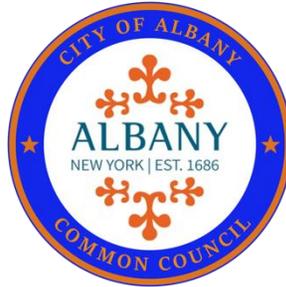


This meeting is being held in accordance to Governor Cuomo's Executive Order and other Federal and State Orders that impact in-person attendance at public meetings, if applicable orders expire or are revoked before the date of this meeting, it will be an in-person meeting in City Hall, please check our website and Facebook for updates. Please submit your public comment via email commoncouncil@albanyny.gov or on our website <https://www.albanyny.gov/Government/CityOfficials/CommonCouncil.aspx> by **12pm on the day of the meeting**. These comments will be shared with members, could appear on our social media and webpage and/ or read for the record at the meeting. The meeting will be held using Zoom and streamed through the Albany Common Council's Facebook. To stream this video please visit: <https://www.facebook.com/albany.commoncouncil>. If we experience any technical difficulties on Facebook, the video will be streamed to YouTube: https://www.youtube.com/channel/UC-rQHp1fBLPcdk_4N6J4XbQ



COMMON COUNCIL MEETING

GENERAL SERVICE, HEALTH AND ENVIRONMENT COMMITTEE

Michael O'Brien, Chair

DATE: TUESDAY, JUNE 8, 2021

TIME: 5:30 p.m.

TOPIC(S) OF DISCUSSION/CONSIDERATION:

RESOLUTION NUMBER 44.51.21R

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY
CELEBRATING THE CONTRIBUTIONS OF BENJAMIN G. GARLAND AND
RENAMING A PART OF CLINTON AVENUE IN HIS HONOR**

ORDINANCE 15.52.21

**AN ORDINANCE AMENDING ARTICLE III (PAVEMENT OPENINGS) OF CHAPTER 323
(STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO
THE OPENING AND REPAIR OF SIDEWALKS, STREETS, AND OTHER PAVEMENTS**

PUBLIC COMMENT PERIOD: YES

Council Members Love introduced the following:

RESOLUTION NUMBER 44.51.21R

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY
CELEBRATING THE CONTRIBUTIONS OF BENJAMIN G. GARLAND AND
RENAMING A PART OF CLINTON AVENUE IN HIS HONOR**

WHEREAS, Benjamin G. Garland and the Garland Brothers Funeral home, established in 1929, have been fixtures in Arbor Hill committed to serving the community; and

WHEREAS Benjamin G. Garland is the nephew of the late Benjamin H. Garland Sr and James Clifford Garland. Benjamin H. Garland Sr. and James Clifford Garland migrated north from DeKalb, Texas. Both brothers attended historically Black colleges with Benjamin H. attending and matriculating at Hampton Institute and James (“Doc”) matriculating at Fisk University; and

WHEREAS, both brothers developed an interest in the funerary business and graduated with degrees in Mortuary Sciences one graduating from the New England School of Mortuary Science in Boston, Massachusetts and the other completing his studies at Worsham School of Mortuary Science in Chicago, Illinois. This was the beginning of the Garland Brothers Funeral homes of Albany and Syracuse; and

WHEREAS, the Garland brothers belief in community activism and their commitment to advancing, advocating, and highlighting issues faced by the African American Community locally was passed on to Benjamin G. Garland ; and

WHEREAS, The Garland Brothers Funeral Home, located on Clinton Avenue in Arbor Hill, is a fixture that has provided and continues to provide many services to the people and the community; and

WHEREAS, Benjamin G. Garland, in 1969, with the passing of his uncle James Garland, took the over the Albany location. Benjamin G. Garland studied under the tutelage of Dr. Charlotte Hawkins Brown at Palmer Memorial Institute in Sedalia, North Carolina and graduated from the American Academy McAllister Institute of Funeral Services. He also apprenticed under his uncle and was employed at the Albany Medical Center Morgue and the United States Postal Service prior to assuming control over the Albany branch of Garland Brothers Funeral Home;

NOW THEREFORE, BE IT RESOLVED, that the Common Council of the City of Albany thanks Benjamin G. Garland for his commitment to the community, his years of service, and his dedication to the funerary business; and

BE IT FINALLY RESOLVED, that a portion of Clinton Avenue between Hawk Street and Ludlow Alley at the intersection of Clinton Avenue and Hawk Street, shall be renamed “Benjamin G. Garland Way” in his Honor.

To: Danielle Gillespie, City Clerk
From: John-Raphael Pichardo, Esq., Research Counsel

Re: Request for Common Council Legislation
Supporting Memorandum

Date: March 31, 2021

SPONSOR Council Member Love

RESOLUTION NUMBER 44.51.21R

TITLE

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF ALBANY CELEBRATING THE CONTRIBUTIONS OF BENJAMIN G. GARLAND AND RENAMING A PART OF CLINTON AVENUE IN HIS HONOR

GENERAL PURPOSE OF LEGISLATION

Celebrating the contributions of Benjamin G. Garland to the Arbor Hill Community.

FISCAL IMPACT(S)

None.

Council Member O'Brien introduced the following:

ORDINANCE 15.52.21

AN ORDINANCE AMENDING ARTICLE III (PAVEMENT OPENINGS) OF CHAPTER 323 (STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE OPENING AND REPAIR OF SIDEWALKS, STREETS, AND OTHER PAVEMENTS

The City of Albany, in Common Council convened, does hereby ordain and enact:

Section 1. Sections 323-66 (Permits required; fee, transferability), 323-37 (Public notification of street closing), and 323-68 (Application for permits) of Article III (Pavement Openings) of Chapter 323 (Streets and Sidewalks) of Part II (General Legislation) of the Code of the City of Albany are hereby amended to read as follows:

§ 323-66 Permits required; fee, transferability.

- A. No person, other than a duly authorized City officer or employee, shall make any openings or remove any pavements or sidewalks in any street, avenue, alley, curb or public place in the City of Albany without a permit from the Commissioner of the Department of General Services or his designee.
- B. The fee for a permit shall be \$65 set by the Commissioner of the Department of General Services. The fee for the opening shall be \$5 per square foot. Should an opening require a fee of \$2,500 or more, the Commissioner or his designee may require the party making the opening to post a performance bond of 10% of the expected cost of repair, which bond will be returned to the party making the opening upon completion and approval of the repair by a City inspector.
- C. Permits issued hereunder shall not be transferable.
- D. In an emergency situation requiring the immediate opening or removal of any pavements or sidewalks in any street, avenue, alley, curb or public place a permit must be filed with the Department of General Services within 72 hours of the opening or removal, or the Commissioner of the Department of General Services or his designee may impose a fine on the party that performed the opening or removal in accordance with § 323-76 of this Article.

§ 323-67 Public notification of street closing.

A. Whenever a street or a portion of a street is to be closed to traffic or parking is to be prohibited, or there is to be a disturbance in the public right of way for eight or more hours on one day or over a period of several days, the Commissioner may require, as a condition of the issuance of a permit under § 323-66, a program of public notification which may include the following:

~~(1) Notification of scheduled work in the public service section of a local newspaper of general circulation in advance of the commencement of such work.]~~

~~(2)~~ (1) Direct contact with residents on affected street through circular or leaflet.

~~(3)~~ (2) The publication of a display advertisement in at least one local newspaper of general circulation.

~~(4)~~ (3) Signage at the work site.

(4) Publication of the notification on City of Albany social media accounts.

B. Notification should include expected date and time of commencement and completion of work, hours that the street shall be closed to traffic, the date and times temporary parking permits will be in effect and the availability of alternate routes, if applicable.

§ 323-68 Application for Permits.

Application for a permit shall be made to the Commissioner of the Department of General Services or his designee, on provided forms, which shall describe the location, number, purpose and size of the openings to be made, the kind of pavement or sidewalk to be removed, the time when such openings are desired and the length of time the openings will remain open, together with such other information regarding the work as the Commissioner of the Department of General Services or his designee may require.

Section 2. The title of Section 323-70 (Replacement of existing pavement) of Article III (Pavement Openings) of Chapter 323 (Streets and Sidewalks) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

§ 323-70 Replacement of existing ~~payment~~ pavement.

Section 3. Section 323-75.1 (Capital Improvements) of Article III (Pavement Openings) of Chapter 323 (Streets and Sidewalks) of the Code of the City of Albany is hereby amended to read as follows:

§ 323-75.1 Capital Improvements.

All persons, corporations or other entities proposing to install or repair pipe, cable, wire, conduit or other facilities in, on or over any street or sidewalk, or within a public right of way in the City of Albany or otherwise dig in or open the same shall be responsible for reviewing the City's list of streets and sidewalks scheduled for repair or reconstruction, to be prepared and maintained by the Department of General Services, and shall make provision to do any work, except emergency work, which requires the opening or use of any such street or sidewalk prior to or during the construction of the project undertaken by the City. No permit to use or open any street or sidewalk which would require resurfacing or reconstruction, except for emergency work as hereinafter provided, shall be issued to any such person within a five-year period after the completion of the construction of a capital project by the City relating to such street or sidewalk unless such person demonstrates that the need for the work could not have reasonably been anticipated prior to or during such construction. Notwithstanding the foregoing, the Commissioner of General Services may issue a permit to open a street within such five-year period upon a finding of necessity therefor, subject to such conditions as the Commissioner may establish by rule, which shall include appropriate guarantees against the deterioration of the restored pavement and may include a higher fee structure.

Section 4. Section 323-76 (Penalties for offenses) of Article III (Pavement Openings) of Chapter 323 (Streets and Sidewalks) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

§ 323-76 Penalties for offenses.

Violations of any of the provisions ~~[hereof]~~ of this Article shall be punishable ~~[in accordance with Chapter 258, Penalties, of the Code of the City of Albany]~~ by a fine which shall not exceed \$1,000. The Court shall award associated Court costs upon any plea or finding of guilt.

APPROVED AS TO FORM THIS

6TH DAY OF MAY, 2021

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: Brett Williams, Esq., Sr. Assistant Corporation Counsel

Re: Request for Common Council Legislation
Supporting Memorandum

Date: May 6, 2021

Sponsor: To be determined

ORDINANCE 15.52.21

TITLE

AN ORDINANCE AMENDING ARTICLE III (PAVEMENT OPENINGS) OF CHAPTER 323 (STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE OPENING AND REPAIR OF SIDEWALKS, STREETS, AND OTHER PAVEMENTS

GENERAL PURPOSE OF LEGISLATION

This ordinance modernizes the law relating to the opening of City streets and sidewalks by private entities, makes it more flexible, and brings such work in public rights of way under its purview.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

Section 1 of this ordinance amends § 323-66 do away with the existing \$65 permit fee for opening pavement replace it with a discretionary amount to be set by the Commissioner of DGS. This enables the fee to keep up with the times and with inflation without the need for repeated legislative action. Under the amendments to this section, and to § 323-68, a designee of the Commissioner will also now be able to issue such permits, making the process quicker and more flexible. This ordinance also provides for a new bond requirement, so that any entity undertaking a larger opening will have to post a 10% performance bond, which will be returned upon completion of repairs, to the satisfaction of a City inspector. Section 323-66 will also now require that entities who open streets and sidewalks for emergency reasons must still take out a permit within 72 hours, lest they be levied a fine.

Section 1 also adds new language in § 323-67 (and Section 3 does so in § 323-75.1) regarding disturbances in the public right of way to cover the work performed over and on such rights of way mostly by utility and telecommunications companies for work on cellular and small cell facilities. These amendments will ensure that they must notify the public about their work, which can be disruptive even though it may not necessarily disturb streets or the pavement itself. This section also does away with the antiquated and redundant requirement that scheduled disruptions be noticed in the “public service section” of a local

newspaper and adds the option to communicate such disturbances through the City's various social media accounts.

Section 2 corrects a typo in the title of § 323-70, which is currently "Replacement of existing payment." The word "payment" is replaced with the correct word: "pavement."

Section 4 increases the penalties and fine amounts the Commissioner can impose for violations of this Article. § 323-76 had referred to the penalty provisions of Chapter 258, which allows for fines not to exceed \$500, but also provides for supersession. This amendment supersedes Chapter 258 and allows the Commissioner to impose a fine of up to \$1,000 instead.

FISCAL IMPACT

The Commissioner will now have the discretion to set the fees for openings, which will likely bring in more revenue than the current \$65 fee. The Commissioner will also be empowered to set fines up to double the current \$500 amount.