from time to time to implement the provisions of this section.

**AFFORDABLE DWELLING UNIT**

If the unit is for rent, means a unit for which the total monthly rent plus utilities does not exceed thirty (30%) percent of the monthly income for a lower-income household. If the unit is for sale, means a unit for which the total monthly payment, including interest, taxes, insurance, homeowner association dues, and utilities does not exceed thirty (30%) percent of the monthly income for a lower-income household.

**AFFORDABLE HOUSING AGREEMENT**

Means an agreement between the City and the Project Sponsor of a housing development project that includes affordable units created pursuant to subsection **20.40.030** and/or **20.40.040**, for the purpose of ensuring continued compliance with all applicable regulations and conditions of the City including continued affordability of such units.

**BASE DENSITY**

Means the greatest number of units allowed on a housing development site pursuant to the applicable zoning district or, where no density standard is provided, as set forth in the Administrative Regulations. For purposes of this section, *base density* and *maximum allowable residential density* are synonymous.

**DENSITY BONUS**

Means a density increase over the otherwise maximum allowable residential density.

**HOUSEHOLD, LOW-INCOME**

Means a household whose gross income is greater than fifty (50%) percent but no greater than eighty (80%) percent of the Alameda County median income as established by the California Department of Housing and Community Development.



### **HOUSEHOLD, LOWER-INCOME**

Means a household whose gross income is no greater than eighty (80%) percent of the Alameda County median income as established by the California Department of Housing and Community Development; this includes classifications of low-income and very-low-income.

### **HOUSEHOLD, VERY-LOW-INCOME**

Means a household whose gross income is no greater than fifty (50%) percent of the Alameda County median income as established by the California Department of Housing and Community Development.

### **HOUSING DEVELOPMENT PROJECT**

Means a development project for five or more residential units, including mixed-use developments as further set forth in Government Code section 65915(i).

### **INCLUSIONARY HOUSING UNIT**

Means a unit designated as an affordable dwelling unit for purposes of satisfying the City's inclusionary requirements under section 20.40.030 of this chapter.

### **PROJECT SPONSOR**

Means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who have applied to develop and operate, manage, and/or lease a housing project under subsection **20.40.030** and/or **20.40.040** of this section.

### **§ 20.40.030 Inclusionary Housing.**

**[Ord. No. 05-06; amended 12-4-2023 by Ord. No. 2023-06]**

- A. Applicability. Inclusionary housing requirements shall apply to all development projects of five (5) or more dwelling units in the City, including conversions of five (5) or more existing rental units to ownership units.
- B. Calculation.
  1. The inclusionary housing unit requirement shall be determined based on the total unit count of a development project, as follows:
    - a. Five (5) or Six (6) Total Units: A payment to the "Inclusionary Housing In-lieu Fees Fund", as provided in paragraph F.4.a of this subsection. Payment shall be calculated based on the fraction of a unit that results from multiplying the total unit count by fifteen (15%) percent. If the project sponsor elects to provide one inclusionary housing unit to meet the requirement, the in-lieu fee shall not be applicable.
    - b. Seven (7) Through Thirteen (13) Total Units: At least one (1) inclusionary housing unit.
    - c. Fourteen (14) or More Total Units: The number of inclusionary housing units shall equal at least the result of fifteen (15%) percent of the total number of units in the development project.
  2. In calculating the numbers of inclusionary housing units to be designated for any applicable development project, any fraction of a housing unit of 0.50 or greater shall be construed as a whole unit. In the case of any fraction of a unit of less than 0.50, the applicant shall be subject to payment of a fee in-lieu of construction of the fractional unit. Such fee shall be calculated as provided in paragraph F.4.a of this section, prorated by the applicable fraction.
  3. In the case of a development project for which a density bonus is sought pursuant to California Government Code section 65915 and subsection **20.40.040** of this section, the requirement of



paragraphs A and B.1-2 above shall apply to the base number of units proposed, exclusive of the units that would be added by the density bonus. Units designated for lower-income households may be counted toward satisfaction of the requirement for inclusionary housing, to the extent that such units meet all requirements of this subsection, including the requirement that units shall remain permanently restricted and affordable to the designated group.

C. Allocation by Income Group.

1. In development projects of ten (10) units or more, the number of inclusionary housing units shall be divided evenly between very-low-income households and low-income households. Where the number of inclusionary housing units is an odd number, the majority of the units may be provided at the low-income level with the remainder of units to be allocated to the very-low-income level.
2. In development projects of seven (7) through nine (9) units, all inclusionary housing units may be provided at the low-income level.

D. Inclusionary Housing Unit Requirements.

1. Inclusionary housing units shall remain affordable in perpetuity.
2. Housing projects that incorporate inclusionary housing units must meet the distribution and development criteria listed in subsection 20.40.050 of this section.
3. Project sponsors of housing projects that incorporate inclusionary housing units must enter into an Affordable Housing Agreement with the City for the purpose of ensuring continuing affordability of such units. Where project approval includes a subdivision of land, execution of an Affordable Housing Agreement shall be made a condition of approval of a tentative map. The contents of the Affordable Housing Agreement will be determined by the Community Development Director and City Attorney to ensure compliance with this section. The executed agreement, or memorandum thereof, shall be recorded following approval and execution of the agreement by all parties, and prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for parcels or units that are subject to the agreement. The conditions therein shall be filed and recorded on the parcel or parcels designated for construction of affordable dwelling units. The agreement shall be binding to all future owners and successors in interest.

E. Incentives. In the interest of promoting the inclusion of housing units on-site that are affordable to lower-income households, the City may grant certain incentives for projects that exceed the minimum required number of inclusionary housing units, where it is demonstrated that the granting of such incentives is necessary to ensure the economic feasibility of a project.

1. Applicability. Incentives shall not be applicable to secondary residential units or single-family dwellings in R-1 Single-Family Residential districts. This paragraph shall not apply to projects for which a density bonus is sought pursuant to Government Code section 65915 and subsection **20.40.040** of this section, which provide separate regulations on incentives.
2. Required Findings for Granting Incentives. An incentive under this paragraph E may only be granted if the City makes all of the following findings:
  - a. Exceptional circumstances have been demonstrated that require City assistance;
  - b. Acceptable documentation has been provided as to how such incentives will increase the feasibility of inclusion of affordable units in the development project; and
  - c. The project exceeds the minimum requirement for provision of inclusionary housing units.



3. Types of Incentives. The City, at its discretion, may grant incentives including but not limited to the types listed below.

a. Modification of Development Regulations. The City recognizes that modification to the following requirements (not listed in any order of priority) could result in financially sufficient, and actual, cost reductions that would facilitate additional inclusionary housing units. Such modifications may be made without a Variance.

1) Setback from a street or nonresidential property line.

2) Maximum lot coverage.

3) Setback from a residential property line, except where a daylight plane is required.

b. Other potential incentives that the City may consider on a case-by-case basis include:

1) Reduction of any architectural design standards or guidelines that exceed minimum building standards established by local or state building standard codes.

2) Assistance in design and/or construction of project-related public improvements, such as fronting curbs, sidewalks and tree planting.

3) Deferral, reduction or waiver of City fees, to be determined on a project-by-project basis, with the requirement that the project comply with legal requirements regarding prevailing wage.

4) Alternatives to on-site provision of inclusionary housing units, as described in paragraph F. below.

F. Alternatives to On-Site Provision of Inclusionary Housing Units. Upon finding that production of inclusionary housing units on a project site is not feasible due to the size of the project, the physical conditions of the site, or a demonstrated inability of the sponsor to secure financing of the inclusionary housing units, the City may approve one or a combination of the alternative means of meeting the inclusionary housing unit requirement as stated in the following paragraphs 1 through 5. (See subsection **20.40.040** for specific provisions pertaining to density bonus projects.)

1. Off-Site Location. Circumstances may arise in which the public interest would be served by allowing some or all of the inclusionary housing units associated with a development project to be produced and operated at a separate, detached development site. Such a site shall be considered as part of a single development project for purposes of this section, and the project sponsor shall be subject to the same requirements as if the inclusionary housing units were provided on the principal development site. This paragraph shall apply only where the principal and detached sites are located within zoning districts in which multi-family housing is a permitted or conditionally permitted use.

2. Land Dedication. An applicant may dedicate land to the City or to a nonprofit housing developer in lieu of actual construction of required inclusionary housing units, for the purpose of development of an equivalent number of affordable units.

3. Conversion. Conversion of existing market-rate housing to affordable units. Such units may be located off of the site of the project seeking approval. Where this alternative is employed, the value of the conversion project shall be equal to the cost of construction of the number of inclusionary housing units that are not constructed as part of the development project that generates the inclusionary requirement.



#### 4. In-Lieu Payment.

- a. An in-lieu fee shall be equal to the difference between the fair market value of an inclusionary unit and the ability of a household in the target income group to afford the rental or purchase price, as determined by the City at the time of issuance of a building permit for the development project. Procedures for the assessment, collection and adjustment of in-lieu fees shall be established by resolution of the City Council.
  - b. The City may allow payment of a fee by the sponsor of a development project, in lieu of providing some or all of the required fifteen (15%) percent affordable inclusionary housing units, upon finding that production of the units on the particular site is not feasible due to the size of the project, or the physical conditions of the site, or a demonstrated inability of the sponsor to secure financing, from private or public sources, of the inclusionary housing units.
  - c. If a development project is approved for payment of an in-lieu fee, the fee must be paid for each dwelling unit approved for such payment, at the time of issuance of a building permit for the development project.
  - d. Fees collected by the City in lieu of inclusionary housing units shall be deposited into a fund known as the "Inclusionary Housing In-Lieu Fees Fund", the use of which shall be committed to the purpose of assisting the provision of housing for very-low- and low-income households. The use of the funds may include, but shall not be limited to land write downs, contributions to nonprofit organizations for housing construction, mortgage assistance for very-low- and low-income households, and the operation of transitional housing.
5. Other. The City may approve alternative methods of compliance with the inclusionary housing requirement if the applicant demonstrates that the intent of this subsection will be met by any such method. Any alternative to construction of the required number of inclusionary housing units, or any combination of alternative methods of meeting the requirement, shall provide a value equal to the amount that would be calculated for an in-lieu fee according to paragraph 4.a above.

#### § 20.40.040 Density Bonus.

[Ord. No. 05-06; Ord. No. 2014-11 § 6; Ord. No. 2018-04; amended 12-4-2023 by Ord. No. 2023-06]

The City will facilitate the production of housing units for eligible households in accordance with California Government Code section 65915 et seq. and the procedures and standards provided in this section.

- A. Density Bonus Eligibility. To qualify for a density bonus, a project sponsor for a proposed housing development shall commit to include a proportion of dwelling units that qualify the project for a density bonus under Government Code section 65915(b)(1). The project sponsor must inform the City which subsection under Government Code section 65915(b)(1) the project is seeking a density bonus under.
- B. Density Bonus Calculation. The maximum density bonus a housing development project may receive will be calculated in accordance with subsections (f), (g), (h), and (v) of Government Code section 65915.
- C. Incentives or Concessions. In addition to granting a density bonus under paragraph A above, the City will also grant incentives or concessions to qualifying housing development projects in accordance with the requirements of Government Code section 65915(d). The number of incentives or concessions a project is entitled to will be determined in accordance with Government Code section 65915(d)(2). A project is entitled to incentives and concessions regardless of the project's inclusion of density bonus units.
  1. Types of Incentives or Concessions. In accordance with, and further defined in Government Code



section 65915(k), for purposes of this section, an incentive or concession means any of the following:

- a. A reduction or modification in site development or design standards that would otherwise be required that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code section 65915(c).
- b. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
- c. Other regulatory incentives or concessions proposed by the project sponsor that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code section 65915(c).

2. Findings for Denial of Incentives or Concessions. The City will grant a requested concession or incentive unless the City makes one of the findings set forth in Government Code section 65915(d)(1)(A)-(C). The City is not required to deny a proposed incentive or concession solely because it is able to make the findings for denial. Any such finding(s) shall be in writing and based upon substantial evidence.

D. Waivers or Reductions of Development Standards.

1. General. In accordance with Government Code section 65915(e), the project sponsor may submit to the City a proposal for waiver or reduction of any development standard that will have the effect of physically precluding the construction of a housing development project that qualifies, under paragraph A of this subsection, for a density bonus at the permitted density and with the granted concessions(s) or incentives(s). A proposal for the waiver or reduction of development standards pursuant to this paragraph D will not reduce or increase the number of incentives or concession to which the project sponsor is entitled pursuant to paragraph C above.
2. Findings for Denial. The City is not required to waive or reduce development standards if the City finds that the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. The City is also not required to waive or reduce development standards if doing so would be contrary to state or federal law or have an adverse impact on any real property that is listed in the California Register of Historical Resources.
- 3.
3. Other. The City may work with the project sponsor and recommend changes to the requested waivers and reductions as part of the Design Review process, in order to address aspects of the project that may be of concern in the community or inconsistent with overarching principles of the General Plan, Zoning Ordinance and Design Guidelines.

- E. Affordable Housing Agreement. Project sponsors of developments employing density bonus under this subsection shall enter into an Affordable Housing Agreement with the City for the purpose of ensuring continuing compliance with applicable provisions of Government Code section 65915 and all applicable regulations and conditions of the City. Where project approval includes a subdivision of land, execution



of an Affordable Housing Agreement shall be made a condition of approval of a tentative map. The contents of the Agreement shall be determined by the Community Development Director and City Attorney.

F. Application Procedures and Review for Density Bonus Projects.

1. General. In accordance with Government Code section 65915(j), the granting of a density bonus, incentives, concessions, waivers, and/or reductions of development standards shall not require or be interpreted, in and of itself, to require a general plan amendment, zoning change, study or other discretionary approval.
2. Application. The granting of a density bonus, incentives, concessions, waivers, and/or reductions of development standards are exempted, by Government Code section 65915, from discretionary approvals. However, density bonus requests must accompany housing development permit applications and elements of housing development proposals may be subject to discretionary approvals or other procedures set forth in section 20.100.
3. Application Requirements. The Community Development Director shall create an application and list of submittal requirements for projects seeking a density bonus pursuant to this subsection and Government Code section 65915. Among other things, the application shall require project sponsors to include the information necessary to establish that the housing development project qualifies for the requested density bonus, incentives, concessions, waivers, and/or reductions of development standards.

**§ 20.40.050 Distribution and Development Criteria of Affordable Units.**  
**[Ord. No. 05-06; Ord. No. 2018-04]**

The following criteria shall apply to housing projects that contain affordable units created pursuant to subsections **20.40.030** and/or **20.40.040** above.

- A. Affordable units shall be constructed concurrently with or prior to non-restricted units, unless the City and the project sponsor agree, within the required Affordable Housing Agreement, to an alternative schedule for development.
- B. Affordable units shall be dispersed throughout the project site. This requirement may be modified at the discretion of the decision-making body or the Community Development Director for ministerial projects, to facilitate the production of affordable housing in conjunction with a nonprofit affordable housing developer.
- C. Affordable units shall have, to the extent feasible, the same bedroom mix as the market-rate units in the same development, except that the project sponsor may include a higher number of bedrooms in the affordable units.
- D. The interior and exterior design and appearance of affordable units shall be the same as the housing project's market rate units in terms of appearance, materials, and finish quality.
- E. Residents of affordable units shall have access to the same common areas and amenities that are available to residents of the housing project's market-rate units.
- F. Other development criteria and requirements may be established as conditions of project approval, and all such conditions shall be incorporated into the Affordable Housing Agreement.

**§ 20.40.060 Housing for Persons with Disabilities.**  
**[Ord. No. 05-06]**



- A. General. The City will require that housing developments include units that are accessible and adaptable to the needs of disabled residents, as required under applicable Federal, State and City laws and all regulations and codes that are in current effect.
- B. Reasonable Accommodation.
  - 1. Purpose. It is the policy of the City of Albany, pursuant to the Federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, to provide people with disabilities reasonable accommodation in rules, policies, practices and procedures that may be necessary to insure equal access to housing. The purpose of this section is to provide a process by which individuals with disabilities may request reasonable accommodation in regard to relief from the various land use, zoning or building laws, rules, policies, practices and/or procedures of the City.
  - 2. Public Notice of Availability of Accommodation Process. The Community Development Department shall display in a prominent location a notice advising that disabled individuals may request reasonable accommodation in accordance with procedures established by this section.
  - 3. Application.
    - a. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures may be filed on an application form provided by the Community Development Department, at any time that the accommodation may be necessary to insure equal access to housing. Such application shall include the following information.
      - 1) Applicant's name, address and telephone number.
      - 2) Address of the property for which the request is made.
      - 3) The current use of the property.
      - 4) The regulation for which accommodation is requested.
      - 5) The basis for the claim that the applicant is considered disabled under the Fair Housing Act of 1988 as amended, and why the accommodation is necessary to make the specific housing available to the individual.
    - b. If such request is related to a project that also requires another permit or approval under the zoning regulations, the applicant shall file the accommodation request together with an application for the project permit or approval.
  - 4. Approval Authority. The Community Development Director shall have authority to approve, approve with conditions, or deny requests for reasonable accommodations.
  - 5. Required Findings. Reasonable accommodation may be granted only if the Community Development Director makes all of the following findings:
    - a) The housing that is the subject of the request for reasonable accommodation will be used by an individual protected under the Fair Housing Amendments Act of 1988.
    - b) The requested reasonable accommodation is necessary to make housing available to an individual protected under the Act.
    - c) The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.



- d) The requested reasonable accommodation will not require a fundamental alteration of the zoning or building laws, policies, and/or procedures of the City.
6. Action. The Community Development Director shall issue a written determination within thirty (30) days of receipt of an application. If the Community Development Director advises the applicant that specific additional information is required in order to reach a determination, the thirty- (30) day period shall be stayed until the applicant has provided such additional information. The written determination on the request for reasonable accommodation shall be sent to the applicant by certified mail, return receipt requested.
7. Design Review. The Community Development Director shall have the discretion either to waive or to require a design review procedure according to Section 20.100.050. The Community Development Director may extend the thirty- (30) day period provided above by paragraph 6 as necessary to complete the design review procedure.
8. Appeals. Any action of the Community Development Director may be appealed according to procedures established by subsection 20.100.080.

**§ 20.40.070 Emergency Shelter.**

[Ord. No. 05-06; Ord. No. 2014-02 § 6; amended 12-4-2023 by Ord. No. 2023-06]

The purpose of this section is to provide guidelines to be used in the implementation of the Housing Element policies regarding the siting and permitting of emergency shelters, including facilities that meet the description of "Emergency Shelter" in subsection 20.16.050.E.

**A. Applicability.**

1. General. An emergency shelter may be located in the zoning district or districts where such use is listed in subsection 20.12.040, Table 1.

**B. Physical Characteristics.** Applicants for approval of an emergency shelter shall demonstrate the following:

1. The facility provides adequate living space, shower and toilet facilities and secure storage areas for its intended residents.
2. The facility conforms to standards for sleeping rooms, as stated in codes adopted by the City and in current effect.
3. The facility is a minimum of three hundred (300) feet from any other emergency shelter, as measured between the closest points of the property boundaries involved.
4. The facility shall include indoor intake and waiting areas.
5. The facility shall include adequate indoor bicycle parking for employees and residents.
6. The facility accommodates no more than 25 beds. A shelter with more than 25 beds may be allowed with approval of a major use permit by the Planning and Zoning Commission under procedures stated in Section 20.100.030.B.2.

**C. Programmatic Characteristics.** Applicants for approval of emergency shelter shall submit detailed program information, demonstrating at a minimum that:

1. The program establishes a maximum number of days of residency per client, and accommodations are appropriate to the number of days.



2. The program identifies a transportation system that provides its clients with a reasonable level of mobility, including but not limited to, access to social services and employment opportunities.
3. The program provides an identified administrator, a liaison to the City and support agencies, and an on-site supervisor, all of whom have demonstrated experience in similar programs.
4. If the program includes drug or alcohol abuse counseling, appropriate State licensing is secured.
5. The program specifies standards, rules and operational arrangements covering on-site meal preparation or other means of providing food; expulsion procedures; and curfew times.
6. If applicable, child care is provided on-site or arrangements are in place for child care service elsewhere, along with assurance that children will be enrolled in school during their stay in the facility.
7. Identification of funding mechanisms sufficient to ensure compliance with required siting and programmatic criteria.

**§ 20.40.080 Housing Provisions.**

[Ord. No. 09-011 § 21]

- 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 the number of lots or square footage of construction previously approved.
- C. Any such appeal shall be made in writing and filed with the City Clerk not later than ten (10) calendar days before the first public hearing on any discretionary approval or permit for the development, or if no such discretionary approval or permit is required, or if the action complained of occurs after the first public hearing on such permit or approval, then the appeal shall be filed within ten (10) calendar days after payment of the fees objected to. The appeal shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment. The City Council shall consider the appeal at the public hearing on the permit application or at a separate hearing within sixty (60) calendar days after the filing of substantial evidence to support the appeal including comparable technical information to support appellant's position. No waiver shall be approved by the City Council for a new tentative subdivision or parcel map, user permit or similar discretionary approval on property with an approved tentative subdivision or parcel map, use permit or similar discretionary permit unless the Council finds that the new tentative subdivision or parcel map, user permit or similar discretionary approval is superior to the approved project both in its design and its mitigation of environmental impacts. The decision of the Council shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment, or reduction of the fee or inclusionary requirement.



§ 20.08.020 **Definitions (A-Z).**

[Ord. No. 04-09; Ord. No. 05-06; Ord. No. 07-01 § 1; Ord. No. 09-03 § 2; Ord. No. 09-011 § 1; Ord. No. 2015-03 § 2; Ord. No. 2017-07 § 1; amended 9-6-2022 by Ord. No. 2022-03]

**ABUTTING DISTRICTS OR LOTS**

Means districts or lots that share a common boundary line. Districts located across the street from one another are considered abutting.

~~**AFFORDABLE DWELLING UNIT, FOR RENT**~~

~~Means a unit for which the total monthly rent plus utilities does not exceed thirty (30%) percent of the monthly income for low- or very low-income households, respectively, as defined in this chapter. (See definitions under "Household" below.)~~

~~**AFFORDABLE DWELLING UNIT, FOR SALE**~~

~~Means a unit for which the total monthly payment, including interest, taxes, insurance, and utilities does not exceed thirty (30%) percent of the monthly income for low- or very low-income households, respectively, as defined in this chapter. (See definitions under "Household" below.)~~

~~**AFFORDABLE HOUSING AGREEMENT**~~

~~Means an agreement between the City and the sponsor of a housing development project that includes affordable dwelling units, for the purpose of assuring continued affordability of such units for a period specified by this chapter or for such longer period as may be stated in such agreement.~~

**AGGRIEVED**

Means any person beneficially interested who is injured or wronged by an action.

**ALTERATION, STRUCTURAL**

Means any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, or any change to the building envelope, including but not limited to a change of a roof line or roof shape, including creating, enlarging or extending a dormer.

**APPLICANT, QUALIFIED**

Means an individual with a freehold, possessory or contractual interest in land that is subject to an application for approval under this chapter, or the authorized agent of such an individual.

**AREA, LOT**

Means the total horizontal area included within the lot lines of a site.

**AWNING**

Means a temporary shelter, usually constructed of canvas, which is supported entirely from the exterior wall of a building.

~~**BONUS, DENSITY**~~

~~Means an increase over the maximum residential density allowed by this chapter for a given site, as may be permitted, pursuant to California Government Code Section 65915, for the purpose of creating affordable dwelling units.~~

**BREEZEWAY**

Means a structure for the principal purpose of connecting the main building on a site with any other structure on the same site.

**BUILDING**

Means any structure having a roof supported by columns or walls, for the housing or enclosure of persons or property of any kind.

**BUILDING, ACCESSORY**

Means a detached, subordinate building, the use of which is clearly incidental to that of a main building or to the use of the land.

**BUILDING, MAIN**

Means a building in which is conducted the principal use of the lot upon which it is situated.

**BUILDING, TEMPORARY**

Means a building not permanently attached to the ground or to a permanent foundation.

**COMMISSION, PLANNING AND ZONING**

Means the Planning and Zoning Commission of the City of Albany.

**~~COMMON INTEREST DEVELOPMENT~~**

~~Means any of a community apartment project, a condominium project, a planned development, or a stock cooperative, as defined by California Civil Code Section 1351.~~

**CONDOMINIUM**

Means an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof.

**CORNICE**

Means a horizontal molded projection that crowns or completes a building or wall.

**COURT**

Means an open space, other than a yard, on the same site with a structure or group of structures and which is bounded on three (3) or more sides by the structure or structures.

**COVERAGE, LOT**

Means the land area covered by all the structures on a site, including all projections, except portions of uncovered decks, porches, landings, balconies, or stairways that are less than six (6) feet above grade and are not enclosed by walls on more than two (2) sides; eaves; trellises or other structures that do not have solid roofs.

**DAYLIGHT PLANE**

Means a tilted plane that connects a vertical plane with a horizontal plane for the purpose of supplementing applicable setback requirements, with the vertical plane being based on a property line or a setback line, and the horizontal plane being based on a maximum height limit.

**~~DENSITY BONUS UNIT~~**

~~Means a dwelling unit that results from the application of a density bonus to a housing development, and thus is counted in excess of the number of dwelling units that would otherwise be permitted on a site.~~

**DENSITY, RESIDENTIAL**

Means number of dwelling units per net acre, determined by dividing the number of dwelling units by the net acreage of the lot area, in acres. Net acreage shall be the area of the site less any land dedicated



for public right-of-way or other public purpose, but excluding easements for access, utilities or other purposes that do not require dedication to public ownership.

**DEVELOPMENT STANDARD**

Means as used with respect to a density bonus in subsection **20.40.040**, includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law policy, resolution, or regulation.

**DISTRICT**

Means a portion of the City within which certain regulations controlling land use, site area, coverage, yards and other open spaces, height of structures and other physical development standards, apply under the provisions of this chapter.

**DRIVE-IN ESTABLISHMENTS**

Means facilities which are so designed and operated as to enable persons to receive a service or purchase, or consume goods, while remaining within a motor vehicle.

**DWELLING UNIT**

Means a structure, building, or a portion of a structure or building, designed for occupancy by one (1) family for living and sleeping purposes. Does not include units within hotels or similar facilities that provide transient accommodations.

**EAVE**

Means the overhang of a roof that projects beyond the exterior walls of a structure.

**EMERGENCY HOUSING**

Means any facility that provides sleeping accommodations on a temporary basis, generally less than six (6) months, to persons who lack shelter due to such problems as illness, disability, lack of income, family violence or displacement resulting from a disaster. Food and other support services may be provided. See also "Transitional Housing."

**FAMILY**

Means an individual or two (2) or more persons living as a single housekeeping unit in a dwelling. A family includes any servants and four (4) or fewer boarders.

**FENCE**

Means a structural barrier that defines or encloses an uncovered space such as a lot or a portion of a lot.

**FLOOR AREA**

Means the total horizontal area in square feet on each floor within and including the exterior walls of a structure but not including the area of inner courts, shaft enclosures, and mechanical equipment rooms.

**FLOOR AREA RATIO**

Means the proportion of building floor area per area of the parcel of land upon which the building rests.

**FRONTAGE**

Means the property line of a site abutting on a street.

**GAMING ACTIVITIES**

Means gambling; betting.

**GLARE**

Means annoyance, discomfort or loss of visual performance and visibility to the eye, experienced by a viewer with a direct line of sight to a light source.

## **GRADE**

Means the elevation, above a reference level such as mean sea level, of any point or points on a ground surface. Also, the degree of inclination between points on a ground surface.

## **GRADE, FINISH**

Means the lowest point of the finished surface of the ground between a building and a property line or, where the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building; or, where there is an approved grading plan, the final configuration of the terrain in conformance with the approved grading plan.

## **GRADE, NATURAL**

Means the original, unaltered elevation of the ground surface, or any other existing elevation that has remained undisturbed for a period of seven (7) years or more.

## **GRADING**

Means the process of altering the grade of a site.

## **HABITABLE SPACE**

Means any space for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space. General dimensional requirements are contained within the latest edition of the Uniform Building Code as adopted by the City.

## **HEIGHT**

Means the distance of a point of any structure above a plane defined by the natural grade at the perimeter of the structure, such distance being measured directly from the point.

## **HOME OCCUPATION**

Means a nonresidential activity or use carried on within a dwelling, by the inhabitants thereof, which use is clearly incidental to the residential use and does not alter the character of the premises.

## **HORTICULTURE**

Means the growing of fruits, vegetables or ornamental plants.

## **HOUSEHOLD, LOW-INCOME**

~~Means a household whose gross income is greater than fifty (50%) percent but no greater than eighty (80%) percent of the median income as established for Alameda County by the U.S. Department of Housing and Community Development.~~

## **HOUSEHOLD, LOWER-INCOME**

~~Means a household whose gross income is no greater than eighty (80%) percent of the median income as established for Alameda County by the U.S. Department of Housing and Community Development; includes classifications of low income and very low income. For purposes of density bonus projects, units targeted for lower income households shall be affordable at a rent that does not exceed thirty (30%) percent of sixty (60%) percent of the median income established for the County.~~

## **HOUSEHOLD, MODERATE-INCOME**

~~Means a household whose gross income is greater than eighty (80%) percent and no greater than one hundred twenty (120%) percent of the median income as established for Alameda County by the U.S. Department of Housing and Community Development.~~



### **~~HOUSEHOLD, VERY LOW INCOME~~**

~~Means a household whose gross income is no greater than fifty (50%) percent of the median income as established for Alameda County by the U.S. Department of Housing and Community Development. For purposes of Density Bonus projects, units targeted for very low income households shall be affordable at a rent that does not exceed thirty (30%) percent of fifty (50%) percent of the median income established for the County.~~

### **INCLUSIONARY HOUSING**

Means one (1) or more dwelling units that are included in a housing development project and made available for occupancy by lower-income households as a proportion of the total number of dwelling units in the project, wherein the majority of dwelling units are available without restriction as to the incomes of residents.

### **INTERNAL ILLUMINATION**

Means a method of sign illumination where a sign houses an internal electrical system of lighting. This type of sign includes halo-lit and individually illuminated letters.

### **LANDSCAPED STRIP**

Means a landscaped area abutting a property line of a site.

### **LIQUOR STORE**

Means a retail store where the predominant products sold, representing twenty (20%) percent or more of the sales floor area, are alcoholic beverages including beer, wine and distilled spirits, under an "Off-sale General" license by the State of California; also known as a "package store."

### **LOADING SPACE**

Means an off-street space or berth for the temporary parking of a vehicle while loading or unloading merchandise or materials.

### **LOT, CONFORMING**

Means a parcel of subdivided land having such dimensions and site area as are required by the provisions of this chapter, and designed to be occupied by a permitted use or structure, including such yards and other open spaces as are required by the provisions of this chapter, and having its principal frontage on a street.

### **LOT, CORNER**

Means a lot located at the intersection of two (2) or more streets, which streets have an angle of intersection of not more than one hundred thirty-five (135) degrees. For the purposes of this chapter, the front of a corner lot shall be considered the smaller dimension of the lot, and the side the longer dimension of the lot.

### **LOT, INTERIOR**

Means a lot abutting only one (1) street, and not meeting the definition of a corner lot.

### **LOT, NONCONFORMING**

Means any lot, existing and recorded as a separate parcel in the office of the County Assessor at the effective date of this chapter, which does not conform to the area or width requirements of the district in which it is located.

### **LOT, THROUGH**

Means a lot abutting two (2) streets that do not intersect at any point on the boundaries of the lot. Any lot that meets both the definitions of a through lot and a corner lot shall be deemed to be a corner lot.



**MANUFACTURED HOME**

Means a single-family dwelling unit that is prefabricated or factory-built, certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, and attached to a foundation system that meets requirements of the California Health and Safety Code.

**MASSAGE**

See Albany Municipal Code subsection 5-13.2.

**MASSAGE ESTABLISHMENT**

See Albany Municipal Code subsection 5-13.2.

**MASSING**

Means the shape, size, scale, and orientation of a structure in three (3) dimensional space.

**MEDICAL CANNABIS DISPENSARY**

Means any association, business, facility, use, establishment, location, delivery service, cooperative, collective, or provider, whether fixed or mobile, that possesses, cultivates, distributes, or makes available medical cannabis to three (3) or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card or a patient with a prescription or recommendation from a medical doctor. A dispensary shall not include the following uses, as long as the location of such uses is otherwise regulated by this Code or applicable law:

1. A clinic licensed pursuant to Chapter 1, Division 2 of the Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code;
5. A residential hospice or a health home agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as such use complies strictly with applicable law, including but not limited to, Health and Safety Code Section 11362.5 et seq.

**MOBILE RECYCLING UNIT**

Means an automobile, truck, trailer, or van and appurtenant bins, boxes, or containers used for the collection of recyclable materials.

**NONCONFORMING STRUCTURE**

Means any legally created structure which no longer conforms to the density, height, coverage, yard, landscaping and screening, usable open space, sign, parking, loading or other requirements applied to structures by this chapter.

**NONCONFORMING USE**

Means any use which was legal when created and which is no longer itself a permitted or conditionally permitted use in the district in which it is located.

**OPEN SPACE, COMMON USABLE**

Means usable open space available for use by the occupants of more than one (1) dwelling unit. Controlled and maintained by a property owner or an incorporated nonprofit homeowner's association;



or dedicated in fee to, and maintained by, a public agency or recreation district and devoted to all use by residents who will occupy the district.

**OPEN SPACE, PRIVATE USABLE**

Means roof, balcony, deck, porch, terrace or other outdoor areas designed for use by the occupants of a single dwelling unit.

**OPEN SPACE, PUBLICLY-ACCESSIBLE**

Means paseos, plazas, outdoor dining areas, recreation areas, and other similar areas available for use by the public for at least daylight hours. Spaces be either offered as dedication to the City or privately owned and maintained with dedication of a public access easement at no public expense.

[Added 9-6-2022 by Ord. No. 2022-03]

**OPEN SPACE, USABLE**

Means outdoor areas, open to the sky, on the ground, or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping by all residents for whom the space is intended. Does not include street rights-of-way, public or private surface easements, accessory buildings, open parking areas, driveways, and access ways for the dwellings, land area utilized for garbage and refuse disposal or other servicing maintenance, or required front or corner side yards. Suitable recreational structures designed to be consistent with the intent of this definition may be considered usable open space.

**PARKING FACILITY**

Means any area or structure, other than within a public street, which is used for the parking of two (2) or more vehicles, but not including the storage of vehicles for sale or repair.

**PARKING, OFF-STREET**

Means parking spaces located on private property or public property that is not designated as a public right-of-way.

**PARKING, ON-STREET**

Means parking spaces located within the public right-of-way.

**PARKING SPACE (OFF-STREET)**

Means a space meeting dimensional requirements of Subsection **20.28.030** either enclosed in a structure or open, the principal use of which is the storage or parking of automobiles.

**PERMIT, USE, MAJOR**

Means authorization, granted by the Planning and Zoning Commission subject to compliance with conditions, for a specified use of a property, where such authorization is allowed by this chapter in the zoning district in which the property is located.

**PERMIT, USE, MINOR**

Means authorization, granted by the Community Development Director subject to compliance with conditions, for a specified use of a property, where such authorization is allowed by this chapter in the zoning district in which the property is located.

**PLANNED UNIT DEVELOPMENT**

Means a development adhering to a comprehensive plan and located on a single tract of land, or on two (2) or more contiguous tracts of land which may be separated only by a street or other public right-of-way. (See subsection **20.100.060**)



**PRE-EXISTING**

Means in existence prior to the effective date of this ordinance.

**PRIVATE SCHOOL**

Means a school not operated by the Albany Unified School District, the State or any political subdivision thereof.

**RESIDENTIAL DEVELOPMENT**

Means a project consisting of new construction of one (1) or more residential buildings, inclusive of condominiums, mobile homes, new and legalized secondary dwelling units, or an addition to the gross floor area of a residential structure or an accessory structure.

**RETAINING WALL**

Means a wall of any material that is separate from the structural support of a building and serves to retain earth.

**RIGHT CUMULATIVE**

Means any right that pertains in addition to, or cumulative to, other rights allowed by law.

**RIGHT-OF-WAY, PUBLIC**

Means an area of land that is reserved for, by dedication or easement, for access or passage for public purposes; such area may be used for streets, sidewalks, utility lines, rail lines or other uses determined to be in the public interest.

**SENIOR CITIZEN HOUSING DEVELOPMENT**

Means a housing development which has been designed to meet the physical and social needs of senior citizens and which otherwise qualifies as "housing for older persons," as that phrase is used in California Civil Code Sections 51.3 and 51.12 and Federal statutes.

**SETBACK**

Means the required distance that a building, structure or other designated item must be located from a lot line.

**SHOPPING CENTER**

Means a commercial development occupied by a group of five (5) or more separate commercial uses, with parking on the site for the benefit of the uses that occupy the site.

**SIGNIFICANT TOBACCO RETAILER**

Means any tobacco retailer that derives seventy-five (75%) percent or more of gross sales receipts from the sale or exchange of tobacco products and tobacco paraphernalia.

The following terms related to tobacco retailers have the following meanings:

- a. Tobacco Product means (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.
- b. Tobacco Paraphernalia means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or



consumption of tobacco products.

**STORY**

Means a portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above.

**STREET**

Means a public thoroughfare dedicated as such or acquired for use as such, which affords the principal means of access to abutting property.

**STREET LINE**

Means a boundary line between a street and abutting property.

**STRUCTURE**

Means anything constructed or erected which requires a location on the ground.

**TRANSITIONAL HOUSING**

Means any sleeping facility or dwelling unit that serves as a transition from emergency housing to permanent housing, for a period generally of six (6) months to twenty-four (24) months, usually supported by social services to help prepare residents for independent living. See also "Emergency Housing."

**TREE, LANDMARK**

Means any tree having a trunk with a diameter at breast height (DBH) of eighteen (18) inches or greater, which has been verified by a qualified professional arborist to be a significant specimen, considering such factors as size, species, health and location.

**TREEHOUSE**

Means a structure that utilizes a tree as a principal support.

**UPHILL SITE**

Means a lot that is located on a slope that extends upward from the horizontal plane of the public right-of-way which provides primary access to the lot, with reference to the perpendicular cross-section of the public right-of-way at the midpoint of the frontage of the lot.

**USE, ACCESSORY**

Means a subordinate use that is incidental to the principal use of a site, structure, or dwelling unit.

**USE, PRINCIPAL**

Means the primary purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged or for which either a site or a structure is or may be occupied or maintained.

**WIRELESS COMMUNICATIONS FACILITY**

Wireless Communications Facility means any device or system for the transmitting and/or receiving of electromagnetic signals, including but not limited to radio waves and microwaves, for cellular technology, personal communications services, mobile services, paging systems and related technologies. Facilities include antennas, microwave dishes, parabolic antennas and all other types of equipment used in the transmission and reception of such signals; structures for the support of such facilities, associated buildings or cabinets to house support equipment, and other accessory development.

The following terms related to wireless communications facilities have the following meanings:



- a. Antenna means any system of poles, panels, rods, reflecting disks, wire or similar devices used for the transmission or reception of electromagnetic signals. Does not include any support structure upon which an antenna is mounted.
- b. Antenna Equipment A cabinet, room, or similar structure which houses the electronic facilities used to operate an antenna.
- c. Antenna Structure means any structure, including a pole, mast, or tower, whether freestanding or mounted on another building or structure, that supports an antenna or an array of antennas. The height of an antenna structure is measured to the highest point of any antenna mounted thereon.
- d. Base Station means the primary sending and receiving site in a wireless telecommunications network, including all radio-frequency generating equipment connected to antennas. More than one (1) base station and/or more than one (1) variety of telecommunications providers can be located on a single tower or structure.
- e. Co-Location means a situation in which a single support structure supports one (1) or more antennas owned or used by more than one (1) public or private entity.
- f. Distributed Antenna Systems (DAS) means a wireless telecommunications facility network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.
- g. Maintenance For purposes of this section, maintenance is defined as:
  - 1) Scheduled preventive inspections and activities per manufacturer's instructions or regulatory requirements;
  - 2) Corrective maintenance including modification to existing equipment to repair physical damage or correct internal faults;
  - 3) Minor repositioning or changes in internal components to improve performance or energy efficiency or increase power output;
  - 4) Other changes to the existing equipment that does not substantially change appearance.
- h. Microcell Facility means a wireless telecommunications facility characterized by small antennas and equipment cabinets, and typically sited on an existing or replacement street light, utility pole, sign or other suitable structure; or an existing building.
- i. Monitoring Protocol means an industry accepted radio-frequency (RF) radiation measurement protocol used to determine compliance with FCC RF radiation exposure standards, in accordance with the National Council on Radiation Protection and Measurements Reports 86 and 119 and consistent with the RF radiation modeling specifications of OET Bulletin 65 (or any superseding reports/standards), which is to be used to measure the emissions and determine radio-frequency radiation exposure levels from existing and new telecommunications facilities. RF radiation exposure measurements are to be taken at various locations, including those from which public RF exposure levels are expected to be the highest.
- j. Monopole means a type of freestanding antenna structure that is seventeen (17) feet or more in height and is designed to be self-supporting without the use of guy wires.
- k. Preferred Wireless Zoning District means a zone where the City has determined that the location of a wireless communications facility would reduce the noise, aesthetic and visual impact of that facility relative to its placement in another zone. The City has determined that wireless communication facilities may be located in the following order of preference: CMX, PF, and SPC or SC.



- l. Radio Frequency (RF) Radiation means radiation from the portion of the electromagnetic spectrum with frequencies below the infrared range (approximately 100 GHz and below), including microwaves, television VHF and UHF signals, radio signals, and low to ultra low frequencies.
- m. Receive-Only Antenna means antenna for the reception of radio and television signals, without transmitting capabilities; may include pole or dish types of antennas.
- n. Repeater means a small receiver/relay transmitter of not more than twenty (20) watts output designed to provide service to areas which are not able to receive adequate coverage directly from a base station.
- o. Satellite Dish means a bowl-shaped antenna used to receive and/or transmit electromagnetic signals to and from an orbiting satellite.
- p. Stealth Facility means a wireless communications facility located so as to be of minimal visibility, such as being incorporated within an architectural feature such as a steeple or parapet, or in the open but disguised as a tree or other natural feature.

#### **YARD**

Means an open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward. Yard spaces shall be measured horizontally from and at right angles to the nearest point of the respective lot line towards the nearest part of a structure on the lot, exclusive of retaining walls, fences and certain architectural features and permitted projections as provided for in subsection **20.24.060**.

- a. Yard, front means a yard of uniform depth extending across the full width of the lot inward from the front lot line. The front lot line shall be determined by the Community Development Director.
- b. Yard, rear means a yard of uniform depth extending across the full width of the lot inward from the rear lot line. In the case of a through lot, the location of the rear yard shall be determined by the Community Development Director.
- c. Yard, side means a yard on each side of the main building extending from the front yard, or the front lot line where no front yard is required, to the rear yard, or the rear lot line where no rear yard is required. A side yard abutting a street is termed an exterior side yard; a side yard not abutting a street is termed an interior side yard.

§ 20.16.020 **Residential Use Classifications.**

[Ord. No. 04-09; Ord. No. 2014-02 § 2; Ord. No. 2014-05 § 4; Ord. No. 2014-11 § 2; Ord. No. 2017-06 § 1]

A. Residences.

1. **Single-Family Dwelling.** A freestanding structure arranged, designed, and intended to be occupied as one primary residence. An accessory dwelling unit may also be located in or associated with a single-family dwelling and may be attached or detached. [Amended 6-1-2020 by Ord. No. 2020-04]
2. **Two-Family Dwellings (Duplex).** A structure that is a type of multi-family residential structure that contains two dwelling units.
3. **Multi-Family Dwelling.** A structure that contains more than two dwelling units. Types of multi-family dwellings include townhouses, and apartment buildings.
4. **Live/Work Space.** Units that provide both living and work space for those engaged in professional or technical fields, or in the fine and applied arts, such as painting, sculpting, graphic design, desktop publishing, writing, and related fields.
5. **Residential Mixed-Use Development.** The use of a lot or building with two or more different land uses including, but not limited to, residential, commercial, retail, or office, in a single structure or a group of physically integrated structures on a contiguous lot.
6. **Shared Housing.** One or more buildings that by their design, arrangement and relationship intentionally bring together several households of various demographics and configurations for housing affordability. The facility may include but not be limited to adaptive or re-use of an existing single-family residence or commercial structure, or new construction. In all variations the housing includes chosen shared daily living areas, private rooms or quarters for each household, and may include optional income generating spaces.
7. **Senior Citizen Housing Development.** A housing development which has been designed to meet the physical and social needs of senior citizens and which qualifies as "housing for older persons," as that phrase is used in California Civil Code Sections 51.3 and 51.12 and Federal statutes. (See subsection **20.08.020**. Definitions (A-Z)).
8. "Accessory dwelling unit" or "ADU" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An accessory dwelling unit also includes the following: [Amended 6-1-2020 by Ord. No. 2020-04]
  - (a) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code; and
  - (b) A manufactured home, as defined by Section 18007 of the California Health and Safety Code.
9. ~~Affordable Dwelling Unit. See subsection 20.08.020. "Affordable Dwelling Unit, for Rent" or "Affordable Dwelling Unit, for Sale."~~





# City of Albany

1000 San Pablo Avenue • Albany, California 94706  
(510) 528-5710 • [www.albanyca.org](http://www.albanyca.org)

## **ORDINANCE NO. 2024-06**

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

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

AYES: Council Members Hansen-Romero, Jordan, López, Tiedemann and

Mayor Miki

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

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

Anne Hsu  
CITY CLERK