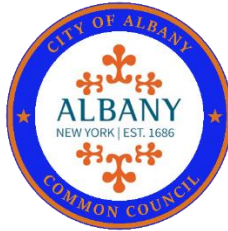


This meeting is being held in accordance to Governor Hochul's signed legislation allowing municipalities to resume remote meetings. If the legislation is revoked, then it will be an in-person meeting. Please stay up to date with the status of our meetings by going to our website and following us on Facebook. We encourage residents to continue participating. Constituents can provide public comment on our new public comment line 518-694-3987, by email [commoncouncil@albanyny.gov](mailto:commoncouncil@albanyny.gov) or the form on our website <https://www.albanyny.gov/Government/CityOfficials/CommonCouncil.aspx>. These comments will be shared with members and/or read for the record at the meeting, posted on our website and Facebook. Constituents may also register to speak during the meeting and you will be provided with the zoom credentials if it is your intent to speak email us at [commoncouncil@albanyny.gov](mailto:commoncouncil@albanyny.gov)



## **COMMON COUNCIL MEETING**

### **PLANNING, ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE**

**Alfredo Balarin, Chair**

**DATES: Tuesday, June 28, 2022**

**TIME: 5:30 p.m.**

**LOCATION: VIRTUALLY ON ZOOM**

#### **TOPIC(S) OF DISCUSSION/CONSIDERATION:**

- **Candidate interview for the Sustainability Advisory Committee**
- **Local Law G of 2022**

**A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION), PART 13 (PLANNING BOARD OF CITY OF ALBANY), AND PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REDUCING THE SIZE OF THE HISTORIC RESOURCES COMMISSION AND AUTHORIZING THE APPOINTMENT OF ALTERNATE MEMBERS TO THE HISTORIC RESOURCES COMMISSION, CITY PLANNING BOARD, AND BOARD OF ZONING APPEALS**

**PUBLIC COMMENT PERIOD: YES**

Council Member Balarin, on behalf of the Committee on Planning, Economic Development, and Land Use, introduced the following:

**LOCAL LAW G OF 2022**

**A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION), PART 13 (PLANNING BOARD OF CITY OF ALBANY), AND PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REDUCING THE SIZE OF THE HISTORIC RESOURCES COMMISSION AND AUTHORIZING THE APPOINTMENT OF ALTERNATE MEMBERS TO THE HISTORIC RESOURCES COMMISSION, CITY PLANNING BOARD, AND BOARD OF ZONING APPEALS**

*Be it enacted, by the Common Council of the City of Albany, as follows:*

**Section 1.** Subsection A of section 42-85 (Membership; organization; meeting; vacancies; powers and duties) of Article XII (General Provisions) of Part 4 (Historic Resources Commission) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

**§ 42-85 Membership; organization; meeting; vacancies; powers and duties**

A. Membership; organization; meetings; vacancies.

- (1) The Historic Resources Commission shall consist of ~~nine~~ seven members and two alternate members, who shall be appointed by the Mayor of the City of Albany with the advice and consent of the Common Council. All Commission members shall have a demonstrated interest, competence or knowledge of historic preservation and archaeology, at least ~~two~~ one of whom shall be a professional archaeologists. To the extent that such professionals are available in the community, Commission members shall be drawn from among the disciplines of history, architectural history, architecture, historic architecture, planning, archaeology, historic preservation or closely related fields.
- (2) Three of the initial members shall be appointed for one year, two for two years and two for three years. Subsequently, members who are not alternate members shall be appointed for terms of three years as terms expire. Members of the Commission may be reappointed for succeeding terms.
- (3) The Mayor shall designate one member as ~~Chairman~~ Chairperson of the Commission and one member as Vice Chairperson ~~Chairman~~. The Vice Chairperson ~~Chairman~~ shall act in the absence of the ~~Chairman~~ Chairperson.
- (4) The presence of ~~five~~ four members of the Commission shall constitute a quorum. The concurring vote of ~~five~~ four members shall be required to carry out an action of the Commission.
- (5) A vacancy occurring in the membership of the Commission for any cause shall be filled by a person appointed by the Mayor for the unexpired term.
- (6) The Commission shall meet as often as is necessary to discharge its duties in a timely fashion, but at least eight times per year.

- (7) The Mayor shall appoint two alternate members to the Commission to serve in place and stead of members who are unable to attend a meeting due to recusal or absence. The term of each alternate member shall be two years commencing on January 1 of the first year of appointment and ending on December 31 of the second year. One of the initial terms shall be for one year so as to effectuate a staggered sequencing of alternate member terms. After initial appointments, one alternate member shall be appointed each year. An alternate member whose term has expired may serve until replaced. In the event that any alternate member seat becomes vacant as a result of resignation, change of residency, or removal, a new alternate member shall be appointed to serve the remainder of the alternate member term. The Chairperson of the Commission may designate an alternate member to substitute for any member who is unable to participate due to recusal or absence. Such designation shall be entered into the minutes of the Commission meeting at which the substitution is made. When so designated, the alternate member(s) shall possess all the powers and responsibilities of a member of the Commission. All provisions of law relating to Commission member training and continuing education, eligibility, vacancy in office, removal, compatibility of office and service on other boards shall also apply to alternate members. Alternate members shall serve without compensation.

**Section 2.** Section 42-177 (Creation; membership) of Article XXIII (General Provisions) of Part 13 (Planning Board of City of Albany) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

**§ 42-177 Creation; membership**

A City Planning Board of five members and two alternate members is hereby created, the members to be appointed by the Mayor.

**Section 3.** Section 42-178 (Members; qualifications; terms of office; compensation; Mayor) of Article XXIII (General Provisions) of Part 13 (Planning Board of City of Albany) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

**§ 42-178 Members; qualifications; terms of office; compensation; Mayor**

- A. Of the members of the Board to be appointed, not more than two shall be officials of the City of Albany. The terms of the member or members of the Board who hold municipal office, if any, shall terminate with the term of the Mayor selecting such member or members. The successors to the nonmunicipal officeholders on the Board shall be appointed for the term of five years from and after the expiration of the term of their predecessors in office.
- B. The ~~Chairman~~ Chairperson shall be selected by the Mayor.
- C. The members of the Board who hold municipal office shall serve without compensation.
- D. The municipal official or officials on such Board shall not by reason of membership thereon forfeit their right to exercise, perform the duties or receive the compensation of the municipal office held by them during their membership.
- E. The Mayor shall have authority to remove any member of the Board for cause after public hearing.
- F. In the event of a vacancy on the Board by reason of the death, resignation or removal of any member, the Mayor shall have authority to fill such vacancy for the unexpired term of such member.

G. The Mayor shall appoint two alternate members to the Board to serve in place and stead of members who are unable to attend a meeting due to recusal or absence. The term of each alternate member shall be two years commencing on January 1 of the first year of appointment and ending on December 31 of the second year. One of the initial terms shall be for one year so as to effectuate a staggered sequencing of alternate member terms. After initial appointments, one alternate member shall be appointed each year. In the event that any alternate member seat becomes vacant as a result of resignation, change of residency, or removal, a new alternate member shall be appointed to serve the remainder of the alternate member term. The Chairperson of the Planning Board may designate an alternate member to substitute for any member who is unable to participate due to recusal or absence. Such designation shall be entered into the minutes of the Board meeting at which the substitution is made. When so designated, the alternate member(s) shall possess all the powers and responsibilities of such member of the Board. All provisions of law relating to Board member training and continuing education, eligibility, vacancy in office, removal, compatibility of office and service on other boards shall also apply to alternate members. Alternate members shall serve without compensation.

**Section 4.** Section 42-359 (Creation) of Article XLVI (General Provisions) of Part 35 (Board of Zoning Appeals) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

#### **§ 42-359 Creation**

Pursuant to § 81 of the General City Law of the State of New York, there is hereby established a Board of Zoning Appeals (BZA) consisting of five members and two alternate members appointed by the Mayor and subject to the advice and consent of the Common Council in accordance with Section 301 of the City Charter.

**Section 5.** Section 42-360.1 (Membership, appointment; terms of office) of Article XLVI (General Provisions) of Part 35 (Board of Zoning Appeals) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) of the Code of the City of Albany is hereby amended to read as follows:

#### **§ 42-360.1 Membership, appointment; terms of office**

- A. The members of the Board serving during the effective date of Chapter 375 shall continue in office as members of the Board.
- B. The Mayor shall appoint subsequent Board members to five-year terms. Terms shall begin January 1 and expire at 12:00 midnight on December 31. A member shall continue to serve until a successor is appointed.
- C. An appointment to fill a vacancy occurring prior to the expiration of a term shall be for the remainder of the unexpired term. Board members may be compensated at a rate determined by the Board of Estimate and Apportionment. Notwithstanding the foregoing, alternate members shall serve without compensation.
- D. The Mayor shall appoint two alternate members to the Board to serve in place and stead of members who are unable to attend a meeting due to recusal or absence. The term of each alternate member shall be two years, commencing on January 1 of the first year of appointment and ending on December 31 of the second year. One of the initial terms shall be for one year so as to effectuate a staggered sequencing of alternate member terms. After initial appointments, one alternate member shall be appointed each year. In the event that any alternate member seat becomes vacant as a result of resignation, change of residency, or removal, a new alternate member shall be appointed to serve

the remainder of the alternate member term. The Chair of the Board of Zoning Appeals may designate an alternate member to substitute for any member who is unable to participate due to recusal or absence. Such designation shall be entered into the minutes of the Board meeting at which the substitution is made. When so designated, the alternate member(s) shall possess all the powers and responsibilities of such member of the Board. All provisions of law relating to Board member training and continuing education, eligibility, vacancy in office, removal, compatibility of office and service on other boards shall also apply to alternate members. Alternate members shall serve without compensation.

**Section 6.** This Local Law shall take effect upon passage, public hearing, and filing with the Secretary of the State of New York, in accordance with New York State Municipal Home Rule Law § 27.

**APPROVED AS TO FORM THIS  
26<sup>TH</sup> DAY OF MAY, 2022**

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**Corporation Counsel**

**To:** Danielle Gillespie, City Clerk

**From:** Martha Mahoney, Esq., Assistant Corporation Counsel  
Brett Williams, Esq., Sr. Assistant Corporation Counsel

**Re:** Common Council Legislation  
Supporting Memorandum

**Date:** May 2, 2022

**Sponsor(s):** To be determined

## **LOCAL LAW G OF 2022**

### **TITLE**

A LOCAL LAW AMENDING PART 4 (HISTORIC RESOURCES COMMISSION), PART 13 (PLANNING BOARD OF CITY OF ALBANY), AND PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REDUCING THE SIZE OF THE HISTORIC RESOURCES COMMISSION AND AUTHORIZING THE APPOINTMENT OF ALTERNATE MEMBERS TO THE HISTORIC RESOURCES COMMISSION, CITY PLANNING BOARD, AND BOARD OF ZONING APPEALS

### **GENERAL PURPOSE OF LEGISLATION**

This local law will reduce the number of members serving on the Historic Resources Commission from nine to seven members. This local law will also authorize the appointment of alternate members to the Historic Resources Commission, Planning Board of the City of Albany, and Board of Zoning Appeals to serve in the absence of regular Commission or Board members.

### **NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW:**

This legislation serves two main purposes and an additional ancillary purpose.

First, the legislation reduces the size of the Historic Resources Commission from nine to seven members. It is sometimes a challenge to find enough qualified individuals to serve on the Commission. In fact, at the time that this legislation was drafted, as well as for several months prior, the Commission has had two vacancies. Thus, the size of the reduced Commission, with the passage of this legislation, conforms to the current membership serving on the Commission. Further, in reducing the Commission by two members, this legislation would eliminate the number of archeologists required to serve as members, from two to one archaeologist. The large majority of cases that come before the Commission do not require archaeology as a component of the review. Therefore, the reduced size of the Commission, including the elimination of one of the required archeologist positions, serves a practical purpose and promotes government efficiency by mitigating the challenge of finding enough qualified individuals to serve on the Commission.

Second, the legislation authorizes the appointment of alternate members to the Historic Resources Commission, Planning Board of the City of Albany, and Board of Zoning Appeals to serve in place and stead of members who are unable to attend a meeting due to recusal or absence. The legislation provides that alternate members will not receive compensation for serving on any Commission or Board and requires alternate members to comply with all provisions of law relating to regular member training and continuing education, eligibility, vacancy in office, removal, compatibility of office, and service on other boards. It is sometimes difficult to maintain a quorum on the Historic Resources Commission, City Planning Board, and Board of Zoning Appeals because members are ill, on extended vacation, absent resulting from employment-related travel, or find they have a conflict of interest situation on a specific matter before such Commission or Board. In such instances, official business cannot be conducted, which may delay or impede adherence to required time lines in accordance with the City's development review process. The City

wishes to promote and facilitate participation in land use decision-making by the full membership of the Commission and Boards to the maximum extent possible. Moreover, it is noted that several municipalities in New York authorize the appointment of alternate members to their planning, zoning, and/or historic preservation boards, including the Cities of Rochester and Saratoga Springs and the Towns of Colonie, Guilderland, Poughkeepsie, and Waterford. The City of Albany would similarly benefit from the authorization of alternate members to the public boards specified herein. Therefore, the use of alternate members in the instances set out herein will help promote government efficiency by ensuring that public Commission and Board meetings are able to be held, despite conflicts of interest or absences that will likely occur in the normal course of business.

Lastly, the legislation changes gendered references related to the position of Chair to the Historic Resources Commission and City Planning Board from Chairman to Chairperson, where applicable.

**FISCAL IMPACT(S)**

None.