

## Memo

**To:** City of Albany Common Council  
Planning, Economic Development & Land Use Committee  
**From:** Department of Planning & Development  
**Re:** Proposed Content Changes, Article I  
**Date:** March 26, 2021

The following constitutes a list of suggested changes to Article I of Chapter 375 (Unified Sustainable Development). Also included are advisory notes identifying potential next steps or additional considerations for which specific changes have not yet been proposed.

### § 375-102. Purpose.

*This USDO is adopted in order to:*

(3) *Protect and preserve the City's ~~residential~~ neighborhoods;*

**Purpose:** Protection of the City's neighborhoods should not be exclusive to residential neighborhoods.

**Advisory:** The purpose statement does not articulate what about the neighborhoods the USDO seeks to preserve or what they are being protected from. Accordingly, it can have a positive or negative connotation depending upon the individual's interpretation.

(4) *Promote energy conservation, ~~and~~ low-impact development, and environmentally sensitive development;*

**Purpose:** Correction of grammatical error.

(7) *Promote, preserve, ~~and encourage the aesthetic quality~~ and reinforce the historic urban form and fabric of the City; and*

**Purpose:** The passage conflates two different themes – the encouragement of aesthetic quality; and the promotion and preservation of the historic urban form and fabric of the City.

**Advisory:** An additional purpose item may be warranted to replace the reference to aesthetic quality and to underscore the importance of design excellence.

### § 375-104. Applicability.

(3) *No building shall be erected or altered to exceed the height, accommodate or house a greater number of **families**, accommodate a larger or more intense land use than is permitted, occupy a greater percentage of lot area or have narrower or smaller rear yards, front yards, or side yards, ~~inner or outer courts~~ than is permitted by this USDO for the district and any overlay district in which the building is located.*

**Purpose:** The USDO otherwise contains no reference to inner or outer courts. The reference here only serves to confuse.

**Advisory:** Usage of the term “family” as a defining feature of the zoning regulations should be evaluated for appropriateness and its potentially restrictive and exclusionary impacts upon functionally equivalent families and other cohabitants.

(4) *Unless expressly stated otherwise in this USDO, ~~No~~no part of a yard or other open space around any building required for the purpose of complying with the provisions of this USDO shall be included as a part of the yard or other open space similarly required for another building.*

**Purpose:** The current language likely conflicts with other provisions of the USDO (ex. cluster subdivisions; district plans).

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

(3) *Uses, structures, and lots rendered conforming. A use, structure, or lot ~~that was legally nonconforming at the time of the adoption of this USDO~~ will be deemed lawful and conforming as of the effective date of this USDO if it conforms to all requirements of this USDO.*

**Purpose:** The specific reference to prior legal nonconformities is unnecessary and can be read as contradictory. If a use structure or lot conforms to the USDO, it lawful and conforming regardless of its conformity status under the prior ordinance.

(4) *Uses, structures, and lots rendered **nonconforming**.*

(b) *Where any building, structure, or lot that legally existed on the effective date of this USDO does not meet all standards set forth in this USDO, such building, structure, or lot condition shall be considered nonconforming and shall be controlled by § 375-506 (Preexisting development and nonconformities).*

**Advisory:** As written the article implies that a building, structure, or lot is nonconforming if it does not meet a single standard set forth within the USDO, which may be an overly broad categorization. This section should be reviewed for changes in conjunction with 375-506 (Preexisting development and nonconformities).

~~(5) Applications commenced or approved under previous ordinances.~~

~~(a) Pending applications.~~

~~(i) Any complete application that has been submitted for review, but upon which no final action has been taken by the appropriate decisionmaking body prior to the effective date of this USDO, shall be reviewed in accordance with the applicable provisions of the Albany Zoning Ordinance and Subdivision Regulations in effect on the date the application was deemed complete. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this USDO. Any reapplication for an expired project approval shall meet the standards in effect at the time of reapplication.~~

~~(ii) An applicant with a complete application that has been submitted for approval, but where no final action has been taken prior to the effective date of this USDO, may submit a written request to the Chief Planning Official to have the application reviewed under this USDO.~~

~~(b) Approved projects. Permits, development plans, building permits, and variances that are valid on the effective date of this USDO shall remain valid until their expiration date. Projects with valid~~

~~approvals or permits shall be completed pursuant to the development standards in effect at the time of approval. If the approval or permit (including any extensions of time permitted and approved under the prior Zoning Ordinance and/or Subdivision Regulations) expires, future development shall comply with the requirements of this USDO.~~

**Purpose:** There are no applications or projects remaining that meet the applicable categorizations.

## § 375-107. Interpretation.

~~The Chief Planning Official shall be authorized to **interpret** the provisions of this USDO, including but not limited to the location of zoning district boundary lines, unless a different City official is specifically designated in this USDO to make a particular interpretation. ~~The decisions~~ Interpretations of the Chief Planning Official are subject to appeal to the Board of Zoning Appeals. ~~An applicant may request that a formal written interpretation of this USDO be made by the Board of Zoning Appeals.~~~~

**Purpose:** Section 375-504(12)(b) describes the process for appealing a decision of the Chief Planning Official. It would seem to be a cleaner process to allow the Chief Planning Official to make an interpretation, which could then be appealed pursuant to Section 375-504(12)(b).

**Advisory:** Procedures should be added to clarify the process for interpretations and to allow for greater transparency around these decisions. We have not yet concluded upon the specific language or appropriate location for such procedures. A definition of interpretation may also be warranted.