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ORDINANCE NO. 2025-01

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING
CHAPTER XX OF THE ALBANY MUNICIPAL CODE “PLANNING AND
ZONING”, REPEALING AND REPLACING SUBSECTION 20.24.130
“ACCESSORY BUILDINGS” OF THE ALBANY MUNICIPAL CODE AND
AMENDING SUBSECTION 20.08.020 “DEFINITIONS” TO DEFINE AND CLARIFY
REGULATIONS FOR ACCESSORY STRUCTURES**

WHEREAS, on December 6, 2004, the City Council of the City of Albany adopted Ordinance #04-09 establishing Chapter XX “Planning and Zoning” of the Albany Municipal Code (“Zoning Ordinance”); and

WHEREAS, Chapter XX established development regulations for accessory buildings in Planning and Zoning Code Section 20.24.130; and

WHEREAS, Planning and Zoning Code Section 20.24.130 is frequently utilized by City staff to ensure that accessory buildings and structures are compatible with their location and surrounding uses; and

WHEREAS, over time, City staff have observed limitations in the coverage of existing accessory building regulations; and

WHEREAS, Planning and Zoning Code Section 20.100.070.B authorizes the Planning and Zoning Commission to initiate, by resolution, an amendment to Chapter XX; and

WHEREAS, the proposed amendment is consistent with the City’s General Plan, which contains various policies and implementation actions associated with ensuring the scale and character of structures and buildings are appropriate for their setting; and

1 **WHEREAS**, the proposed amendments, by addressing the limitations in the existing
2 regulations, would help ensure that accessory structures would not adversely affect public
3 health, safety and general welfare; and
4

5 **WHEREAS**, at a duly noticed public hearing held on January 8, 2025, the Planning
6 and Zoning Commission considered the amendments and voted 4-0-0-0 to adopt a Planning &
7 Zoning resolution recommending to the City Council to amend the Zoning Ordinance; and
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9 **WHEREAS**, consideration of the ordinance is categorically exempt from the
10 California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the CEQA
11 Guidelines because the scope of this Ordinance is limited to implementing State law, and in
12 itself does not authorize a discretionary activity that results in a physical change to the
13 environment because the scope of this ordinance is limited to clarifying development standards
14 for accessory structures and can be seen with certainty that there is no possibility the adoption
15 of the ordinance amendments may have a significant effect on the environment, pursuant to
16 CEQA Guidelines §15183 (consistent with a Community Plan, the General Plan and Zoning);
17 and
18

19 **WHEREAS**, a public hearing notice was posted in three public places pursuant to
20 California Government Code Section on January 10, 2025; and
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22 **WHEREAS**, the Albany City Council held a public hearing on January 21, 2025 to
23 discuss the proposed amendments, considered all public comments received, the presentation
24 by City staff, the staff report, and all other pertinent documents regarding the proposed request.
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1 ***NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:***


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SECTION 1: CHAPTER 20 OF THE ALBANY MUNICIPAL CODE, SUBSECTION 20.24.130 TITLED “ACCESSORY BUILDINGS” IS HEREBY REPEALED AND REPLACED AS SPECIFIED IN EXHIBIT A:

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

SECTION 3: 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.


ROBIN D. LÓPEZ, MAYOR

- ATTACHMENTS:**
EXHIBIT A – Zoning Ordinance Repeal & Replace AMC Subsection 20.24.130
EXHIBIT B – Zoning Ordinance Amendments AMC Subsection 20.08.020

EXHIBIT A

§ 20.24.130. Accessory Structures. [Ord. No. 04-09; Ord. No. 09-011 § 19; Ord. No. 2014-05§ 7; amended 12-4-2023 by Ord. No. 2023-06]

- A. Purpose. These regulations are intended to ensure that required yard areas and access ways remain substantially open and unobstructed and that accessory structures are consistent with the General Plan and this chapter.
- B. Definitions. Refer to the definitions subsection of this chapter ([20.08.020](#)).
- C. Exceptions. Regulations of this subsection do not apply to the following:
 - 1. Accessory Dwelling Unit are regulated by subsection [20.20.080](#).
 - 2. Art in Public Places Installations are regulated by subsection [20.58](#).
 - 3. Structures operated by utility providers regulated by the California Public Utility Commission, Federal Communication Commission or other applicable State or Federal regulatory authority.
 - 4. Decks and patios are regulated by subsection [20.24.060](#).
 - 5. Fences, landscaping & screening are regulated by subsection [20.24.110](#).
 - 6. Mechanical equipment regulated by subsection [20.24.180](#).
 - 7. Signs are regulated by subsection [20.32](#).
 - 8. Wireless Facilities are regulated by subsection [20.20.100](#).
 - 9. Properties located in the Public Facilities (PF) Zoning District.
- D. Prohibited Uses and Restrictions.
 - 1. Cooking and sleeping accommodations are prohibited within accessory buildings. An accessory building which meets the California Government Code definition of an accessory dwelling unit shall be regulated by subsection [20.20.080](#).
 - 2. Only city permitted and licensed uses/home occupations may operate out of an accessory structure.
- E. Site Regulations
 - 1. Site Location.
 - a. No accessory structure may be located on a vacant lot except as provided for in subsections [20.20.090](#) and [20.24.140](#).
 - b. No accessory structure shall be closer than six (6) feet to the main building on the lot, nor located in a required front setback area.

2. Setbacks.
 - a. Accessory structures shall be within six (6) inches of the side or rear lot line or shall be set back at least three (3) feet from side or rear property line.
 - b. Accessory structures shall not have openings (windows, doors, and vents) within three (3) feet of the property line. This includes openings on walls that are perpendicular to a property line. An exception shall be made for garage (vehicle) doors.
 - c. Accessory structures located on the street side yard of corner lots are required to meet the minimum setback requirements for the main building.
3. Rear Setback Coverage. No accessory building or structure, nor the aggregate of two (2) or more accessory structures shall occupy more than thirty (30%) percent of the required rear setback area, or more than thirty (30%) percent of the entire rear yard, whichever is greater.
4. Maximum Height.
 - a. The maximum height of an accessory structure shall be twelve (12) feet, except that within three (3) feet of the property line, an accessory structure shall not exceed eight (8) feet six (6) inches in height, as measured from the top of the foundation, and no roof pitch shall exceed forty-five (45°) degrees.
 - b. Flag and light poles may be a maximum of sixteen (16) feet provided a 3-foot side and rear setback is maintained. (See subsection [20.32](#) for regulations of flags and subsection [20.36.020.C](#) for regulation of light fixtures.)
 - c. Basketball hoop with backboard or similar sports fixture may be a maximum of fourteen (14) feet provided a 3-foot side and rear setback is maintained.
5. Outdoor Cooking Facilities and Fire Pits.
 - a. Shall not be enclosed (no walls or roof)
 - b. Shall be setback from side and rear property lines by six (6) feet.
6. Tree Houses.
 - a. Maximum height. Twelve (12) feet above grade.
 - b. Maximum size. Thirty-six (36) square feet.
 - c. Setback. No tree house or means of access (e.g. ladder) shall be within three (3) feet of a property line.
 - d. No habitable space. A tree house is intended for recreational use and shall not be used as a habitable space.
 - e. Prohibitions. No electricity, plumbing or heating shall be allowed.
- F. Procedures, Design Review. Accessory structures shall be subject to Design Review procedures stated in subsection [20.100.050](#).

EXHIBIT B

§ 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; 1-16-2024 by Ord. No. 2023-07; ; 9-16-2024 by Ord. No. 2024-06]

[Only relevant Definitions shown]

BUILDING — Means any **enclosed** structure (**e.g. roof and four walls**)~~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, TEMPORARY — Means a building not permanently attached to the ground or to a permanent foundation.

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

STRUCTURE, ACCESSORY— Means a detached, subordinate structure that is incidental to the main structure or to the principal use of the land.

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



City of Albany

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

ORDINANCE NO. 2025-01

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

The 3rd day of February, 2025, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, McQuaid, Miki and

Mayor López

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 4th

day of February, 2025.

Anne Hsu
CITY CLERK

*Albany is committed to providing a healthy, safe, and accessible city,
and strives to lift every voice in our community.*