

## Memo

**To:** City of Albany Common Council  
Planning, Economic Development & Land Use Committee

**From:** Staff, Department of Planning & Development

**Re:** Summary of proposed changes to the Unified Sustainable Development Ordinance proposed following the initial evaluation period established upon adoption

**Date:** October 24, 2021

The following memorandum represents a compendium of changes resulting from a comprehensive review of the City’s Unified Sustainable Development Ordinance (USDO). The USDO is the principal ordinance controlling land development within the City of Albany. It was adopted May 15, 2017 (effective June 1, 2017) as the first comprehensive update of said regulations in 24 years and the first comprehensive rewrite in 49 years.

The proposed changes are the result of a roughly seven-month review of the USDO occurring between March and October 2021. Planning Department staff worked closely with the Common Council’s Planning, Economic Development and Land Use Committee over the course of approximately 15 meetings to review content, solicit feedback and develop solutions to identified code deficiencies and ambiguities. The result is a more concise and user-friendly code document that provides enhanced transparency for critical decisions affecting interpretation and development.

The following summary of proposed changes is ordered sequentially by article and section.

### General replacement of terms.

Certain words, terms and phrases have been replaced throughout the USDO to encourage consistency in the applications of the ordinance and/or to align with stated terms and definitions in § 375-602 (Definitions). The following are examples of terms have been generally replaced but remain in some unique circumstances:

Existing Term or Phase	Proposed Term or Phrase
Back yard	Rear yard
Conditional use approval	Conditional use permit
Curb cut	Right-of-way access
Development or redevelopment	Development
Establishment	Use
Family	Unit or Household
Floor	Story

Floor area	Gross floor area
Frontage street	Primary street
Greatest degree practicable	Maximum extent practicable
His or her	They
Nonconforming	Legally nonconforming
Planning Office	Chief Planning Official
Primary place of residence	Primary residence
Primary structure	Principal structure
Residence	Dwelling
Zone district	Zoning district

## ARTICLE I. GENERAL PROVISIONS.

### § 375-102. Purpose.

- The purpose statement has been modified to speak to the equal protection and preservation of all neighborhoods and the promotion of racial and ethnic equity throughout.

### § 375-105. Effective date and transition.

- This section has been revised for clarity.

### § 375-107. Interpretation.

- The statement that an applicant may request a formal written interpretation of the USDO from the Board of Zoning Appeals has been removed in deference to the general process establishing the Chief Planning Official as the principal interpreter of ambiguous provisions within the USDO, with decisions of the Chief Planning Official being subject to an administrative appeal to the Board of Zoning Appeals. This clarification helps to articulate the general distinction between an interpretation and an administrative appeal. These changes, along with 375-505(19) also establish a clear process for notification of proposed interpretations to the Common Council and interested parties, and an opportunity to provide input into those proposed decisions

## ARTICLE II. ZONING DISTRICTS.

### § 375-203. Residential districts; § 375-204 Mixed-use districts; § 375-205 Special purpose districts.

- New color and context-sensitive concept graphics have been added for each zoning district, including the form-based districts.
- District purpose statements are the subject of minor revisions intended to clarify general intent and better distinguish the mixed-use zoning districts.

- Generic tabled references to other standards within the USDO have been removed from the individual district standards as unnecessary and lacking general utility commensurate with the amount of page space dedicated to these references.
- Dimensional standards, tables, and references have been removed from the individual zoning district sections. This was done in deference to the consolidated Dimensional Standards Summary Tables located in §375-401 acting as the principal repository of this content. Accompanying axonometric images have also been removed with the intent of replacing these exhibits more generally in future iterations of the USDO.
- District standards sections currently accompanying each zoning district have been relocated to various alternate locations within the USDO. In many cases, these standards now appear as footnotes within the Permitted Use Table in § 375-302 and the Dimensional Standards Summary Tables in § 375-401(3). Some content has been edited for clarity or simplicity in conjunction with its relocation.

## **§ 375-206. Overlay districts.**

### **(1) HR-O Historic Resources Overlay.**

- Address listings for historic districts and landmark properties have been reviewed for accuracy and updated where necessary for clarification.
- Regulatory provisions have been updated to include reference to required reviews for additions to existing buildings within the HR-O.
- Repainting of a masonry façade will no longer require a Certificate of Appropriateness; however, painting of unpainted brick continues to be discouraged and only allowed pursuant to Certificate of Appropriateness approval by the Historic Resources Commission.
- Awnings are no longer discouraged and recognized as appropriate for buildings of certain styles or eras.

### **(2) AR-O Archaeological Resources Overlay.**

- Procedures for archaeological reviews have been reworked and revised for clarity and application. The general tenets of where and when Cultural Resources Investigations are required remain the same.
- The Washington Avenue Archaeological Review District, previously constituted as the Washington Avenue Historic District, has been added to the listing of archaeological districts. The principal features of this district are the last intact remains of the first railroad in New York State (Mohawk & Hudson Railroad) and the 1851 brick arch conduit that previously served Six Mile Waterworks.

### **(3) FP-O Floodplain Overlay**

- Definitions specific to the Floodplain Overlay guidelines have been moved here from § 375-602 (Definitions). These definitions and terms were previously listed in § 375-602 with the caveat language that they were only applicable to the FP-O.

#### **(4) CS-O Combined Sewer Overlay**

- Storm water management requirements for small lots under 0.25 acres in size have been removed. These were too onerous for small applicants and from a regulatory perspective to justify the relatively small benefit. The USDO continues to require a Storm Water Pollution Prevention Plan for all land disturbances greater than 0.25 acres, which is well below the New York State threshold of 1 acre.

#### **(6) NK-O Normans Kill Overlay.**

- Language establishing the threshold for application review has been simplified.

#### **(7) AC-O Albany-Colonie Intermunicipal Overlay**

- Definitions specific to this section have been moved here from § 375-602 (Definitions). These definitions and terms were previously listed in § 375-602 with the caveat language that they were only applicable to the AC-O.

### **ARTICLE III. USE REGULATIONS.**

#### **§ 375-301. General.**

- Content speaking to allowances for preexisting conditional uses has been moved to § 375-506. (Preexisting development and nonconformities), where it now accompanies content pertaining to other preexisting developments and nonconforming uses.
- The allowance for accessory uses in the MU-CI and I-1 zoning districts to be located on a lot other than the lot having the principal use or structure has been removed. An exception for satellite dishes has also been removed.
- The “V” (Vacant use) designation has been discontinued due to a general lack of utility and in deference to other existing provisions that accommodate the reuse of existing structures and unique building types.
- A prohibition on multiple principal uses being located on a site/lot in a residential district has been removed in recognition of the fact that mixed-use, civic and other building types that suit a mix of uses practically exist within many designated residential zoning districts.
- The procedure for making unlisted use determinations has been enhanced to clarify the means by which the Chief Planning Official is required to substantiate such a determination and to allow for greater public input and transparency of the process. The process now delineates procedures for public notice of determinations and a process for appeals.
- A general reference has been added underscoring the need for uses to obtain applicable licenses and permits at all levels of government in order to remain in compliance with the USDO.
- Expanded the list of prohibited uses to include pawn shops.

#### **§ 375-302. Permitted Use Table.**

- A number of footnote references have been added to the Permitted Use Table in the hopes of making the table more transparent for users. Currently, a number of use allowances and restrictions exist outside of the Permitted Use Table and are poorly referenced, sometimes resulting in oversight and confusion. Most of the footnote references are comprised of content currently located in the district standards of Article II (Zoning Districts) and the individual use listings in § 375-301 (Use-Specific Standards). These help to reinforce within the table where a use may or may not be allowed under certain explicit conditions or circumstances.
- Added a new use category *Dwelling, three-unit detached* in an effort to standardize the use *Dwelling, multi-unit* to include all attached (townhouse) or detached buildings having four or more dwelling units. The current application is three or more units for a detached dwelling and four or more units for a townhouse dwelling.
- Added new use categories and permissions for *Beauty salon, spa or barber shop* (from current use *Personal or business service*), and *Laboratory or research facility, Medical clinic* and *Professional Office* (from current use *Office*). Although a general consolidation of uses and terms is supported by the USDO, these distinctions are intended to help better distinguish particular impacts of sub-categorizations of the more broadly encompassing and generically used categorization, similar to the existing variations within the retail use category.
- Uses and permission allowances have been bifurcated where distinct impacts of the two uses have been identified: *Dispatch service* and *Freight truck terminal*; *Light vehicle sales or rental* and *Light vehicle servicing*, *Funeral home* and *Crematorium*; *Telecommunications antenna as an accessory use* and *Satellite dish*.
- The use *Blood plasma center* has been relocated from the list of uses categorized under the Retail group heading to reside with those under the Office and Services group heading.
- Use allowances have been added changed or removed, as follows:

Use Category	
Dwelling, single-unit detached	Added as a permitted use in the MU-FC district
Dwelling, two-unit detached	Added as a permitted use in the MU-FC district
Dormitory	Changed from a permitted use to a conditional use in the R-V, MU-CH, MU-CI and MU-FC districts
Hospital	Changed from a permitted use to a conditional use in the MU-CH, MU-DT and MU-CI districts
Police or fire station	Added as conditionally permitted use the R-1L, R-1M, R-2 and R-T districts, and changed from permitted to conditionally permitted in the R-M, R-V and LC districts
Bar or tavern	Added as a permitted use in the I-1 district
Restaurant	Added as a permitted use in the I-1 district
Automobile wash	Changed from a permitted use to a conditional use in the MU-CH district and from an accessory use to a conditional use in the MU-CI district. Removed as an accessory use in the MU-DT district and as a conditional use in the MU-FC district.
Vehicle fueling station	Removed as a permitted or conditional use in the MU-NC, MU-CU, MU-CH, MU-CI, MU-FW, MU-FC, MU-FS, MU-FM, I-1 and I-2 districts. Added as an accessory use in the MU-CI, MU-FW, I-1 and I-2 districts.

Self-storage facility	Removed as conditional use in the MU-CU, MU-DT, MU-CI, MU-FC, MU-FS and MU-FM districts.
Artisan manufacturing	Added as a conditional use in the MU-NE district.
Recycling drop-off center	Changed from a conditional use to an accessory use in the MU-CU and MU-CH districts.
Drive-in or drive-through facility	Removed as an allowable accessory use in the MU-DT, MU-FW, MU-FC and MU-FS districts.

- Several accessory and temporary use allowances have been broadened to provide a general allowance in all districts where applicable use specific standards have been met, including: *Cabaret*, *Composting of household waste*, *Electric vehicle charging station*, *Home occupation*, *Rain barrel*, *Sidewalk or outdoor café*, and *Farmer’s market*.

### § 375-303. Use-Specific Standards.

- Use specific standards listings have been added for all new uses included in § 375-302 (Permitted Use Table).
- Limits maximum sign size allowances (2 SF) for live-work uses to apply only in residential zoning districts.
- Relocates preexisting use language for multi-unit dwellings to § 375-506. (Preexisting development and nonconformities).
- A standard has been added requiring that all *Cemetery* uses meet the Green Burial Council’s standards for natural or conservational burial grounds.
- A standard has been added requiring that all *Club* uses provide a copy of the Club charter and a list of all dues-paying members to remain on file with the City.
- Use-specific standards for *Telecommunication towers* and *Tower structures, other* have been consolidated under *Towers*. The text has been reworded and simplified, where appropriate, and content pertaining to obsolete towers has been moved to § 375-410 (Operating and maintenance).
- Use specific standards for marijuana dispensaries has been redirected to established areas of New York State law in recognition of the adoption of the Marijuana Regulation and Taxation Act.
- Use specific standards for *Parking lot, surface* have been updated in acknowledgement of the passage of Ordinance 11.61.20.
- A prohibition on greenhouses in residential districts has been removed from the use-specific standards for the *Agriculture, urban* use.
- Removed criteria establishing the width of a street as a consideration in the location of an *Automobile wash* use.
- Use specific standards for *Parking structure* now include listings relocated from the former district standards sections in Article II, including the restriction that a parking structure not be located within 50 feet of an R-1L, R-1M, R-2, or R-T zoning district.

- A maximum right-of-way width allowance contained within the use specific standards for *Vehicle fueling station* has been removed in deference to a general consolidation of right-of-way access allowances in § 375-403 (Access, circulation, and connectivity).
- Removes exceptions allowing certain items being stored in conjunction with a *Self-storage facility* use to be located outside of an enclosed building.
- Use specific standards imposing limitations on storage container capacity for *Storage and wholesale distribution* uses have been removed.
- Removed introductory language in section pertaining to *Day-care home* uses implying that the standards for said use only apply in residential and mixed-use districts.
- Use specific standards for *Satellite dish* and *Telecommunications antenna as an accessory use* have been bifurcated and substantially revised for clarity of application.
- The requirement for a *Swimming pool* to be located in a rear yard has been qualified to only apply in the case of a swimming pool located external to a building or structure.
- The allowance for a *Mobile vendor* to be located on a vacant lot has been clarified as a lot that has remained in an undeveloped condition for a period in excess of two years.
- A new section (7) has been created to house standards for the conversion of residential buildings to increase the number of dwelling units. This content was previously located in the district standards sections (now removed) for the R-2, R-T and R-M districts, as well as the use-specific standards for *Dwelling, two-family detached*. The language had been substantially reworked with an intent of applying the same general principles. With respect to conversions of townhouse dwellings, new standards pertaining to provisions for trash storage and a reclarification of the percentage that a building story must be above the finished grade along the street frontage to be occupied with a dwelling unit.

## ARTICLE IV. DEVELOPMENT STANDARDS.

### § 375-401 Dimensional standards.

- Introductory passages concerning encroachments and the number of allowable principal structures on a lot have been moved from the applicability section to the general standards.

#### (3) Dimensional Standards Summary Tables.

- A new dimensional standard, *building height, maximum (feet)*, has been added to the Dimensional Standards Summary Tables to complement the existing building height standard, now *building height, maximum (stories)*. Both standards will now apply, with the lesser of the two taking precedence.
- The maximum allowable building height for the MU-NC zoning district has been decreased from 3.5 stories to 3 stories. A footnoted exception has been added for circumstances where an MU-NC

zoned site or property abuts adjacent properties that are zoned within districts where height allowances are 3.5 stories or greater, in which case the allowable height may be increased to the equivalent of 4 stories.

- Building “step-back” or “step-down” requirements have been introduced in the footnotes of the Dimensional Standards Summary Tables that require a reduction in the height for portions of buildings exceeding 3 stories where they are located within a certain proximity of a given zoning district. Portions of buildings within 100 feet of an R-1L or R-1M district zone boundary must not exceed 3 stories or 40 feet, and portions of buildings within 25 feet of an R-2 zoning district must meet a similar standard. For the I-2 General Industrial district, this regulation applies within 100 feet of any residential zoning district.
- Contextual dimensional requirements for infill development and applicable in areas with variable setbacks have been incorporated as footnotes in the Dimensional Standards Summary Tables. The language has been slightly modified for clarity of application, and a requirement for variable lot widths has been limited to a minimum where both a minimum and maximum was previously applied.

#### **(4) District Plans.**

- A new section for content establishing the regulatory principles of District Plans has been established here, incorporating and consolidating prior references and passages that exist with the District Standards sections of Article II. This consolidation eliminates much of the redundancy that had been present in the prior listings.

#### **(5) Incentives and affordable housing requirements.**

- The Low-impact Development incentive has been removed in its entirety. This incentive allowed for a building height increase in instances where buildings incorporate a green roof design. Green roofs are already favorably credited towards impervious lot coverage allowances and are being encouraged as a matter of practice in storm water management design, lessening the need for this additional incentive allowance.

#### **(6) Encroachments and exceptions.**

- The table communicating content on allowable encroachments has been reformulated for the reader with no demonstrable change in content.

### **§ 375-402. Form-based zoning standards.**

- Design requirements for primary building entrances, façade transparency and liner building configurations have been removed from their specific application in form-based zoning districts and will now be employed generally in all zone districts, having been relocated to § 375-407 (Building and streetscape design).
- Frontage standard headings and table configurations have been formatted to read and appear more consistently with the Dimensional Standards Summary Tables in § 375-401 (Dimensional standards).

### **§ 375-403. Access, circulation, and connectivity.**

- Content has been substantially reordered throughout this section and is now ordered as follows: (1) Purpose, (2) Applicability, (3) Compliance with other standards, (4) Form-based district street hierarchy, (5) Sidewalks and amenities required, (6) Right-of-way access, (7) Site circulation and connectivity, (8) Traffic study.
- Content pertaining to standards that are applicable during the subdivision of land has been moved to § 375-404 (Subdivision of land).
- Subsection (5) consolidates content relating to requirements for sidewalks and amenities, previously dispersed throughout several sections of the USDO. An allowance for a shared use path to be provided, in lieu of a sidewalk and at the discretion of the Chief Planning Official, has also been added.
- Allowable right-of-way access widths have been incorporated into a new table in subsection (6) (Right-of-way access) and an accommodation has been added for wider access driveways in case they need be designed to accommodate multiple-axle vehicles.
- Content speaking to circumstances and requirements for a traffic study have been moved here from § 375-405 (Parking and loading) and incorporated a new Subsection (8) (Traffic study). This acknowledges the importance of access management considerations in the context of a traffic study and circumstances where parking may not be the sole or predominant consideration driving the need for such a study.

#### **§ 375-404. Subdivision of land.**

- Content has been substantially reordered throughout this section and is now ordered as follows: (1) Applicability, (2) General standards, (3) Land analysis map, (4) Avoidance of sensitive areas, (5) Lots and blocks, (6) Design of Streets, alleys and sidewalks, (7) Natural an open space areas, (8) Residential cluster subdivision, (9) Utilities and infrastructure.
- Subsection (6) (Design of Streets, alleys and sidewalks) incorporates content relocated from § 375-403 (Access, circulation, and connectivity) and § 375-407 (Building and streetscape design).

#### **§ 375-405. Parking and loading.**

- Content has been substantially reordered throughout this section and is now ordered as follows: (1) General, (2) Off-street parking requirement, (3) Off-street loading requirement, (4) Bicycle parking requirement, (5) Parking layout and design, (6) Design and use of off-street loading areas, (7) Drive-through vehicle stacking standards, (8) Bicycle parking design standards.
- The table containing minimum off-street parking requirements has been reformulated as Table 375.405.1 (Minimum and Maximum Off-Street Parking) to include maximum parking requirements (calculated at 115% of minimum requirements). Bicycle parking requirements have been separated from vehicular parking requirements and provided with their own Table 375.405.5 (Minimum Required Bicycle Parking). Requirements have been added for new use categories included in § 375-302 (Permitted Use Table).
- The parking alternatives and adjustments provisions have been adjusted to qualify the proximity to transit adjustment allowance, allow for the on-street parking credit adjustment in all zoning districts, and to reformulate the shared parking reduction table.

- Parking lot landscaping and screening requirements have been relocated from § 375-406 (Landscaping, screening and buffering) and incorporated in subsection (5) (Parking layout and design).

### **§ 375-406. Landscaping, screening and buffering.**

- Subsections (2) (Applicability), (4) (Street trees and lot frontage landscaping) (5) (Side and rear lot line buffers) and (8) (Walls and fences) have been substantially reworked for clarity and simplicity with minor changes to the resulting content.
- The vegetative coverage requirement in § 375-406(3)(e) has been revised to more clearly articulate the scope of application and to provide more specific exemptions in lieu of language speaking to its application to the maximum extent practicable.
- The low-impact development/stormwater treatment provision in § 375-406(3)(g) has been removed as impracticable due to the inability of many Albany hard clay soils to effectively infiltrate groundwater. This does not impact the requirements of subsection (12) (Stormwater management) but allows for greater flexibility in the storm water management practices that may be used to comply.
- The allowable height of fences or walls to be located in corner side yards has been increased from four to six feet and the maximum opacity requirement removed. Fences or walls in these location must meet vision clearances requirements for sightlines at corner intersections and where adjacent to private driveways or right-of-way access locations.

### **§ 375-407. Building and streetscape design.**

- A new subsection (3) (Existing building standards) has been created to summarize content regulating alterations to existing buildings not located in the Historic Resources Overlay, in an attempt to distinguish this content from design standards applicable to new buildings. These sections are currently conflated, making application of the provisions cumbersome. The new subsection (3) incorporates content from the district standards in Article II regulating design consideration for the conversion of a residential structure to nonresidential use.
- Design requirements for primary entrances, ground level building treatment, façade transparency, nonresidential use frontage requirements, and liner building configurations have been moved here from § 375-402 (Form-based zoning standards) and the district standards in Article II (Zoning districts), and are included in subsection (5) (Building design standards), with some being applied more broadly than under the current USDO.
- Former subsection (5) (Streetscape standards) has been moved to § 375-404 (Subdivision of land).

### **§ 375-408. Outdoor lighting.**

- Content in this section has been reorganized with minimal change.

## **§ 375-409. Signs.**

- Signage allowances in Table 375.409.1 (Type, Size, and Locations of Signs) have been revised to allow signage allowances per shopfront in recognition of multi-tenanted shopfront properties. Currently the application is applied per street frontage. A corresponding definition of shopfront has been added in § 375-602 (Definitions).
- The allowance for freestanding poles signs has been removed in favor of monument and post-and-panel signs. Poles signs remain allowed in the case of off-premises signage (billboards).
- Former subsection (6) (Special on premises sign program) has been removed due to inequity and complexity of administration.

## **§ 375-410. Operating and maintenance.**

- Content regulating hours of operation for businesses has been relocated from the Article II (Zoning districts) district standards and consolidated here, in new subsection (2) (Hours of Operation). Hours of operation for parking lot lighting has also been relocated here from § 375-408 (Outdoor lighting).
- Content regulating obsolete, unsafe and unsecure signs, and obsolete tower structures and antennas, has been relocated here from § 375-409 (Signs) and § 375-303 (Use-Specific Standards), respectively.

# **ARTICLE V. ADMINISTRATION AND ENFORCEMENT.**

## **§ 375-502 Procedure Summary Chart.**

- Table 375.502.1 (Summary of Development Review Procedures) has been reordered based upon the recategorization of procedures into pre-development procedures, development review procedures, permit procedures and policy decisions.
- The “Zoning clearance” procedure has been reconstituted and incorporated as a part of the administrative procedures for the review of building and sign permits. This is reflected in the addition of the Chief Planning Official as a reviewing authority in Table 375.502.1 (Summary of Development Review Procedures). An accompanying footnote denotes that issuance of a building or sign permit may require a zoning clearance. Procedural text has been incorporated into the building permit procedure in § 375-505 (Specific procedures).
- The Stormwater, Grading and Erosion Permit has not come to fruition in practice. Therefore, the procedures have been revised in deference to the existing Grading Permit procedure. The Stormwater Management Officer has become a reviewing authority and the City Engineer the party responsible for making a decision on a Grading Permit.
- The decision-making role for a Right-of-way Access Permit (formerly Curb Cut Permit) has been assigned to the Commissioner of General Services in consistency with current practice. The City Engineer has been reclassified as a reviewing authority.

- The Commissioner of General Services has been added as a reviewing authority for development plan review, subdivision of land, district plan approval, and revocable right-of-way privilege.
- The Stormwater Management Officer has been added as a reviewing authority for development plan review, subdivision of land, district plan approval, and floodplain development permit.
- The City Engineer has been added as a reviewing authority for development plan review and district plan approval, and removed as a reviewing authority for a revocable street privilege.

### § 375-504 General procedures.

- Entities qualifying to submit an application under the USDO have been broadened to include the Chief Planning Official, Board of Zoning Appeals, Historic Resources Commission and a single member of the Common Council.

### § 375-505 Specific procedures.

- This section has been reordered to align with the new ordering of listed procedures in Table 375.502.1 (Summary of Development Review Procedures).
- *Development permit* has been reconstituted as *Project review determination* signifying that this does not authorize any development but instead conveys the steps needed to undertake a particular development.
- The ability to employ a *District plan* has been limited to civic and institutional campuses owned or operated by a single or related entity or institution and occupying 10 or more acres of contiguous land area.
- The *Revocable sidewalk privilege* has been reconstituted as *the Revocable right-of-way privilege* signifying that this process may involve areas of public property beyond those areas traditionally known to be sidewalks.
- *Curb cut permit* has been reconstituted as *Right-of-way access permit* signifying that this process includes the review of access locations in areas where curbing may not be present.
- Procedures and applicability thresholds for *Development plan reviews* (major and minor) and *Certificates of Appropriateness* (major and minor) have been consolidated due to similarities in the procedures.
- Thresholds for *Development plan review* have been revised to better align with the terms defined in § 375-602 (Definitions).
- An additional major *Development plan review* threshold has been added as an additional layer of protection for projects involving new construction in previously platted cluster subdivisions.
- Application thresholds for projects requiring *Development plan review* have been adjusted for conversions of nonresidential buildings, from 5 to 20 for minor review, and from 21 to 50 for major review.

- Minor *Development plan review* requirements for the demolition of accessory structures and the no longer extant special sign program have been removed.
- Procedures for consolidating and adjusting lots, and minor subdivisions have been consolidated into the new *Lot modification* procedure. This is similar to the procedure that was in place prior to the adoption of the USDO. Individual types of modification procedures (consolidation, boundary adjustment and minor subdivision) are not distinct enough to merit separate procedures.
- The *Tree and Vegetation Permit* procedure has been removed. This procedure does not exist in practice and reference to the process is misleading.
- The process *Designation of a historic landmark or historic district* has been broadened to encompass designation of archaeological districts.
- A new procedure has been added for an *Interpretation* that outlines the process for resolving matters of conflict or ambiguity within the text of the USDO of the Official Zoning Map. The Chief Planning Official is charged with interpretation of the USOD pursuant to § 375-107

### § 375-506 Preexisting development and nonconformities.

- Introductory passages within this section have been revised and reconstituted for the clarity of the code user.
- A new section (2) has been added setting forth regulations for uses deemed to have a conditional use permit as a result of their existence prior to the adoption of the USDO, incorporating existing content that has been moved here from Article III (Use Regulations).
- A provision that had allowed a legally nonconforming use to expand within a building it occupies has been removed.
- A new section (8) has been added to clarify the process resulting in the determination of a legally nonconforming use, articulating the procedure, evidentiary considerations, notice provisions and means for a determination.

## ARTICLE V. RULES OF CONSTRUCTION, DEFINITIONS.

### § 375-602 Definitions.

- Where the only function of a definition is to redirect the user elsewhere within the USDO, it has in most cases been removed.
- Some descriptive architectural and construction terms, such as *Substantial improvement*, *Character* and *Primary façade*, have had their applicability broadened beyond their previously narrow scope of application.
- Definitions have been added in conjunction with addition of new use categories to the § 375-302 (Permitted Use Table), such as *Beauty Salon, spa or barber shop, Laboratory or research facility, Medical clinic, and Professional office*.

- Definitions unique to the FP-O (Floodplain Overlay) and the AC-O (Albany-Colonie Intermunicipal Overlay) have been moved to those respective sections in § 375-206 (Overlay districts).
- The following definitions have been added with the intent of enhancing interpretation and administration: *Abandon; Active recreation space; Addition; Archaeological district; Arterial street; Articulation; Barber shop; Beauty salon or spa; Block; Building, attached; Building, detached; Building, semidetached; Building envelope; Building footprint; Building mass; Building materials; Change of use; Collector street; Contributing structure; Conversion; Crematorium; Cul-de-sac; Cultural resources investigation; Developable lot; Dispatch service; Disturbance; Dwelling, three-unit detached; Easement; Encroachment; Enlargement; Façade; Fenestration; Fixture; Freight truck terminal; Funeral home; Glare; Height, sign; Historic structure contributing; Interior lot; Internal renovations; Laboratory or research facility; Light vehicle servicing; Liner building; Lot; Lot of record; Medical clinic; Mixed-use; Nonresidential use; Outdoor storage; Passive recreation space; Paved; Private street; Porch; Public street; Rehabilitation; Rhythm; Scale; Shopfront; Sight triangle; Off-premises sign; Solar farm; Stoop; Street furniture; Street tree; Streetscape; Structural alteration; Through lot; Trailer; Travel trailer; Undeveloped lot; Vehicle sales or rental.*

## ADDITIONAL ITEMS FOR FUTURE CONSIDERATION

### Accessory dwelling units.

An accessory dwelling units is a small, independent residential unit located on the same lots as a single-unit dwelling, often detached from or sometimes within or attached to the principal dwelling, and are comprised of a complete housekeeping unit with a shared or separate entrance, and separate kitchen, sleeping area, closet space, and sanitation facilities. These can be a source of affordable housing in otherwise exclusive residential areas and may also help reduce the financial burden of homeownership. ADUs can also be accommodating of residential caretakers, independent family members or aging in place. The code review did not reach a consensus on conditions for permitting Accessory Dwelling Units.

### Affordable housing and inclusionary zoning.

Testimony was raised that the current set aside provision for the inclusion of a percentage of affordable housing units in large new construction projects should be reevaluated. Evaluation of the program involves consideration of its many facets, such as establishing the appropriate income levels (AMI) at which the units should rent, the percentage of units that should be set aside at the various income ranges, and the scale of development to which the requirement should be applied. Perhaps more importantly, effective implementation, regulation and enforcement dependent upon designated staff resources and will be critical to the success of any program.

### Cannabis regulation.

Although the code update removes references to the strictly medical allowances under the current code provisions, a fuller discussion of where and under what conditions recreational dispensaries, grow operations and lounges should be permitted is warranted given the passage of the Marijuana Regulation and Taxation Act.

### Form-based districts.

Few changes were made to § 375-402 (Form-based zoning standards) and the districts it regulates. A remaking of these districts was conceptualized to involve the creation of new districts from each of the frontage types - Mixed-Use Core, Walkable Center, Neighborhood General, Connected Edge, Waterfront Edge, and Industrial Warehouse – commonly assigned to the four existing form-based districts. These new zoning districts based upon frontage type could be more broadly distributed beyond the confines of the existing form-based areas and provide more zoning district options for the City as a whole. The work required to accomplish this task could not be completed within the time allocated to this review.

#### **Land conservation and parks.**

The Land Conservation (LC) zoning district currently encompasses City parks, open spaces and those undeveloped lands that are either publicly owned or dedicated for conservation. This review identified that many active uses that may occur within City parks and other dynamically oriented open spaces are poorly served by the Land conservation zoning district permitted use allowances and dimensional standards. The creation of a new district for active and passive use public spaces should be considered. Regulations for community gardens and urban agriculture should also be revisited.

#### **Short-term rentals.**

Short-term rentals are furnished dwelling units or rooms that are rented for short periods of time rather than the annual rentals typical of unfurnished units. They are typically rented at a fee through online platforms such as Airbnb and VRBO. Developing a regulatory framework for short-term rental should be done in conjunction with the evaluation of taxation principles, in conjunction with Albany County.

#### **Signs.**

Preliminary discussions of sign content identified numerous items likely to generate considerable debate. It was also acknowledged that building and street typologies should play a significant role in the regulation of such, as much or more so than the zoning districts within which signs are located. The time and data required to conduct a thorough analysis of this topic was not available as a part of this review. It is recommended that sign regulations be revisited in the future at such a time when more representative data can be collected and presented to assist in the process of decision making.