

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

ORDINANCE 17.82.25

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXCEPTIONS FOR VEHICLE FUELING STATIONS

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

Section 1. Paragraph (h) (Exceptions) of Subsection (4) (Legally nonconforming uses) 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:

- (4) Legally nonconforming uses.
 - (e) Damage or destruction.
 - (i) In the event that any structure containing a legally nonconforming use is damaged or destroyed to the extent of more than 50% of the cost of replacement of the structure, as determined by the City Tax Assessor, any reuse of the structure shall conform to all regulations of the zoning district in which it is located per this USDO.
 - (ii) Where any such structure is damaged or destroyed to the extent of 50% or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; to enable continued operation of the nonconforming use, provided that no repairs or restorations shall be made which would create or increase any parking, yard or space and bulk nonconformity, nor shall any repairs or restoration (except in conformity with the applicable zoning district regulations) be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.
 - (f) Repair and maintenance. Normal maintenance and repairs, including but not limited to replacement, and installation or relocation of walls, partitions, fixtures, wiring or plumbing, may be performed on mechanical systems or existing portions of any structure devoted in whole or in part to a nonconforming use.
 - (g) Enlargement of structure. No structure devoted in whole or in part to a nonconforming use shall be altered, enlarged or added to in any manner which would enlarge the nonconforming portion or create a new nonconformity.
 - (h) ~~Multi-unit dwelling exception. Any conforming multi-unit dwelling use in the R-2 or R-T Zoning District in existence on June 1, 2017, will be considered a conforming use of property notwithstanding any provisions of this USDO limiting the availability of multi-unit uses or the number of units permitted in the R-2 or R-T District in the~~

~~future.~~ Exceptions.

- (i) Multi-unit dwelling exception. Any conforming multi-unit dwelling use in the R-2 or R-T Zoning District in existence on June 1, 2017, will be considered a conforming use of property notwithstanding any provisions of this USDO limiting the availability of multi-unit uses or the number of units permitted in the R-2 or R-T District in the future.
- (ii) Vehicle fueling station exception. Any legally established vehicle fueling station use in operation as of June 1, 2025, and located within the MU-CH zoning district shall be considered a conforming use of property, notwithstanding any provisions of this USDO that limit the availability of vehicle fueling station uses in the future. Such uses may be redeveloped or expanded on the existing lot or onto an adjacent lot provided that the redevelopment or expansion brings the site into compliance with all applicable dimensional and development standards of this USDO.

Section 2. This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS
8TH DAY OF AUGUST, 2025**

Corporation Counsel

To: Shaniqua Jackson, City Clerk
From: Brett Williams, Deputy Corporation Counsel
Re: Common Council Legislation
Supporting Memorandum
Date: August 8, 2025
Sponsor: Council Member Balarin o/b/o Planning Committee

ORDINANCE 17.82.25

TITLE

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO EXCEPTIONS FOR VEHICLE FUELING STATIONS

GENERAL PURPOSE OF LEGISLATION

To allow limited and reasonable expansion or modification of existing fueling stations in the City, which are currently constrained by strict nonconforming use provisions

NECESSITY FOR LEGISLATION AND ANY CHANGE TO EXISTING LAW

As part of the comprehensive review of Chapter 375 undertaken in 2021, “vehicle fueling station” (commonly referred to as a gas station) was removed as a permitted or conditional use in zoning districts where it had previously been allowed. This change, aimed at reducing future brownfield impacts and aligning with the shift toward renewable fuels, was based on the finding that all neighborhoods had reasonable access to existing stations.

As a result, existing vehicle fueling stations became nonconforming uses. Chapter 375 defines a nonconforming use as “a use of a lot or a structure that was legally established prior to the effective date of [Chapter 375], but that does not conform to the current zoning regulations of the district in which it is located.” Under §375-506, nonconforming uses may continue and be transferred but may not expand, except for reasonable repair, maintenance, or reestablishment after discontinuance. Subsection (g) specifically prohibits any enlargement or alteration that would expand the nonconforming use or create new nonconformities.

Rather than reintroducing vehicle fueling stations as a permitted use in the MU-CH or other affected zoning districts, an approach inconsistent with the original legislative intent, this ordinance proposes a targeted amendment to the nonconforming use provisions. While previous legislation sought to retain existing fueling stations, it did not explicitly address whether alterations or expansions should be permitted. In certain cases, such changes may be necessary to ensure continued operation. Moreover, many older vehicles fueling stations were designed under outdated standards and are now incompatible with modern design requirements and the safe, orderly flow of vehicular and pedestrian traffic. Allowing redesign and limited expansion under appropriate conditions could yield benefits that current regulations inadvertently prohibit.

Matter in ~~strike through~~ to be deleted. Matter underlined is new material.

This amendment is limited to the MU-CH district, where four such stations currently exist, due to the district's commercial character and the low likelihood of adverse impacts on nearby residential uses. The MU-CH district is intended to accommodate automobile-oriented commercial development along arterial corridors. Expansions will be permissible only where they result in full compliance with the dimensional and design standards of the USDO, ensuring consistency with pedestrian safety, traffic flow, and aesthetic goals.

FISCAL IMPACTS

No immediate impacts.

Passed by the following vote of all the Council Members elected voting in favor thereof:

Affirmative – Adams, Anane, Balarin, Conti, Farrell, Flynn, Frederick, Hoey, Johnson, Keegan,
Kimbrough, Love, Robinson, and Zamer

Negative – Clarke

Affirmative: 14 | Negative: 1 | Abstain: 0

Clerk of the Common Council

President of the Common Council

Mayor

Date

I, Shaniqua Jackson, City Clerk and Clerk of the Common Council, do hereby certify that Ordinance 17.82.25 was passed at a meeting of the Albany Common Council on December 15, 2025.

In affirmation thereof, I hereto set my hand and affix The Seal of the City of Albany this 2nd day of January, 2026.

Shaniqua Jackson, Clerk of the Common Council