

**Council Member Doesschate introduced the following:**

**ORDINANCE NUMBER 10.51.19 (As amended)**

**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) LOW IMPACT DEVELOPMENT**

New development or redevelopment of a site that incorporates a ~~blue (water retaining) roof, or a green (vegetated) 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:

- (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
- (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.
- (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.

Section 2. This ordinance shall take effect immediately.

**APPROVED AS TO FORM  
April 25, 2019**

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Revised June 20, 2019

**COMMON COUNCIL  
SUPPORTING MEMORANDUM**

**ORDINANCE NUMBER: 10.51.19 (As Amended)**

**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:** (1) To suspend the application of the USDO incentive that allows developers to increase the height of the primary building on a site by one story 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. Such suspension shall be in effect for any development applications submitted from June 30, 2019 to June 30, 2020; and (2) to completely eliminate the incentive that allows developers to increase the height of the primary buildings on a site by one story if the developer incorporates a blue roof into designs..

**NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW:** In the proposed 300+ page draft changes to the USDO, the administration recommended suspending the low impact incentive through December 31, 2019 because this has been far and away the most utilized incentive and the administration wants both to test the effectiveness of the other incentives contained in the USDO and make the low-impact incentive more robust. This legislation took the administration's proposed language and increased the suspension time to June 30, 2020. By introducing it as a stand alone amendment, it will ensure this important measure is adopted as soon as possible to stem the permanent adverse impact and unintended consequences of this provision can have on the City.

The administration has subsequently amended its proposed suspension of this incentive to eliminate the blue roof incentive all together and to suspend the green roof incentive through June 30, 2020 to allow the administration sufficient time to study the effectiveness of the affordable housing incentive and possible improvements to the green roof incentive (such as potential design standards, and its potential benefits.

The routine increase of many developments by a full story in predominantly residential areas has caused great consternation amongst residents since it is inconsistent with the overall design and utilization plan intended when the USDO was adopted in exchange for little to no benefit to the public and the sustainability of the City. The current USDO has certain protections for water retention for developments that duplicate the benefits intended by this provision while enabling developers to build much taller than expected buildings near residential properties.

The Sustainability Advisory Committee's initial report included recommendations that all new developments be required to employ energy efficient and sustainable technology. The inclusion of these types of features should be the norm and not entitle developers to increase the height of buildings beyond what the City determined to be appropriate building heights and setbacks in its overall zoning plan. We agree that this provision should be suspended as soon as possible and studied for its efficacy.

The current 300+ page 6 month amendments proposed by the administration amount to a substantial re-write of this document and have taken almost 2 years to be proposed. Considering the comprehensiveness of those changes and the renumbering (and changed citations) throughout the document, it is likely that the actual review and adoption by the various individuals and bodies is likely to take at least another three to six months. In the meantime, the green roof incentive should be suspended immediately and the blue roof incentive eliminated so as to not exacerbate the long term impact of this questionable provision considering that the administration agrees the blue roof incentive should be eliminated and the green roof incentive studied to determine design standards or more robust requirements that will yield a greater benefit to residents and the city.

The legislation has been amended to be consistent with the revised proposed provisions in the USDO comprehensive amendments.

**TIME FRAME FOR PASSAGE:** As soon as possible.

**SPECIFICS OF BIDDING OR OTHER PROCUREMENT PROCESS:** N/A

**SPECIFICS OF REAL PROPERTY SALE OR ACQUISITION:** N/A

**FISCAL IMPACTS:** None.