

THE BUFFALO NEWS

Buffalo's new Green Code is likely to have a big impact on development



Mayor Byron Brown signs the Green Code into law at Seneca One Tower. It's the first major overhaul to city zoning laws since 1953. (Sharon Cantillon/Buffalo News)

After six years of work, the era of the new Green Code has arrived in Buffalo. But its ultimate impact won't be clear yet.

The city's revamped zoning and land-use rules could mean big changes in how real estate development gets done. After all, it's the first comprehensive rewrite of an outdated code in 60 years, so it's long overdue.

The old system "wasn't particularly useful," said land-use attorney Adam Walters of Phillips Lytle.

"You really needed a good lawyer if you were doing a land-use project of any complexity," he said.

Yet others see value in the old code. Arthur Giacalone, an environmental and land-use attorney, said its complexity worked in residents' favor by slowing down development and making sure it factored in community interests.

By contrast, he said, the new code reduces the power of residents and the Common Council. "There certainly are provisions that have improved the overall impact of the Green Code on nearby residents," he said. "But the structure of the Green Code was intended to make it harder for residents to have an impact on future development. All of that takes the power away from the surrounding community."

The new code is a major shift from a system based on how a building is used to one focused on how it looks. It's also a change from one oriented toward cars to one centered on pedestrians.

It is far more prescriptive than the old system, possibly limiting designers' flexibility because of its specificity. And it was also crafted with significant public input, reflecting what city residents want and not just what developers want.

As a result, some projects won't go forward at all in certain areas because of new restrictions the code puts on factors such as height, lot combination or location. Other plans will have to be modified to meet updated requirements and revised design standards.

Still, many developers like the Green Code because it removes uncertainty and confusion over what they can do. "It's much clearer. It's much more thought-out," Walters said. "Whether you like development or are concerned about something that's going on, you know exactly what the process is going to be."

But that confidence is what concerns Giacalone, who said many activities that would have required a variance or rezoning in the past will now be easily permitted. He called the Green Code a "green light" for developers, instead of a yellow "caution" light.

"It was intended to make development easier," he said. "We need to make sure nothing is done quickly, without honest input from the public."

The new code is supposed to take effect in two stages: Feb. 17 for commercial districts, and April 3 in residential districts. If a project hasn't been fully approved by then, it will be subject to the new rules.

No one should be caught off guard by the new rules, said Marc Romanowski, another prominent land-use attorney. "I don't think any of it is a surprise or should cause consternation for projects that are on the drawing board right now," he said.

For the last six to eight months, many developers have factored the new code into their plans to make sure they would comply. And even some of the most controversial projects may be easier to do under the Green Code, not harder.

“It certainly won’t kill projects,” Walters said. “Just about all the projects in the last year have been designed with the Green Code in mind.”

Developers see the Green Code ultimately enhancing the city’s neighborhoods by improving the work they do.

“I’m a big proponent of the Green Code,” said David Pawlik of CSS Construction. “If you’re a good developer and you implement these things, you’re going to have a good project.”

To be sure, the new code does have vastly more detail than the old code, although it’s revealed through images and graphics rather than text, so the document is far shorter in length. That will take some adjusting, while everyone learns what’s in there. As Romanowski said, “there’s far more to those components than people may appreciate.”

It also streamlines the entire approval process, eliminating some anachronisms that, for example, had required Planning Board review for demolition or single-family home construction whose costs exceeded \$100,000. And it will minimize inconsistencies in development by encouraging the kind of mixed-use projects that are common today but weren’t envisioned 60 years ago.

“I do think there’s probably going to be a feeling-out period, because this code is vastly different,” Romanowski said.