

To: Brad Glass, Amy Lavine, Zach Powell, Members of the Planning, Economic Development, and Land Use Committee  
From: Judy L. Doesschate  
Re: Copy Edits to the USDO – Ordinance 46.122.20  
Date: January 25, 2021

In reviewing proposed Articles I, II, III, V, VI and VII of the proposed clean copy draft of the USDO to be attached to Ordinance 46.122.20, I believe there are 2 categories of issues/changes for the Council to discuss before adopting the clean copy as a repeal and replace of the USDO:

1. Proposed changes within the clean copy of the USDO that could be said to be substantive in nature (i.e., changes from the language, meaning, or intent from the USDO as adopted beyond mere numbering or typographical changes) that should be brought to the attention of the Council, but were not mentioned in Brad Glass' January 18, 2021 memo (some of which should be adopted and some of which should revert to the existing language pending further discussion) and other similar needed corrections to the existing text that may be considered to be substantive; and
2. Additional non-substantive technical, typographical, citation or omission errors, or minor clarifications recommended (some of which should have been picked up by GenCode or were made in error by GenCode and need to revert back).

I note that I have decided to include what Brad set forth in his January 18<sup>th</sup> memo into this listing for ease of reference and action by the Council, the Planning Department, Gen Code and our own staff since I had identified a few of the changes Brad noted prior to his memo and thought it would be beneficial to have them all in one place.

In reviewing the USDO, I noticed some other issues and potential (mostly minor corrections) that I do not believe are urgent and more likely require further discussion after the adoption of the current clean copy version with more urgent edits as we determine are necessary. I am listing them below for our future reference, but also in case the Planning Department, Corporation Counsel, Council Members or our own staff want to bring them forward for possible quick amendments. My intent is not to overwhelm, but hopefully put us in a better place for our next steps.

My findings and recommendations in the two categories that I believe we should address before adoption are set forth for further discussion by the Committee/Council and Mr. Glass in items 1 and 2 below.

**1. Substantive Changes Being Made in the Copy Edit Version of the USDO: Some Should be Adopted; Others should revert to existing as noted:**

**Article I, General Provisions**

None found

**Article II, Zoning Districts**

**Page 375:II-13: §375-203(d)(iii)** (Residential conversions) (in R-T districts). The draft amends paragraph A. to address the conversion of a single-family dwelling to a two-family dwelling whereas it previously stated it was addressing the conversion of a single family dwelling to a two or three family dwelling.

This is arguably a substantive change that should be noted to the Council. However, because the next paragraph B. addresses the conversion of a single family dwelling to a two or three family dwelling, it is clear that A. was intended just the conversion of a single-family dwelling to a two-family dwelling otherwise these 2 provisions would conflict. *This is a needed and appropriate change to make at this time.*

**Page 375:II-29; § 375-204(4)(c) Table 375-2-21**(dimensional standards for MU-CH). *The 3<sup>rd</sup> entry in the chart for Building Standards in F should amended to revert back to the 200 foot depth (from the 300 feet) and the first “and” should be amended to be “or.”*

It should read “Within 100 feet of property line of R-1L or R-1M zoned lot on portions of lots more than 200 feet in depth.” (this limits the height of the building on the lot to 3 stories)

The change was a (possibly unintended) substantive change requiring additional discussion.

**Page 375:IV-5: §375-401 (3)(b), chart 375-4-2 (Mixed Use Dimensional Standards)** should be amended to add a footnote “[2]” to the “5 ½ stories” under MU-CH column for the row entitled “Maximum height, principle building” to be consistent with Table 375-2-21 as noted above.

**Page 375-II-41: § 375-204(6)(d)(i)G. MU-CI District Standards. Development Standards.** Paragraph G needs to be amended to change the language to provide for **a 15 foot rear minimum setback (instead of a 10 foot rear setback)** where any structure abuts a residential zone district. As was noted in Brad Glass’s memo, this is needed because it conflicts with 375-204; Table 375-2-25. (Also conflicts Table 375-4-2 chart and footnote 5.)

G. should be amended to read “G. Where any structure abuts a residential zone district, a minimum rear yard setback of 15 feet shall be provided.”

**Page 375:II-82: § 375-206(4)(d)(i)B.** For now, this should be revised to read: “B. Install a green roof as described in §375-401(4)(a)(ii).”

The current USDO refers to the blue and green roof provisions “described in Section 375-4(A)(4)(b)” which is now renumbered as §375-401(4)(a)(ii) and has deleted any reference to a blue roof as it has been determined there is little additional benefit of a blue roof. The proposed draft had changed the reference to the definitions section that contained no standards associated with either roof that would ensure the installation will yield some benefit.

### **Article III Use Regulations**

**Page 375:III-7: Table 375-3-1.** Immediately under “Office and Services” a new row should be added with the land use category “Blood Plasma Center” inserted, and a C under the MU-CH, MU-CL,I-1, and I-2 columns, and “ §375-303(4)(d)(i)” should be inserted in the far right column.

This is needed to be consistent with the existing code.

**Page 375:III-12: Table 375-3-1.** Eliminate the “T” in the MU-NC column for Mobile Vendor – the second line down under Temporary Uses.

This is a substantive change that has not been authorized by the Council and requires significant additional discussion if it were to be considered.

**Page 375:III-23: §375-303(4)(d)(i): Blood Plasma Center and the new standards passed by the Council in May 2020 that are now law need to be inserted immediately following (i) and the remaining paragraphs (Funeral home or crematorium, Office, Personal or business service and Trade School) need to be renumbered as (ii) through (v).** (My understanding is Danielle is providing the filed copies of this new law).

The failure to adopt this language would be a substantive change from the current USDO language, which is not the Common Council's intent in adopting this copyedit/renumbered version of the USDO.

#### **Article IV – Development Standards (Mostly Not Reviewed by JLD – TBD)**

**Page 375: IV-2: §375-401 (3)(a)(i) Table 375-4-1 Development standards. Dimensional Standards Summary Tables. Residential Districts.** As noted in Brad Glass's memo the minimum front setback has been changed from 20 feet to 10 feet to be consistent with Table 375-2-25. This is a substantive change as we are picking between two numbers and deciding one is the better minimum front setback. Since this still allows developers to increase the setback to 20 or more feet and the choice gives developers greater flexibility, I personally have no objection to the choice, but am open to other opinions. We should choose one for consistency.

**Page 375: IV-5: §375-401 (3)(b), chart 375-4-2 (Mixed Use Dimensional Standards)** should be amended to: add a footnote "[\[2\]](#)" to the "5 ½ stories" under MU-CH column for the row entitled "Maximum height, principle building" to be consistent with Table 375-2-21 as noted above under Article II.

(This is not technically a "substantive change" because it simply makes this consistent with Article II, but because it was omitted in the existing USDO and some could argue it is substantive, it is noted here.)

**Page 375-IV-70 : §375-405 (7)(b)(iii) Parking and loading. Off -street loading standards. Design and use of off-street loading areas.** Per Brad Glass, this section was apparently inadvertently amended in our copyedit version to prevent a loading space to be located within any required corner side yard. The current copyedit version should be amended as follows:

"(iii) No loading space shall be located within any required front ~~or corner-side~~ yard."

#### **Article V Administration and Enforcement**

**Page 375:V-20; §375-504(6)(c)(v). General Procedures. Scheduling and notice of public hearing. Notice format and content. Posted notices.** In the clean copy versions we have, this has been amended to add in "or initial public meeting" to the 10 day notice requirement for public hearings. Mr. Glass has noted that often applications are presented before there is a formal public hearing. While arguably a substantive change, this seems appropriate. **No change is needed from the existing proposed copyedit version.**

**Page 375:V-25; §375-504(11) Conditions of Approval.** Should be amended to be consistent with Hoey Ordinance 17.91.20 adopted in October 2020 by adding the new paragraphs (f) and (g) to

**read as follows** (the below incorporates a change to the numbering regarding appeals in paragraph (g)):

f) If conditions are placed on any development approval, the Planning Board shall stipulate to the point in the development process by which such conditions must be satisfied. For example, the Planning Board may stipulate that a condition must be satisfied “prior to clearing and grubbing,” or “prior to clear cutting,” or prior to demolition,” or “prior to a foundation permit being issued,” or “prior to any building permits being issued,” or “prior to the issuance of a Certificate of Occupancy,” or at any other point as may be appropriate.

(g) For any project that is approved with conditions, all such conditions imposed shall be posted on the Planning Department’s website for public comment for a period of no fewer than ten (10) business days prior to issuance of any building or demolition permits. The Planning Department shall inform all departments of the imposition of conditions and provide the departments ten (10) business days in which to submit to the Planning Board any comments or corrections to the conditions. The Chief Planning Official shall have the authority to refer such conditions back to the Planning Board for modification. Should the Chief Planning Official determine that the conditions do not need to be modified and referred back to the Planning Board, such decision may be appealed to the Board of Zoning Appeals in accordance with § 375-504 (12)(b)(i) by any party aggrieved by the Chief Planning Official’s decision. In the event that the posted conditions require modification because of any local, state, or federal law or regulation, the Planning Board shall modify such conditions.

**Page 375: V-26: §375-504(12)(b) Appeal.** This provision as currently written (and adopted by the Council in 2017) omits the fact these same procedures are applicable to the decisions of the Chief Building Official and that some decisions are appealable to the Historic Resources Commission or Planning Board as they are just being made for consistency (and to let people know the decisions of the CBO are appealable to the BZA as opposed to having to take an appeal to court as an Article 78.

I believe it is appropriate to take care of this as a technical amendment as indicated below, but understand if some would consider this substantive and either want these changes brought to the attention of the Council before adoption in this version or to defer them.

To address this omission, I suggest this provision be amended in the clean copy edit version as follows:

“(b) Appeal

(i) Decisions of the Chief Planning Official or Chief Building Official.

A. A party aggrieved or adversely affected by any decision of the Chief Planning Official or Chief Building Official may seek review of the decision by the Board of Zoning Appeals, or in the case of a minor certificate of appropriateness to the Historic Resources Commission, or in the case of a minor development plan review to the Planning Board.

B. Any party wishing to appeal must do so within 30 days from the date of the denial or approval, or issuance of a notice of violation.

C. The Board of Zoning Appeals, Historic Resources Commission, or Planning Board, as appropriate, shall decide each appeal applying the same criteria applied by the Chief Planning Official or Chief Building Official in making its decision.

D. The Board of Zoning Appeals, Historic Resources Commission, or Planning Board, may affirm, reverse, or modify the decision being appealed to bring it into conformance with the USDO criteria applicable to approval of that type of application.”

**Page 375:V-29; §375-504(1)(c) Building permit. Review criteria. Should be amended to be consistent with Hoey Ordinance 17.91.20 adopted in October 2020.** Specifically, this section should be amended as follows:

(c) Review criteria. An application for a Building Permit shall be approved only if the Chief Building Official determines that it is consistent with the adopted Building Code, Uniform Fire Code, any provisions of this USDO, and the Albany City Code.

**Page 375:V-40; §375-504(14)(b)(iii) Major development review. Waivers. Should be amended to be consistent with Hoey Ordinance 17.91.20 adopted in October 2020.** Specifically, this section should be amended as follows (this takes into consideration renumbering issues as a result of the renumbering of USDO and the copy edits):

“A. An applicant may request, in writing, a waiver or modification of any of the development plan review standards. Such request shall set forth the specific relief sought and the reasons why the same are necessary.

~~B. The Planning Board reserves the right to waive or otherwise modify such standards upon a finding that such action is necessary to eliminate practical difficulties associated with strict interpretation of these provisions and that the result will not violate the spirit and intent of these provisions. Such request shall set forth the specific relief sought and the reasons the same are necessary~~ may grant waivers from the development standards established in Article IV except that the Planning Board shall not grant a waiver of the dimensional standards established in §375-401 or the standards relating to signs established in § 375-409.

C. In making its determination as to the granting of a waiver, the Planning Board shall take into consideration the benefit to the applicant if the waiver is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community that may result from such grant. In making such determination, the Planning Board shall also consider:

- (i) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the waiver;
- (ii) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a waiver;
- (iii) whether the requested waiver is substantial;
- (iv) whether the proposed waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

- (v) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the waiver.

D. The Planning Board, in the granting of waivers under this subdivision, shall only grant such waivers to the minimum extent that it shall deem necessary and adequate while at the same time preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

**Page 375:V-45; §375-504(17)(b)(ii) Demolition. Procedure. Staff review and action. Should be amended to be consistent with Hoey Ordinance 17.91.20 adopted in October 2020.** Specifically, this section should be amended to add new paragraphs C. and D. as follows (this takes into consideration renumbering issues as a result of the renumbering of USDO and the copy edits):

“C. When conditions are placed on any demolition approval, the Planning Board shall stipulate to the point in the development process by which such conditions must be satisfied, in a manner similar to that which is established for conditions on Building Permits in § 375-504(11)(f).

D. For any demolition that is approved with conditions, all such conditions imposed shall be posted on the Planning Department’s website for public comment for a period of no fewer than ten (10) business days prior to issuance of any building or demolition permits. The Planning Department shall inform all departments of the imposition of conditions and provide the departments ten (10) business days in which to submit to the Planning Board any comments or corrections to the conditions. The Chief Planning Official shall have the authority to refer such conditions back to the Planning Board for modification. Should the Chief Planning Official determine that the conditions do not need to be modified and referred back to the Planning Board, such decision may be appealed to the Board of Zoning Appeals in accordance with section 375-504(12)(b)(i) by any party aggrieved by the Chief Planning Official’s decision. In the event that the posted conditions require modification because of any local, state, or federal law or regulation, the Planning Board shall modify such conditions.”

**Page 375:V-48; §375-504(19)(a)(i) Major certificate of appropriateness. Applicability.** The copyedit version contains new substantive language that requires further discussion. It should revert back to what is contained in the current USDO with the red-lined language below being removed from the current proposal (and Brad Glass has indicated he does not think this change should be adopted at this time). As a result, the following edit to the clean copy version should be made:

- (i) “Demolition of a structure ~~that is not located on property owned by the Albany County Land Bank;~~”

## **Article VI Rules of Construction; Definitions**

**Page 375:VI-5; 375-602 Definitions.** Need to add definition for Blood Plasma Center as adopted by the Council.

Page 375: VI- 7: Definitions. City of Albany Comprehensive Plan definition has been eliminated in the current proposed copyedit version because there is also a definition for “Comprehensive Plan” that

is largely duplicative, but arguably clearer. No change from the current proposed draft is needed/recommended.

**Page 375:VI-19: §375-602 Definitions. LIGHT MANUFACTURING.** The clean copyedit version should be amended to add the final sentence adopted as part of the Blood Plasma ordinance. The final sentence should read: This shall not include a Blood Plasma Center.

**Page 375:VI-25: §375-602 PRINCIPAL USE definition.** The last sentence was dropped from the existing USDO. It read: “A lot or building may have only one principal use.” While many mixed use districts have multi uses, this provision or some semblance of it may be appropriate for many residential (and potentially other districts). Are we ok with making this change as a “technical correction?” *I think this needs further discussion, because it then implicitly allows multiple uses on all lots...which then, under the definition of “principal building” allows multiple buildings on all lots.* I would move this to discussion after adoption of the copyedit version.

## Article VII Applications Fees

**375:VII-1: §375-701 Review of applications; exemptions.** This is a new title for this section that does not exist in the current USDO and does not make any sense. I would simply change to “Application fees.” The only reference to any exemptions is in the very last sentence of the section relating to applications generated by the City of Albany and the entire section is about fees; not the review of applications.

**375:VII-1: §375-701(1)(a) Grading and mining.** The chart is not clear. A reasonable reading of the 3<sup>rd</sup> row is that for the initial 1,001 to 10,000 cubic yards the entire fee is \$50 and then beyond 10,000 cubic feet the fee is \$15 for each additional 1,000 cubic yards, making the 4<sup>th</sup> row unnecessary. It seems that the Fee column in the 4<sup>th</sup> row is intended to read “\$50 for the initial 1,000 cubic yards, plus \$15 for each additional 1,000 cubic yards or fraction thereof.”

**375:VII-1: §375-701(1)(b) Board of Zoning Appeals.** “the various” should be replaced with “all applicable” in the second line down.

**375:VII-1: §375-701(c) Additional zoning related fees. New or Not?** The first 18 lines of fees do not appear in the printed version of the USDO I received on April 20, 2017 or in any memos I have from Chris Spencer regarding additional changes prior to adoption. I do not recall these being adopted by the Council although they appear in the on-line version of the USDO, were not highlighted in the redline version or in Brad Glass’s memo. We should obtain clarification as to how these have appeared in the current version of the USDO and then determine whether we are adopting as an existing USDO provision or as a substantive change.

### 2. Additional Amendments Recommended to Address Technical, Typographical, Omissions, Citation Errors, or Wording Clarifications Needed

## Article I General Provisions

**Page 375:1-3: §375-110 Definitions,** should be amended to change “~~Article VI (Definitions and Rules of Construction)~~” to “Article VI (Rules of Construction; Definitions)” to be consistent with the amended title of Article VI as reflected on pages 375:1 (table of contents), and 375:VI-1.

This failure to change to the new title of Article VI appears elsewhere in the document and hopefully a “find and replace” word search can be done to make sure this change appears throughout. In my review, I noticed this amendment was not made on pages **375:II-75** (at the very bottom in **§375-206(3)(c)(v)**); **375:V-9** (near top **§375-503(b)(ii)F.**);

## Article II Zoning Districts

**Page 375:II-1: §375-202; Table 375-2-1.** “MU-D” in the first column (associated with Mixed-Use Downtown) should be changes to “MU-DT” as that is the abbreviation that is used throughout the rest of the document.

**Page 375: II-21: §375-204, In the intro paragraph,** the sentence beginning the 6<sup>th</sup> line down contains inaccuracies in that it omits Form-Based Midtown from the listing of form based MU districts and states there are three MU form based districts when there are four such districts.

This sentence should be amended to read “Four mixed-use districts, Form-Based Warehouse, Form-Based Central Avenue, Form-Based South End, and Form-Based Midtown, are regulated based on their form and therefore are organized differently.”

**Page 375:II-49: Table 375-2-29 that was in 375-204(10) (MU-FM Mixed-Use Form-Based Midtown) has been completely eliminated. This table should be reinserted and all other tables in Article II should be renumbered – increasing the table number by 1 digit.** (a word search should be done in the entire USDO document to make appropriate numbering changes to all table references for Tables 375-2-29 through 375-2-34 (really, only 3 of these tables contain standards that another provision of the code might cross reference, and most other sections refer to the section number in which the table is located and not the table number – so it is not likely this correction would result in the need for changes in other provisions of the code, but it should be checked if at all possible).

**Page 375: II-81: §375-206(4)(d)(i)A. Delete “~~, as shown in this drawing,~~”** in the second line down as no drawing is included. In the alternative, the Planning Department may want to insert a drawing.

**Page 375: II-84: §375-206(6)(c) Insert “Standards.”** after (c) and before “Any land use, structure, or activity....” The heading “Standards” appears in the current version of the USDO in this location and it should be retained for consistency. (It appears to have been dropped inadvertently)

## Article III Use Regulations

**Page 375: III-4: Table 375-3-1** In the far right column in the bottom row, the entry should be amended to read “ §375-303(2)(b)(iii)” (Minor glitch in the citation)

## Article IV – Development Standards - Not Reviewed TBD

## Article V Administration and Enforcement

**Page 375: V-7: Table 375-5-1 (Summary of Development Review Procedures):** Insert brackets around the “ [R] ” for Designation of historic landmarks to show a public hearing is required to be held by the HRC for such determinations. This is needed to be consistent with §375-505(23).

**Page 375: V-14: §375-504(4)(g)(iii) Change in applicant.** The word “the” such be inserted before “applicant of person” at the beginning of the 3<sup>rd</sup> line so it would read: “If circumstances chance so that the applicant of a pending application no longer meets the requirements of §375-504(4)(a), any change in the applicant or person authorized to submit the application shall be documented in an original and notarized owner and interested party consent form delivered to the City before the application may advance to the next stage in the review process.”

**Page 375: V-14: §375-504(4)(i): Successive Applications.** The phrase “pursuant to this USDO” is misplaced and should go at the end of the first clause so it would read: “If an application has been denied by the City pursuant to this USDO, an application requesting the same or essentially the same approval shall not be accepted within 12 months after such denial.”

**Page 375: V-14: §375-504(5)(b)(ii): It is not clear when the 10 days notice requirements begin to tick.** I recommend this be modified to read either “within 10 days of the identification of such deficiencies” or “within 10 days of the receipt of the application with such deficiencies...”

**Page 375: V-18: §375-504(5)(e)(ii) Review criteria.** For A., B., and C 3., the period at the end of the each sentence should be replaced with a semicolon and the word “and” inserted at the end of C. 3 to make it clear all of the criteria need to be complied with...and to be consistent with other formatting in the USDO.

**Page 375: V-30: §375-505(4)(a) Minor development plan review. Applicability.** Insert “review” as follows: “(a) Applicability. The minor development plan review procedures and standards in this §375-505(4)(a) shall apply to any development plan associated with the following:...”

**Page 375: V-33: §375-505(7)(c)(iv) Lot Line Adjustment Review criteria.** At the end of paragraph (iv) change the period to a semicolon and the word and ( “; and”) to make it clear that all of the criteria should be met...and for consistency.

**Page 375: V-34: §375-505(8)(c) Lot Consolidation Review Criteria.** The language is somewhat confusing. I believe the following minor edits make it clear what is intended:

“(c) Review criteria. An application for the Lot Consolidation shall be approved only if the Chief Planning Official determines that (please ignore red coloring in (i) and (iii)):

- (i) It is consistent with the Comprehensive Plan; and
- (ii) It is consistent with any provisions of this USDO and the Code of the City of Albany; and
- (iii) Either:
  - A. Each of the existing lots and the structures on those lots complies with the requirements of this USDO, and after the consolidation the resulting lot will still comply with the requirements of this USDO; or
  - B. If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this USDO, the proposed consolidation will not create any new nonconformity between the requirements of this USDO and any of the lots of any of the structures on the lots being consolidated.”

**Page 375: V-35: §375-505(11). Tree and vegetation permit.** *The intro language that requires compliance with all of the provisions of §375-504 has been deleted.* This is a non-substantive change

because the intro for all of §375-505 makes it clear that all of the provisions of §375-504 apply, but this omission is inconsistent with the rest of this section that recites that requirement at the beginning of each specific procedure provision. *We should either delete this language from the beginning of every special procedure subsection, or we should include it in each. (I favor deleting throughout as it just takes up more time to read and more paper to print with no substantive impact.)*

**Page 375: V-36: §375-505(12)(a)(ii) A. Stormwater, grading and erosion permit. Applicability. Exemptions.** The word “~~after~~” should be replaced with “alter” in the last full line of paragraph A. GenCode made this change in language in error. Their new word makes no sense; it should revert to what is in the existing USDO.

**Page 375: V-55: §375-505(23) Historic property references.** I was surprised to see that GenCode changes “a historic” to “an historic” in many places (and in similar references to “historical” etc. The prior article is generally considered to be more appropriate since “historic” starts with a soft consonant, not a vowel, sound. *I would vote in favor of changing back to “a” before historic or historical.if this is not too burdensome.*

**Page 375: V-57: §375-505(23)(c)(i) C. Historic property hardship modifications. Review criteria.** The word “~~after~~” should be replaced with “alter” in the first line of paragraph C. GenCode made this change in language in error. Their new word makes no sense; it should revert to what is in the existing USDO.

**Page 375:V-60; §375-504(25). Designations of historic landmarks.** The title of this should be changed to read “Designation of historic landmarks and historic districts.” As this subsection deals with both and should be easier to find with this non-substantive clarification.

**Page 375:V-64: §375-506(b)(ii) Preexisting development and nonconformities. Evidence.** This paragraph contains a couple typographical/grammatical errors that should be corrected (“date” is “data”). It should be amended to read as follows;

(ii) Evidence may include but is not limited to photographs of the property or use (dated or with an affidavit as to the date of the photograph), utility bills, property tax statements or receipts, copies or leases or subleases, evidence of goods and services rendered from the property (dated or with an affidavit as to the data date of the evidence), or notarized affidavits from the owner(s) of property one or more properties within 300 feet of the subject property. (iii) Where an application seek

**Page 375:V-69: §375-507(5)(a)(i). General nuisances. I believe the last few words of this subparagraph is intended to refer to “such lot or uses” since the rest of the subparagraph refers to both. I recommend the last clause be amended to read:**

“that the lot or the use of the property or building is considered to be a general nuisance or a hazard to the health, safety, welfare of uses or structures within 200 feet of such use lot or uses; or”

## **Article VI Rules of Construction; Definitions**

**Page 375:VI-12: §375-602 DWELLING, TWO FAMILY DETACHED. A close parens is missing in the fourth line down around “two –family dwellings.”**

**Page 375:VI-22: §375-602 NONCOMMERCIAL FLOOR. Third line down, “and” should be changed to “an.”**

## **Article VII – Application Fees.**

None

## **Amendments to the Cover Ordinance and Support Memo**

In addition to the above, we need to amend the ordinance to make it clear we are repealing and replacing the USDO with the revised clean copy and amend the sponsor’s memo to add some details in the sponsor’s memo regarding non-technical changes -- after we reach agreement on the proposed changes.

### **Possible Future Work/Clarifications.**

The following additional notations reflect changes or issues we may want to address after adoption of the current version – though we may want to address some of the easier ones now with there is a will and it is not too complicated for staff:

### **Article II**

**Page 375: II-17: §375-203(d)(iii) residential conversions** (in Multi-family districts) A. (3) states “After the conversion, there shall not be more than the maximum number of dwelling units that are permitted in the R-M district.”

Since R-M does not contain a limit on the number of units that are permitted, this should be clarified.

**Page 375:II-54: §375-205(2)(i)A.** This provision (pertaining to General Industrial uses) needs clarification as to what an “unenclosed use” is that would require a 200 foot setback against a residential zone. Is a chain link fence enough? Does the area need to be covered? Are we talking about exclusive of parking?

### **Article III**

**Page 375-III-15: §375-303(2)(b)(ii)B.** We should revisit some of the community residence standards and exemptions.

**Page 375-III-17: §375-303(3)(p)E.(2) and F** – These involve the location of Towers and raise questions as to why a 60 decision timeline is in our code and what is meant by the height restrictions since we generally do not have height restrictions in the code other than by stories.

**Page 375-III-17: §375-303(4)(f)(ii)C. 9.** I am wondering why we don’t require convenience retail to remove litter from premises and public sidewalks, curbs, etc daily. (Current requirement is weekly) (When I lived in NYC, virtually all of the businesses washed the public sidewalks outside their businesses every morning....and I was told it was a law.)

**Page 375-III-35: §375-303(6)(l) Sidewalk cafes.** I have provided some comments on the proposed repeal of the other law and suggested some additional safeguards be put in to ensure these are not

disruptive to nearby residential properties. Current language does not preclude inside TVs pointing out to sidewalk that can cause a lot more noise when certain sporting events are on.

Article IV (not yet reviewed)

## Article V

**Page 375-V-8: §375-503(1)(a)(i).** Since these provisions are so specific and the table referenced does not really spell out the functions City staff has, but many other provisions in Article 5 do, I would add to the end of (1)(a)(i) “and further described in this Article.” So it would read “City staff shall have the review, recommendation, and decisionmaking authority and responsibilities shown in Table 375-5-1(Summary of Development Review Procedures) and further described in this Article.” (There may be better or other preferred wording, but this makes the point for now.)

**Page 375-V-12: §375-504(1).** This includes language to allow the Planning Department to charge fees for independent reviews of development projects. What else is needed?

**Page 375: V-26: §375-504(12)(a) Notice of Decision.** I believe it would be appropriate to review the notice of decision provisions to consider who else should get a copy of the decision and possibly add in a new paragraph (iii) referencing the GCL requirements that for a major development review or CUP, the decision shall be filed with the City Clerk’s office within 5 business days of the decision being rendered and a copy mailed to the applicant.

**Page 375: V-28: §375-504(14). Time periods for City performance.** We should look at adding remedies for when the City does not comply with time frames for performance – especially those in state law.

**Page 375: V-34: §375-505(9). Revocable sidewalk privilege.** In addition to other changes I have suggested on this issue, I wonder if we want to remove a requirement that the City Engineer must have no objection to the issuance of the permit – which implies notice and action for every possible permit. Might be appropriate to change to a consultation as the CPO determines is appropriate.

**Page 375: V-35: §375-505(10). Curb cut permit. Review Criteria.** I would like to see a new (iv) added saying “(iv) The curb cut is the minimum necessary to accomplish the purpose of the curb cut.”

**Page 375: V-38: §375-505(13). Minor Certification of appropriateness.** This subsection does not read clearly and does not make sense in some places. I would be glad to suggest some minor edits to make it clearer, but have not included them in technical edits because they would be a little more involved and somewhat substantive and don’t want us to get bogged down. However, we should revisit. (if you would like me to share suggested edits now, let me know).

**Page 375:V-44; §375-505(17)(b)(ii) Demolition.** I am surprised in some cases people can demolish structures without a building permit....even 499 square foot structures. Just something to discuss.

**Page 375:V-42; §375-505(15)(a) District plan approval. Applicability.** What is a “comprehensive district plan”? I couldn’t find a definition or standards that apply. Do height restrictions still apply? Needs clarification.

**Page 375:V-47; §375-505(18)(iii)A. 2. Subdivision of land. Planning Board review and action. Approval of plat. The 30 day time frame for the CPO to approve is confusing since it may not allow PB approval.** Seems like minor clarification of intent is needed.

**Page 375:V-48; §375-504(18)(c) Subdivision of land. Review criteria.** A new paragraph (v) should be added to state “the proposed development complies with the requirements of General City Law §§32-34 and General Municipal Law § 239-N and applicable SEQR requirements.”

**Page 375:V-58; §375-504(24). Zoning Text and Zoning Map amendments.** We should take a look at these provisions generally. Some of it doesn't make sense, is internally inconsistent or inconsistent with existing law.

**Page 375:V-60 and 61; §375-504(25). Designations of historic landmarks.** This could use some clarification as to the process as it also technically requires an amendment to the USDO overlay district language and public hearing requirements are a bit unclear.

**Page 375:V-63 -67; §375-506 Preexisting development and nonconformities.** This entire section is confusing and in places inconsistent....needs work.

**Page 375:V-70: §375-507(6)(b)(i). Remedies and penalties. Revoke permits and approvals.** This provision refers to “notice and hearing” but it is not clear who does this hearing. This may also require an amendment to 375-504 regarding appeals.

**Page 375:V-71: §375-507(6)(d)(ii). Remedies and penalties. Criminal and civil penalties.** This authorizes the Council to establish civil monetary penalties, but it is not clear why we have not or why there is no cross reference to the fines established.

**Review standards in Article V generally...I would prefer to see it clearly state the project needs to be consistent with “all applicable” provisions of the USDO as opposed to “any.”**

## **Article VI Definitions**

**Page 375:VI-3et seq.: §375-602 Definitions. The following are some definitions that we probably want to take a closer look at (in some cases inconsistent with state law).**

APPEAL. Do we want to add in a definition referring to article V for all other appeals that are not for the FP-O – which is the only one listed here?.

ASSISTED LIVING FACILITY.

CHARACTER.

CONTEXTUAL (I would include a citation to examples in the USDO)

DEVELOPMENT (currently does not encompass all projects subject to review)

DISTRICT

DORMITORY (definition contains a special use standards that should be moved to Article III.

GARAGE SALE (state locations)

HEALTH CLUBS/INDOOR RECREATION – either add definition for all other purposes or delete current definition as being duplicative of what is already said re Albany-Colonie Intermunicipal Overlay District. (this and many others begs question if we need to repeat all of these).

HISTORIC DISTRICT – should reference where they are all listed.

HOSPITAL – not clear it includes diagnostic and treatment centers. Might want to use a broader definition of Health Care Facility if it does.

MOBILE VENDOR

RESIDENTIAL USE (not really defined)

SIGN (do we want to move “temporary sign” definition to the listing of other signs defined under “SIGN”? Also should address marquees that are currently not allowed under these definitions.

TERTIARY STREET (should be moved to the definition of STREETS as other categories are listed there.

THEATER (might be helpful to have a definition....apparently falls under stadium or arena, but that would not be obvious to a lot of people)

cc: K. Kimbrough  
G. Farrell  
R. Conti  
M Andre  
J.R. Picchardo  
D. Gillespie  
D. Galin