

ZONING TEXT AMMENDMENT APPLICATION

Part 1. Application Notes

1. Applicant requests and attends a pre-application meeting with the Chief Planning Official or his/her designee.
2. A Zoning Text Amendment is reviewed by the Chief Planning Official who then initiates the amendment process.
3. The Planning Board reviews the proposed amendment at a public hearing and makes a recommendation to Common Council.
4. The Common Council reviews the application, holds a public hearing and decides the application in accordance with Section 375-5(E)(24)(c) of the USDO.

Part 2A. Applicant Information

Applicant Name: City of Albany Common Council

Mailing Address: Albany City Hall, Room 206, 24 Eagle Street, Albany, NY 12207

Phone No.: (518) 434-5087 Email: mandre@albanyny.gov

Part 2B. Legislative Sponsor Information (if applicable)

Sponsor Name(s): Judy Doesschate (9th Ward)

Part 3. USDO Sections Affected

Proposed Section(s) of the USDO to be Amended: 375-4(l)(5)(a)(i); 375-4(l)(5)(a)(ii)(E); 375-5(F)(5)(b)

**Part 4. General Purpose of Amendment
 (Attach additional sheets if necessary.)**

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.

**Part 5. Necessity for Amendment and Changes to Existing Law
 (Attach additional sheets if necessary.)**

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.

Part 6. Submittal Requirement Checklist

	Required Documents	Hard Copies	Electronic Copies	Electronic Submission (.pdf) (Required Document Name)
A. Required for All Zoning Text Amendment Applications				
<input type="checkbox"/>	Zoning Text Amendment Application Form	1	1	ZTA
<input type="checkbox"/>	Copy of Proposed Text Changes	1	1	Text Changes
B. Voluntary of Upon Request				
<input type="checkbox"/>	Any additional information determined to be necessary by the Chief Planning Official	1	1	[DOCUMENT NAME]