

Council Member Doesschate introduced the following:

ORDINANCE NUMBER XXXXX.111.18

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

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

Section 1. Clause (i) (Type, Size, and Locations) of Subparagraph (a) of Paragraph (5) (On-Premises Signs that Require a Sign Permit) of Subsection (I) of Section 375-4 (Development Standards) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

(i) TYPE, SIZE, AND LOCATIONS

Type of Sign		Residential Districts	Mixed-Use Districts	Special Purpose Districts	
Free-standing	Maximum Number Per Street Frontage	1 [1]	MU-NE MU-NC MU-CI MU-CU MU-CH MU-DT MU-FW MU-FC MU-FS MU-FM	1 0	1
	Maximum Size	20 4 sq. ft. [1]	MU-CU MU-CI MU-DT	64 sq. ft. [2]	64 sq. ft.
			MU-NC MU-NE	20. sq. ft.	
	Maximum Height	5 3 ft.	MU-CU MU-CH MU-CI MU-DT	8 ft.	6 ft.
			MU-NC MU-NE	5 ft.	
	Illumination	External only [1]	Yes [3]		Yes [3]

Table 375-4-5: Type, Size, and Locations of Signs

Type of Sign		Residential Districts	Mixed-Use Districts	Special Purpose Districts	
Wall	Maximum Number Per Street Frontage	1 [1]	1[4]	1	
	Maximum Size	20 4 sq. ft. [1][1a]	MU-CU MU-CH MU-CI MU-DT	32 sq. ft. [2][4]	32 sq. ft.
			MU-NC MU-NE MU-FW MU-FC MU-FS MU-FM	24. sq. ft.	
Illumination:	No	Yes [3]		Yes [3]	
Projecting	Maximum Number Per Street Frontage	0	1 [5]	1 [5]	
	Maximum Size	N/A	MU-CU MU-CH MU-CI MU-DT	32 sq. ft.	32 sq. ft.
			MU-NE MU-NC MU-FW MU-FC MU-FS MU-FM	24 sq. ft.	
Illumination	N/A	Yes [3]		Yes [3]	
Awning	Maximum Number Per Street Frontage	0	1 [5]	1 [5]	
	Maximum Size of Sign	N/A	24 sq. ft.	24 sq. ft.	
Area					
Illumination:		N/A	Yes [3]	Yes [3]	
Notes: [1] Limited to multifamily dwellings and nonresidential uses. Signs for legal nonconforming uses in residential zones may not exceed 2 sq ft, be more than 3 ft in height or be illuminated. [1a] Wall signs for buildings with pre-existing commercial building facades or a variance for a commercial use in a residential zone may be approved for a wall sign of up to 10 square feet provided such sign is consistent with the character of the building and the neighborhood in which it is located. [2] Properties in the MU-CH and MU-CI districts that have more than 200 linear feet of street frontage are allowed a maximum size of 100 sq. ft. for freestanding and wall sign, and a maximum height of 25 ft. for freestanding signs. [3] Applicable signs are subject to the provisions of Section 375-4(I)(3). [4] Additional signs permitted above top row of windows on buildings at least 9 stories in height may not extend					

Section 2. Subclause E. (Obsolete Signs) of Clause (ii) (Type, Size and Locations) of Subparagraph (a) of Paragraph (5) (On-Premises Signs that Require a Sign Permit) of Subsection (I) of Section 375-4 (Development Standards) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

E. OBSOLETE, UNSAFE and UNSECURE SIGNS

1. Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located shall be removed unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district.

2. If the Chief Building Official finds that any sign regulated herein is obsolete, abandoned, unsafe or unsecure or is a menace to the public, he or she shall give written notice to the named owner of the sign and the named owner of the land upon which it is located, who shall remove, or as appropriate repair, the sign within 60 days from the date of the notice. If the sign is not removed or repaired within that time period, the Chief Building Official shall revoke the permit for such sign, if one was issued, and remove or repair the sign and shall assess all costs incurred for such service against the owner of the sign.

Section 3. Paragraph (5) (Non-Conforming Signs) of Subsection F (Pre-Existing Development and Nonconformities) of Section 375-5 (Administration and Enforcement) of Chapter 375 of the Code of the City of Albany is amended to read as follows:

(5) NONCONFORMING SIGNS

(a) All signs that have been lawfully erected shall be deemed to be legal and lawful signs and shall be maintained subject to the provisions of this Section.

(b) On-premises signs legally erected before the adoption of this USDO that do not conform to the provisions of Section 375-4(I) may continue to be maintained as long as the specific business to which any sign pertains continues to operate at the same property, however, they shall not be enlarged, increased in height, redesigned or altered in any way, unless to conform to the requirements of this USDO.

Section 4. This ordinance shall take effect immediately.

APPROVED AS TO FORM

October ____, 2018

Corporation Counsel

To: Gerald Campbell, City Clerk
From: Judy Doesschate, Member, Albany Common Council
Re: Residential Neighborhood Preservation Legislation

Supporting Memorandum

Date: October 15, 2018
ORDINANCE NUMBER XXXXX.111.18

TITLE

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

GENERAL PURPOSE OF LEGISLATION

This legislation makes necessary changes to the Unified Sustainability Development Ordinance (USDO) to protect and preserve the quality of life and character of our neighborhoods - our residentially zoned districts - by conforming the provisions relating to signs in residential districts to the intent and purposes of the USDO and re-enacting some language and limitations that was omitted in the new USDO. The changes would:

- Reduce the maximum size of signs in residential districts from 20 square feet to 4 square feet, and the maximum height of a free-standing sign from 5 feet to 3 feet, but allow for wall signs of up to 10 sq feet if the sign is consistent with the character of the building and the neighborhood in which it is located;
- Limit signs for legal non-conforming uses in residential areas to 2 square feet, a maximum height of 3 feet, and no illumination unless a conditional use permit has been obtained;
- Re-enact provisions expressly authorizing the Chief Building Official to remedy issues with obsolete, unsafe and unsecure signs; and
- Clarify that a sign once a sign has become obsolete, it cannot be continued as a non-conforming sign and must be completely removed.

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

Section 1: Need to Reduce Sign Size in Residential Areas

The recently enacted USDO substantially increased the size of signs that could be erected as of right in R-2 districts for all types of buildings, businesses and organizations, including non-conforming uses, to 20 square feet. The results have been met with criticism – as it should be, because such large signs are unnecessary and have the potentially to substantially change the streetscape and essential character of a neighborhood.

These provisions are also directly at odds with the expressed purpose of the sign ordinance which states:

*“these regulations are intended to protect property values, create a **more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty, reduce sign or advertising distractions and obstructions that may contribute to traffic accidents**, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, **and curb the deterioration of the community's appearance and attractiveness.**”*

Allowing 20 sq ft signs in residential districts is clearly completely inconsistent with the idea of increasing the physical appearance of neighborhoods, reducing sign or advertising distractions and curbing

the deterioration of the community's appearance and attractiveness – and, therefore, must be changed as soon as possible.

Prior to the enactment of the USDO, the sign ordinance restricted professional offices and home occupations in a residential building to a single freestanding or attached sign not to exceed two square feet and required it to be set back at least 10 feet from the highway right of way. Since the vast majority of businesses allowed in residential zones were professional offices or home occupations, most signs in residential districts have been this size and have had little impact on the quality of life, character or essential essence of residential districts.

The recently enacted USDO has increased the potential for commercial activities allowed in R-2 districts that could erect significantly large signs. For example, day care centers, cultural facilities, and Bed and Breakfasts have all been added to the uses allowed in a residential district which could erect a 20 square foot sign on an otherwise residential street.

The revised USDO has also significantly expanded the potential uses for an “office” that previously was understood to be limited to a “professional office” or “home office” in a residential district. Now, “offices” can also be used as for “executive, management, administrative, professional services, consulting, banking, laboratory, record keeping, music or sound recording, or a headquarters of an enterprise or organization.” Although “offices” are not expressly allowed in a residential district, a prior legal non-conforming that was a simple professional office, can now apparently be expanded into one of these types of activities – which may result in the owner/operator deciding to put up a 20 sq. ft. sign because they are no longer subject to the professional office sign limitations in the old code.

The oddities and inconsistencies of the new USDO provisions relative to signs in residential districts abound: It limits *legal* conforming home-occupation signs to a one square foot flat non-illuminated window or wall sign (no freestanding signs are allowed), and limits *legal* conforming live-work to a single wall sign not more than 2 square feet to the first story of the building (no freestanding signs are allowed) while placing all other business entities, organizations and non-residential uses in all residential districts, including nonconforming uses in R-1 and R-2 districts on par with all businesses and uses in a Mixed-Use Neighborhood Edge (MU-NE) and Mixed Use Neighborhood Center (MU-NC) with regard to free standing signs – allowing all of them to erect 20 sq ft freestanding signs.

Since MU-NE and MU-NC zones are expressly intended to accommodate a variety of business and community uses, it doesn't make sense to have the permitted signage in residential zones be as large and intrusive as signs in an MU-NE or MU-NC zone. Additionally, in the course of the ReZoneAlbany effort, the Planning Department worked closely with Common Council Members and community groups to help ensure that the vast majority of business uses that naturally fit in certain areas have been re-zoned to be MU-NE or MU-NC. Hence, a business that might need a larger sign than was generally permitted for professional offices under the prior zoning code is the exception in a residential district – and not the rule that we should build our sign ordinance around for residential districts.

Furthermore, a drive around the city in most residential areas reveals that most office uses – even those in MU-NE areas that permit larger signs have freestanding signs that are much smaller than 20 sq ft – demonstrating that there is no need to allow freestanding signs in residential districts to be that large for your standard business.

However, a few larger signs have been erected along New Scotland Avenue that have raised concerns about the creeping commercialization of residential zoned areas. While residents appreciate the small commercial area along New Scotland and the services it provides, and have been appreciative of the conversion of the St. Theresa's buildings to other uses which have been zoned to be MU-NE and MU-NC, the

consensus is that residents do not want to turn the remaining residential area into a commercial district – and do not want the increased signage in a residential district that makes the neighborhood feel more commercial, rather than predominantly residential.

There are other areas in the city – along Western, Washington, Hackett and Whitehall that could equally be surprised if and when signs that are 10, 15 or 20 sq. feet start popping up along these roads – or the hundreds of residential side streets because a day care, bed and breakfast, or non-conforming use is allowed to operate there and are now allowed to put up signs that big.

Section 2: Need to Re-enact Ordinance Language to Relating to Enforcement and Removal of Unsafe and Obsolete Signs

Section 2 of this legislation also re-enacts provisions that make it clear that the Chief Building Official is authorized to remove abandoned, obsolete, unsafe, unsecure or deteriorated signs after providing notice to the property owner and permit holder and give them an opportunity to abate the conditions. The language in section 2 of this bill is virtually identical to that contained in the former sign ordinance, but was omitted when the USDO was enacted. The Common Council had been assured that all provisions regarding the former sign ordinance had been transferred to the new USDO. However, this language was deleted without discussion or explanation or any evidence that that was the intent. Although the Chief Building Official should have the ability to enforce the zoning code and mitigate the impact on neighborhoods of persistent violations that impact the safety and quality of life of residents and property owners in the area, the Chief Building Official has stated he has no ability to remove obsolete or unsafe signs. The City should not be required to go to court just to remove abandoned, obsolete, unsafe, unsecure or deteriorated signs. Hence, the need to re-enact the old provisions of the sign ordinance is apparent.

Attached is a photo of a sign in an R-2 zoned district that is clearly obsolete, but has not been removed. Obviously, this is *not* the kind of situation that should be allowed to persist without the Chief Building Official having the authority to address it after providing notice to the property owner and permit holder.

Section 3: Need for Clarification that Obsolete Signs are Not Legal Nonconforming Signs

The amendment contained in section 3 of this bill is necessary to ensure no one reads the language in this section as “grandfathering in” signs that no longer advertise the type of business or service provided on the property. This is a logical reading of the current USDO language in light of the language concerning “obsolete signs” in section 375-4(I) that require removal of obsolete signs. Additionally, other provisions in the sign ordinance make it clear that the stricter standard shall apply. (375-4 (I)(2)(b)). As a result, this change is simply being made to ensure this provision is read consistently with the rest of the sign ordinance.

EXPLANATION OF DEADLINE OR REQUESTED TIME FRAME FOR PASSAGE

The enactment of this legislation is needed as soon as possible to protect and preserve the quality and character of our neighborhoods.

SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS (if applicable)

N/A

SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION (if applicable)

N/A.

FISCAL IMPACT(S)

NONE



The above photo was taken in mid-October of 2018. It is clearly an obsolete sign on New Scotland Avenue that has appeared in this condition since late July 2018. Previously, the sign stated it was a Chiropractic office although the owner surrendered his license to practice in September of 2017 and had not been providing services on the premises long since June of 2017.

The USDO provision regarding obsolete signs provides:

“Any on-premises sign that no longer advertises an existing business conducted or product sold on the premises upon which such sign is located **shall be removed** unless it is architecturally or historically significant, or is considered to be a character-defining feature of the building or district.”

This excessively large sign for a residential neighborhood clearly “no longer advertises an existing business” that should have been removed long ago.