



**COMMON COUNCIL MEETING
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE
Cathy Fahey, Chair**

DATE: Monday, June 8, 2020

TIME: 5:30 p.m.

TOPIC(S) OF DISCUSSION/CONSIDERATION:

8.41.20 AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

15.81.19 AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) BY REPEALING SUBDIVISION III (WAIVERS) OF SUBSECTION (b) (PROCEDURE) OF SECTION 375-5(E)(14) (MAJOR DEVELOPMENT PLAN REVIEW) AND REQUIRING THAT ANY PERMIT FOR THE PURPOSES OF DEMOLITION OR BUILDING BE APPROVED ONLY IF ALL RELEVANT PRIOR APPROVALS OR CONDITIONS BY CITY, COUNTY, STATE OR FEDERAL DEPARTMENTS OR AGENCIES ARE MET

PUBLIC COMMENT PERIOD: YES

This meeting is being held following Governor Cuomo's executive order 202.1 and Mayor Sheehan's emergency order 315-1b. Meeting will be held using Zoom and streamed through the Albany Common Council's Facebook. Please submit your public comment via email commoncouncil@albanyny.gov or on our website <https://www.albanyny.gov/Government/CityOfficials/CommonCouncil.aspx> by Monday, June 8, 2020 12 p.m which will be read for the record at the meeting.

To stream this video please visit: <https://www.facebook.com/albany.commoncouncil>

Council Member Doesschate introduced the following:

ORDINANCE NUMBER 8.41.20 (*As Amended 05/08/2020*)

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

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

Section 1. Paragraph (b) (LOW IMPACT DEVELOPMENT) of subdivision (4)(INCENTIVES) of subsection (A) (DIMENSIONAL STANDARDS) of section 375-4 of Chapter 375 (DEVELOPMENT STANDARDS) of the Code of the City of Albany (Unified Sustainable Development Ordinance) is hereby amended to read as follows:

(b) (ii) LOW IMPACT DEVELOPMENT

New development or redevelopment of a site that incorporates a green (vegetated) roof designed so that off-site flow of the first one inch of rainfall during the first 24 hours after rainfall ends is reduced by at least 50 percent shall receive the following benefits:

- A. ~~(i)~~ The project may reduce any required building setback from any zoning district other than a residential zoning district by 20 percent (provided that the required reduction in off-site water flow is still achieved); and
- B. ~~(ii)~~ The project may increase the maximum height of any primary building (or part of a primary building) located more than 100 feet from a Residential zoning district other than the R-M Districts by one story.
- C. ~~(iii)~~ The Low-Impact Development incentives detailed above shall be suspended and not available for new development or redevelopment applications submitted between June 30, 2019 and June 30, ~~2020~~2021.

Section 2. This ordinance shall take effect immediately.

Approved as to form this 25th day of March, 2020

Corporation Counsel

To: Danielle Gillespie, City Clerk

From: Councilwoman Doesschate

RE: Request for Common Council Legislation
Supporting Memorandum

Date: March 25, 2020

ORDINANCE NUMBER: 8.41.20 (*As Amended 05/08/2020*)

SPONSOR(S): Doesschate

TITLE: AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) IN RELATION TO INCENTIVES FOR DEVELOPERS TO USE ENERGY EFFICIENT AND LOW IMPACT DESIGNS

GENERAL PURPOSE OF LEGISLATION: To continue the suspension of the application of the USDO incentive that allows developers to increase the height of the primary building on a site by one story or reduce set backs if the developer incorporates into design plans a green roof or other building or site features that are designed so that off-site flow of the first one inch of rainfall during the first 24 hours after rainfall ends is reduced by at least 50 percent shall receive the following benefits for applications submitted through June 30, 2021. The current suspension of this provision is for any development applications submitted from June 30, 2019 to June 30, 2020. It was anticipated that during the initial suspension, the administration would evaluate the viability of the affordable housing incentive that would provide similar benefits to developers and possibly propose clearer standards for the green roof incentive that would ensure significant benefits to the community and the environment. However, due to a number of challenges in the past year and currently, including the onset of COVID-19 pandemic, staff has not been able to undertake a more thorough analysis of this issue and has needed to focus on other issues. Consequently, it is advisable to continue the suspension of this incentive until staff has the time to devote to studying and making recommendations for the appropriate changes to the USDO.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW: The suspension of these incentives should be continued until such time as staff has the ability to study this issue and make recommendations. This ordinance also makes technical changes a previously adopted ordinance (10.51.19) that had incorrect numbering.

TIME FRAME FOR PASSAGE: By June 1, 2020 to ensure there is no gap in the suspension of the incentive.

SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS: N/A

SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION: N/A

FISCAL IMPACTS: None.

Council Member Hoey introduced the following:

Ordinance Number 15.81.19

AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) BY REPEALING SUBDIVISION III (WAIVERS) OF SUBSECTION (b) (PROCEDURE) OF SECTION 375-5(E)(14) (MAJOR DEVELOPMENT PLAN REVIEW) AND REQUIRING THAT ANY PERMIT FOR THE PURPOSES OF DEMOLITION OR BUILDING BE APPROVED ONLY IF ALL RELEVANT PRIOR APPROVALS OR CONDITIONS BY CITY, COUNTY, STATE OR FEDERAL DEPARTMENTS OR AGENCIES ARE MET

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

Section 1. Subdivision III (Waivers) of subsection (b) (Procedure) of section 375-5(E)(14) (Major Development Plan Review) of Chapter 375 of the Code of the City of Albany (Unified Sustainable Development Ordinance) is hereby repealed

Section 2. Subsection (c) (Review Criteria) of section 375-5(E)(1) (Building Permit) of Chapter 375 (Unified Sustainable Development Ordinance) is amended to read 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 the USDO, and the Albany City Code. No permit shall be issued unless all relevant prior approvals or conditions required and imposed by City, County, State or Federal agencies or departments prior to building are met. No waiver or alteration of such condition may be made by the Chief Planning Official.

Section 3. Subsection (c) (Review Criteria) of section 375-5(E)(17) (Demolition Permit) of Chapter 375 (Unified Sustainable Development Ordinance) is amended to read as follows:

(xv) Whether any prior approval or condition has been imposed by a City, County, State or Federal agency or department which requires such approval or condition be met prior to any permit being issued in relation to the demolition of any proposed building or structure.

Section 4. This ordinance shall take effect immediately

Albany Common Council

Memorandum in Support of Legislation

To: Danielle Gillespie, City Clerk
From: Tom Hoey, Councilman
Re: Request for Common Council Legislation
Date: July 25, 2019

Ordinance Number: 15.81.19

Sponsor(s): Council Member Hoey

Title: AN ORDINANCE AMENDING CHAPTER 375 OF THE CODE OF THE CITY OF ALBANY (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) BY REPEALING SUBDIVISION III (WAIVERS) OF SUBSECTION (b) (PROCEDURE) OF SECTION 375-5(E)(14) (MAJOR DEVELOPMENT PLAN REVIEW) AND REQUIRING THAT ANY PERMIT FOR THE PURPOSES OF DEMOLITION OR BUILDING BE APPROVED ONLY IF ALL RELEVANT PRIOR APPROVALS OR CONDITIONS BY CITY, COUNTY, STATE OR FEDERAL DEPARTMENTS OR AGENCIES ARE MET

Purpose: To amend the Unified Development Ordinance of the City of Albany to ensure that no building permit or demolition permit is issued prior to any condition precedent set by a City, County, State or Federal agency or department, is met. This legislation also seeks to remove the waiver provision of the Unified Development Ordinance pertaining to Major Development Plan Review.

Summary:

Section 1 repeals subdivision III (Waivers) of subsection (b) (Procedure) of section 375-5(E)(14) (Major Development Plan Review) of Chapter 375 of the Code of the City of Albany (Unified Sustainable Development Ordinance) to remove the waiver provision.

Section 2 amends subsection (c) (Review Criteria) of section 375-5(E)(1) (Building Permit) of Chapter 375 (Unified Sustainable Development Ordinance) to ensure that any condition placed on a proposed development, being required by the issuing agency or department, is to be carried out prior to ground breaking or construction and before a building permit is issued.

Section 3 amends subsection (c) (Review Criteria) of section 375-5(E)(17) (Demolition Permit) of Chapter 375 (Unified Sustainable Development Ordinance) to ensure that any condition placed on a proposed development that is required by the issuing agency or department, is carried out prior to ground breaking or construction and before a demolition permit is issued.

Section 4 sets the effective date

Justification: The Unified Sustainable Development Ordinance (USDO) is the blueprint to our community's current regulations on zoning and development within the City of Albany. By utilizing this ordinance a resident, a landowner, or a developer can determine what regulations must be met in order to legally carry out their desired wishes and it is the goal of the Common Council to ensure that this document is fully transparent and workable for all entities that rely upon it for its legal significance and guidance. Courts have held that a zoning regulation is permissible if it is reasonable and not arbitrary; if it bears a substantial relation to the public health, safety, comfort, and general welfare; and if the means employed are reasonably necessary for the accomplishment of its purpose.

This legislation seeks to amend the USDO in a manner that would reduce ambiguity in what is and what is not required of landowners, developers and residents, by removing the waiver clause that currently allows for the Planning Board to grant a waiver of the provisions laid out within the USDO, if the Planning Board deems the provisions to cause "practical difficulties" to the carrying out of an application for "Major Development." What may or may not be deemed a "practical difficulty" is undeterminable as it stands currently and is set on a case by case basis. The concern is that the USDO permits waivers to be granted without clearly outlining what specific situations rise to the level of a "practical difficulty" and the vague nature of this language can lead to misunderstandings and a lack of transparency.

Secondly, the amendments made herein pertaining to the granting of a Building Permit, as well as a Demolition Permit, are aimed at strengthening the USDO's goal in ensuring the protection of the public's health, safety, comfort and general welfare. There are times when a City, County, State or Federal agency or department has specific conditions that they need to see met before they can approve a proposed design, build or demolition. The stipulations and conditions are often handed down to ensure such things as fire code, occupancy limits, water, sewer and other environmental impacts are accounted for and the amended language makes clear that such needs are carried out before any permit is granted. Granting of a permit prematurely could lead to an unintended consequence that has the potential to harm the public's health, safety, comfort and general welfare.

Fiscal Impact: None

Effective Date: Immediate