



COMMON COUNCIL MEETING
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE
Alfredo Balarin, Chair

DATE: Monday, December 8th, 2025

TIME: 5:30 PM

LOCATION: Council Chambers-2nd Floor, City Hall

LIVESTREAM: YouTube— <https://www.youtube.com/@albanycommoncouncil>
Facebook— <https://www.facebook.com/albany.commoncouncil>

TOPIC(S) OF DISCUSSION:

- **ORDINANCE 61.111.25 (BALARIN)**
AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT
- **ORDINANCE 16.82.25 (BALARIN)**
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS

The Albany Common Council encourages members of the public to provide public comment in-person or online. To provide in-person commentary, one can show up before the meeting to sign up, or use the link that follows 30 minutes prior to the meeting. One can also email commoncouncil@albanyny.gov to provide written public comment, or use the same link that follows:

<https://albanyny.gov/FormCenter/Common-Council-15/Online-Public-Comment-SignUpSubmission-F-59>

Council Member Balarin introduced the following:

ORDINANCE 61.111.25

AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT

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

Section 1. Section 375-302 (Permitted Use Table) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

Table 375.302.1 Permitted Use Table P=Permitted Use C=Conditional Use A=Accessory Use T=Temporary Use																	
Zoning District	Residential						Mixed-Use								Special Purpose		
	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	
LAND USE CATEGORY																	Use-Specific Standard in Article III
COMMERCIAL USES																	
Vehicles and Equipment																	
Parking Lot, Surface	A	A	A	A	A	A	A	A	C	A	C	A	A	A	A	<u>A</u>	§ 375-303(4)(g)(vii)

Section 2. Subparagraph (vii) of Paragraph (g) of Subsection 4 of Section 375-303 (Use-specific standards) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

(vii) Parking lot, surface.

- A. This use must meet all applicable requirements of Article IV (Development Standards), including but not limited to those governing the for location, layout, and design, and operation of parking lots in § 375-405 (Parking and loading).
- B. In those districts where a conditional use permit is required, it shall be only in those cases where the parking lot use is to be established as the principal use of the land. A conditional use permit shall not be required where parking is to be established as an accessory use.
- C. In the MU-CU and MU-FM Zoneing Districts, no conditional use permit shall be approved unless it is determined that the proposed parking lot all of the following conditions are met:

1. ~~Responds to a demonstrable parking need of the use or uses of a nearby property to be served, as evidenced by factors, including, but not limited to, recent or proposed investment in and improvements to the nearby property that will result in or has resulted in increased tenancy or patronage, and whether the use has otherwise provided the minimum parking required pursuant to § 375-405(2)(a) or is anticipated to be used by other nearby properties; The parking lot shall serve a demonstrated parking need associated with a nearby property or properties. Evidence of such need may include, but is not limited to, recent or proposed investments or improvements that have resulted in, or are expected to result in, increased tenancy or patronage; whether the use to be served has satisfied the minimum parking requirements of § 375-405(2)(a); and whether the parking lot is intended to serve multiple nearby properties.~~
2. The closest lot line for the proposed parking lot is no more than 300 feet from a lot line of the property or properties to be served;
3. The property or properties to be used for the parking lot have been vacant or underutilized for ~~at least~~ a minimum of five years and have no other immediate prospects for development;
4. For properties with a depth of 100 feet or greater, ~~is the parking lot shall be~~ designed in such a way that it does not foreclose the possibility of liner buildings being constructed along any street frontages, to the ~~greatest degree~~ maximum extent practicable; and
5. ~~Does The parking lot shall~~ not result in the demolition of buildings or structures having an economically viable use or reuse, as determined ~~pursuant to the provisions of~~ by § 375-505(7) (Demolition review) or ~~a, where applicable, § 375-505(4) Major certificate of appropriateness, whichever applies.~~

Section 3. This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS
20TH DAY OF OCTOBER, 2025**

CORPORATION COUNSEL

To: Shaniqua Jackson, City Clerk

From: Avi Epstein, Principal Planner
Council Member Alfredo Balarin, 11th Ward
Alyssa Kamara, Junior Policy Analyst

Re: Request for Common Council Legislation
Supporting Memorandum

Date: October 20, 2025

Sponsor: Council Member Alfredo Balarin, 11th Ward

ORDINANCE 61.111.25

TITLE

AN ORDINANCE AMENDING CHAPTER 375 (CITY OF ALBANY UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PARKING LOTS IN MU-FM ZONING DISTRICT

GENERAL PURPOSE OF LEGISLATION

The purpose of this ordinance is to allow surface parking lots as a principal use of land in the MU-FM zoning district, subject to Conditional Use Permit (CUP) review and compliance with use-specific standards. Under current regulations, surface parking is prohibited as a principal use in the MU-FM district. This amendment would permit such use, provided that a CUP is obtained and the proposal meets the criteria set forth in § 375-303(4)(g)(vii).

This amendment is related to Ordinance 11.61.20, adopted on October 4, 2021, which introduced similar regulatory changes for the MU-CU district. The current proposal would extend those provisions to the MU-FM district.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW:

This proposed amendment responds to a request by the North American Islamic Trust, Inc. to construct ancillary parking on property located at 128–140 Bradford Street. The organization is affiliated with Masjid As-Salam, located at 276 Central Avenue, and seeks to establish parking to support the needs of that facility.

FISCAL IMPACTS

None.

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

ORDINANCE 16.82.25

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS

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

Section 1. Subsection (8) (Determinations of status of nonconformities) of Section 375-506 (Preexisting development and nonconformities) of Article V (Administration and Enforcement) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is hereby amended to read as follows:

- (8) Determinations of status of nonconformities.
- (a) Any person having a legal or equitable interest in a preexisting development or nonconforming property may apply for a determination from the Chief Planning Official on such forms as the Chief Planning Official shall prescribe.
 - (b) Responsibility of the applicant/property owner. The burden of proving a structure or use is a legal nonconforming use resides with the property owner or other person with an equitable interest.
 - (i) It shall be the applicant and/or property owner's responsibility to provide any and all documentation or evidence required to support a preexisting development or nonconformity claim under the provisions of this § 375-506. Although City employees may assist applicants, no City employee or official shall be responsible for gathering evidence or documentation to support a claim of legal nonconformity.
 - (ii) Such evidence shall be sufficient to prove:
 - A. That the use was lawfully established in accordance with the applicable law and regulations in effect at the time of its establishment;
 - B. That the use has been continuously maintained since it was established; and
 - C. That the use has not been abandoned for a period in excess of one year.
 - (iii) 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 of leases or subleases, evidence of goods and services rendered from the property (dated or with an affidavit as to the date of the evidence), or notarized affidavits

from the owner(s) of one or more properties within 300 feet of the subject property.

- (iv) Where an applicant seeks a certificate to establish the legal or nonconforming status of a structure or other nonconformity only, the Chief Planning Official shall issue a determination upon review of a certified survey, building permits, or other documentation deemed necessary or sufficient by the Chief Planning Official.

~~(c) — Notice to interested parties.~~

~~(i) — The Chief Planning Officer shall provide interested property owners, members of the public, and the Common Council with notice of an application for a determination of legal noneconformity similar to the content of notices for applications for variances, and shall include information on how members of the public may submit comments or documentation to be considered by the Chief Planning Official.~~

~~(ii) — A notice of the application shall be posted at the property on each side the subject property faces a public street with the same information and in the same manner as is required for notice of a variance request and shall include information on how members of the public may submit comments or documentation to be considered by the Chief Planning Official.~~

~~(d) — The Chief Planning Official may not make a determination relating to a nonconforming use until 14 days after the date the public notices were mailed or the date the notice was posted at the subject property, whichever is later.~~

~~(i) — The Chief Planning Official shall review all proof submitted by the applicant and all other comments and documents submitted. The applicant shall only be entitled to a determination finding a legal noneconforming use or structure if the evidence submitted clearly establishes that the property meets each and every criteria of a legal nonconformity set forth in Subsection (1) above.~~

~~(e) — The determination of the Chief Planning Official shall be mailed to the applicant, the City Clerk, designated Common Council staff, any person who commented in writing regarding the application, and posted on the Planning Department website within five days of its issuance.~~

Section 2. This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS
25TH DAY OF JULY, 2025**

Corporation Counsel

To: Shaniqua Jackson, City Clerk

From: Brett Williams, Deputy Corporation Counsel

Re: Common Council Legislation
Supporting Memorandum

Date: July 25, 2025

Sponsor: Council Member Balarin, o/b/o Planning Committee

ORDINANCE 16.81.25

TITLE

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO THE NONCONFORMITY DETERMINATION PROCESS.

GENERAL PURPOSE OF LEGISLATION

This ordinance amends the procedure under the USDO for determining the legality of a non-conformity by removing the existing requirement to provide legal notice to interested parties.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

A nonconformity refers to a use, lot, structure, standard, or circumstance that was legally established prior to the effective date of a regulation under Chapter 375 but does not conform to current zoning standards. Determining whether a nonconformity was legally established falls under the authority of the Chief Planning Official; however, the burden of proof lies with the property owner or an applicant with an equitable interest in the property.

The process for making such a determination is outlined in § 375-506(8). It begins with the submission of an application accompanied by supporting documentation (e.g., photographs, utility bills, tax statements, leases, notarized affidavits) demonstrating that the nonconforming use, structure, or other improvement predates the relevant zoning regulation. These applications are most commonly submitted during property sales or refinancing, typically to confirm that an existing use qualifies as a legal nonconformity. In many cases, this filing is preceded by a request for a zoning compliance certificate, which may indicate that the current use does not conform to zoning district allowances and trigger further review.

Although the nonconformity determination process has existed in some form since zoning was first adopted in the City, it was more clearly formalized with the adoption of the Unified Sustainable Development Ordinance (USDO) in 2017, and a public notice requirement was added in 2021. While this notice requirement was well-intentioned, it has introduced delays and uncertainty that hinder investment in nonconforming properties, particularly residential uses, without significantly advancing the public interest.

Under the current process, applicants must:

- Send certified mail notices to all property owners within 250 feet of the subject site (typically between 50 and 100 recipients);
- Post a notice on the property with instructions for how the public may submit comments; and
- Submit an affidavit of compliance, after which the Chief Planning Official must wait at least 14 days before issuing a decision to allow time for public input.

Since these requirements were implemented, a total of 1,160 mailed notices for 23 nonconformity determination applications were sent by applicants. In response, only 6 public comments were received, a response rate of just 0.5%. Notably, the comments received have typically expressed opinions on whether the use should exist or continue, rather than whether it lawfully predates zoning changes. Because determinations are based on objective, factual evidence, often already available in public records or provided by applicants, public input rarely introduces new or relevant information.

At the same time, the current process imposes significant financial and administrative burdens on both applicants and City staff, delays that can obstruct real estate transactions, increase housing insecurity, and discourage reinvestment in older properties.

This legislation seeks to streamline the nonconformity determination process by eliminating the public notice requirement. In doing so, it aims to reduce burdens on applicants, preserve staff resources, and promote reinvestment, without compromising the integrity of the review process.

FISCAL IMPACT

None.