

Council Member Conti introduced the following:

ORDINANCE 3.41.25 (As Amended 7/21/2025)

AN ORDINANCE AMENDING PART 3 (CABARETS) OF CHAPTER 111 (AMUSEMENTS) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO UPDATING THE CITY'S ENTERTAINMENT LICENSING PROVISIONS

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

Section 1. Part 3 (Cabarets) of Chapter 111 (Amusements) of Part II (General Legislation) of the Code of the City of Albany is repealed, and a new Part 3 (Accessory Entertainment) of Chapter 111 (Amusements) of Part II (General Legislation) is added to read as follows:

Part 3 (Accessory Entertainment)

Article VIII Accessory Entertainment Licenses

§ 111-64. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACCESSORY ENTERTAINMENT

The use of any room, place, or space of public assembly for the purpose of live musical entertainment, singing, and dancing, excluding:

A. A church, fraternal or membership organization, or other similar not-for-profit organization conducting an accessory entertainment use on a non-commercial basis related to such organization's religious or educational purposes; and/or

B. An establishment that provides medical care and/or treatment.

C. Music or other sounds played for purposes of ambiance associated with a bar/tavern, cannabis consumption site, restaurant, or retail.

D. Music or other sounds produced by live performers at small establishments using acoustic instruments or acoustic instruments with low-level amplification.

COMPLETE APPLICATION

An application that has been certified by the City Clerk as containing all applicable information per § 111-67(b) and having been signed by the applicant attesting that all such information is truthful and accurate.

SMALL ESTABLISHMENTS

Small establishments are those with an occupancy limit of 49 or fewer, as determined by the NYS Uniform Fire Prevention and Building Code, as applied by the Chief Building Official.

AMBIANCE

Music or sound provided within an establishment primarily intended to enhance the atmosphere, mood, or setting, rather than to serve as the central attraction or principal focus of the establishment's business activities. Such music or sound shall be at a volume that permits normal conversation among patrons and does not dominate or interrupt other primary uses of the premises.

§ 111-65 License required.

Notwithstanding any inconsistent provision of this Code, or any prior decision or authorization issued hereunder, it shall be unlawful for any person to conduct, maintain or operate, or engage in the business of conducting, maintaining or operating an accessory entertainment unless the premises wherein the same is conducted, maintained or operated are licensed in the manner prescribed herein.

§ 111-66 Exemptions.

This article shall not apply to premises operated by the State of New York or its political subdivisions.

§ 111-67 Application for issuance or renewal of license.

A. Every person desiring a license hereunder shall complete and submit a written application to the City Clerk's Office in a form approved by the City Clerk.

B. The application shall include the following information:

- (1) The name of the person submitting the application.
- (2) The name of the business.
- (3) The address of the business where the accessory entertainment shall take place.
- (4) The principal offices of the business if different from the business location.
- (5) Whether such events are proposed to take place indoors or outdoors.
- (6) The owner of the building where said entertainment shall take place.
- (7) If an establishment is licensed to serve alcohol, a copy of the liquor license.

(8) A copy of the certificate of occupancy for the premises at which the accessory entertainment is proposed to be undertaken.

(9) The names, telephone numbers, and addresses of all owners of the business and the manager or person in control of the establishment.

(10) The type of entertainment provided.

(11) The expected number of persons in attendance.

(12) The expected days of the week and operating times that entertainment will be provided.

C. Deficient Application Notice. If, upon receipt of an application for an accessory entertainment license or an amendment to such an application, the City Clerk or their designee determines that such application is deficient, the Clerk or their designee shall promptly issue a Deficient Application Notice to the applicant notifying the applicant of what information must be supplied in order to complete the application. An application for which a Deficient Application Notice has been issued shall not be deemed a complete application until the applicant has corrected the deficiency described in the notice.

§ 111-68 Public Comment.

A. Upon receipt of a completed application for an accessory entertainment license, the City Clerk shall forward a copy of the application to the Chief of Police, the Chief Building Official, all members of the Common Council, and the neighborhood association in whose area the property is located, and the Business Improvement District in whose area the property is located.

B. Public Comment.

(1) Upon receiving a complete application for an accessory entertainment license, the City Clerk shall place notice of the application on the City website with instructions for the submission of public comment concerning the application. The City Clerk shall also, at the time of posting, attempt to notify property owners as currently identified by the City Assessor's Office within 100 feet of the applicant's property by mail of the application. Such notice shall include: (i) the location of the subject property, (ii) the applicant's name, (iii) the nature of the proposed accessory entertainment, (iv) the deadline for the submission of comment, and (v) instructions on how to submit public comment.

(2) Comment Period. The City Clerk shall accept public comment concerning the application for two weeks beginning from the posting of the notice of the application online.

(3) Public posting. The applicant shall post one or more signs in visually conspicuous locations at the premises for which the license is sought, and in the case of a corner parcel, in at least two

directions, notifying the public of the application, the process for submitting public comment concerning the application, and how to find additional information on the application. Such signs shall initially be provided by the office of the City Clerk in-person. The applicant shall make a reasonable effort to replace postings that are either removed or substantially damaged. Said signs shall only be removed once a final decision on the application has been rendered.

§ 111-69 Approval of license.

A. The City Clerk shall consider the complete application, all written comments received, and issue a license if the application passes departmental review.

B. Departmental review.

(1) Departmental review shall be performed by the Chief of Police and the Chief Building Official within 30 days of receipt of an application. The applicant and the City Clerk shall assist in the departmental review process upon the request of the Chief of Police or the Chief Building Official.

(2) The application shall be reviewed by each department according to the following criteria:

(a) The Chief of Police shall review the application to ensure that it is consistent with all applicable rules and regulations and will not result in an unreasonable risk to public health and safety.

(b) The Chief Building Official shall review the application to ensure that the application would not result in a violation of applicable rules and regulations, including, in particular, the New York State Uniform Building and Fire Safety Code, and the Code of the City of Albany.

(3) If the Chief of Police or the Chief Building Official rejects the application or imposes a condition on the approval of the application, their specific reason(s) for doing so shall be communicated in writing to the City Clerk who shall **forwarded** such writing to the applicant.

(4) The Chief of Police or the Chief Building Official may approve an application with such reasonable conditions and restrictions as are directly related and incidental to the proposed use(s) under such license, are imposed for the purpose of minimizing any adverse impact such license may have upon the neighborhood or community within which the accessory entertainment use is located, and are directly related to the preservation of the public interest and health, safety and welfare of the citizenry. These conditions shall become conditions on the approval of the license.

C. Constructive Approval.

(1) If a decision denying or approving a license is not issued within 30 days of the receipt of a complete application, the applicant will be deemed to have been issued a temporary license for 60 days which shall be deemed a permanent license if a decision denying or approving a license is not issued within 90 days of the receipt of a complete application.

(2) For the purposes of this subsection only, an application shall be deemed complete as of the day of submission if no Deficient Application Notice has been provided to the applicant within 14 days of submission, or where a Deficient Application Notice has been responded to by the applicant in good faith and no further Deficient Application Notice has been issued within 14 days of such response. Nothing in this section shall prohibit the denial of an application on the grounds that is not complete.

D. Upon issuing a license, the City Clerk shall, within one week of issuance, post such notice on the City of Albany's website and notify the Chief of Police, the Chief Building Official, all members of the Common Council, all neighborhood associations, and the Business Improvement District in whose area the property is located.

E. Renewals. Where an applicant seeks to renew an existing license, the term of the existing license shall continue until a decision is issued to grant or deny the new application, provided the applicant submitted a completed application for a renewed license prior to the expiration of the existing license.

F. The term of an accessory entertainment license shall run from the date of its issuance for the period of three years.

§ 111-70 Denial of license.

A. If the Clerk denies the application or approves a license subject to a condition, such decision shall be reduced to writing, and identify the department(s) responsible for the denial or condition and the basis for the denial or condition. This written decision shall promptly be provided to the applicant by certified mail and by any other medium the City Clerk determines. The City Clerk shall endeavor to immediately notify an applicant of a denial by the phone or email address provided by the applicant.

B. Appeal of denial. Within 30 days of the determination by the City Clerk regarding the issuance of a license, the applicant may file an appeal of the decision with the Board of Zoning Appeals pursuant to Chapter 375 of the Code of the City of Albany. The Clerk's Office shall, at the request of the Board of Zoning Appeals, forward the entirety of the record to the Board of Zoning Appeals for review. The Board of Zoning Appeals shall review the record and determine if the decision to deny the application was proper. The Board of Zoning Appeals may affirm, reverse or remand the Clerk's decision for more thorough Departmental review to allow the Clerk to render a new decision.

§ 111-71 Responsibilities of the licensee.

A. The licensee shall exercise said license according to all applicable laws, rules, and regulations.

B. It shall be incumbent on the licensee to notify the City Clerk within thirty days of the following:

(1) Changes to the names, telephone numbers, and addresses of all owners of the business and the manager or person in control of the establishment; and

(2) Changes in the status of the licensee's ability to sell alcohol.

§ 111-72 Fees.

The fee for an accessory entertainment license application shall be \$250.

§ 111-73 Suspension and revocation of license.

A. At the request of the Chief of Police or Chief Building Official, the City Clerk may suspend a license if the licensee violates the requirements of this article. The City Clerk shall then publicly post such written request online on the City of Albany Website. Suspensions instituted per this paragraph shall be in effect for no longer than 60 days.

B. The City Clerk may suspend or revoke a license if the licensee is found to have made any false representation in the course of obtaining the license. Such suspension or revocation shall be in effect until otherwise lifted by the City Clerk or by a decision on appeal of the Board of Zoning Appeals.

C. Hearing of suspension. Within 30 days of a suspension by the City Clerk, the licensee or its designee may file an appeal of the decision with the Board of Zoning Appeals pursuant to Chapter 375 of the Code of the City of Albany. The Board of Zoning Appeals shall review the record and determine if the Clerk's determination properly suspended or revoked the license. In determining the appeal, the Board of Zoning Appeals shall also have the authority to direct the City Clerk to terminate the suspension or reinstate the license, or affirm the action appealed.

D. Hearing of suspension extension. Within 30 days of a suspension by the City Clerk, the Chief of Police or the Chief Building Official may file an appeal of the suspension with the Board of Zoning Appeals pursuant to Chapter 375 of the Code of the City of Albany. The Board of Zoning Appeals shall review the record and determine if conditions at the establishment warrant an extension of the license suspension. In determining the appeal, the Board of Zoning Appeals shall have the authority to direct the City Clerk to extend, maintain, or revoke the suspension as well as reinstate the issued license.

E. A license shall be automatically suspended for so long as the property at which the license is to be exercised is subject to an order of the Chief Building Official pursuant to Albany City Code §§ 133-54, 133-55, 133A-4, or other condemnation order.

§ 111-74 Posting of license.

Each license issued hereunder shall be posted at the main entrance of every place licensed hereunder.

§ 111-75 License transferability.

An accessory entertainment license may be transferred to a new licensee, provided that said license shall be exercised solely at the originally licensed location and the transferee notifies the City Clerk of the transfer within 45 days and provides the transferee's name, telephone number, address, and other contact information, along with a description any changes to the exercise of the license, including: the name of the business; whether events will be held indoors or outdoors; building ownership; the building's certificate of occupancy; the type of entertainment offered; the expected attendance; or the business's operating hours.

§ 111-77 Penalties for offenses.

Any individual or business that operates an accessory entertainment without securing the license established by this article shall be subject to a fine of not less than \$300 and not more than \$1,000. Each day in violation of this article shall constitute a new offense. This provision does not limit the ability of the Chief of Police, Chief Building Official or any other appropriate City official or agency to order the cessation of activities in violation of this Chapter or other applicable laws.

§ 111-78 Concurrent enforcement.

This article shall not restrict the enforcement powers of the City Clerk, Chief of Police, Chief of the Fire Department or Chief Planning Official found in this City Code or authorized by other local, state or federal law. Should a violation of the above occur, a license may be immediately suspended by the City Clerk, Chief of Police, Chief of the Fire Department or Chief Building Official, or their designees, at any time before or during the licensed activity, with notice thereafter to be provided to the City Clerk.

§ 111-79 Continuation.

An active cabaret license issued by the City Clerk under a previous version of this Article shall have the same force and effect as an accessory entertainment license under the amended version of the Article and shall remain active for an additional two years past the original expiration of such license.

Section 2. Subparagraph c (Cabaret) of Paragraph 6 (Accessory uses) of Section 303 (Use-specific standards) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is hereby amended to read as follows:

(c) ~~Cabaret.~~ Accessory Entertainment.

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

(i) ~~Dancing and/or the use of a disc jockey (DJ), karaoke machine, or live music entertainment that is amplified and/or performed by three or more people~~ The use of any room, place, or space of public assembly for the purpose of live musical entertainment, singing, and dancing is permitted only where an establishment has sought and obtained an accessory entertainment license from the City Clerk as set forth in Chapter 111 of the City Code, subject to the exceptions thereof.

Section 3. The definition of “Cabaret” as contained in Section 602 (Definitions) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is repealed and a new definition, entitled “Accessory Entertainment” is added to read as follows:

ACCESORY ENTERTAINMENT

The use of any room, place, or space of public assembly for the purpose of live musical entertainment, singing, and dancing, excluding:

A. A church, fraternal or membership organization or other similar not-for-profit organization conducting an accessory entertainment use on a non-commercial basis related to such organization’s religious or educational purposes; and/or

B. An establishment that provides medical care and/or treatment.

C. Music or other sounds played for purposes of ambiance associated with a bar/tavern, cannabis consumption site, restaurant, or retail.

D. Music or other sounds produced by live performers at small establishments using acoustic instruments or acoustic instruments with low-level amplification.

Section 4. Section 302 (Permitted Use Table) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is hereby amended to read as follows:

Table 375.302.1

Permitted Use Table

P=Permitted Use | C=Conditional Use | A=Accessory Use | T=Temporary Use

Zoning District	Residential						Mixed-Use										Special Purpose			Use-Specific Standard in Article III
	R-1L	R-1M	R-2	R-T	R-M	R-V	MU-NE	MU-NC	MU-CU	MU-CH	MU-DT	MU-CI	MU-FW	MU-FC	MU-FS	MU-FM	I-1	I-2	LC	
LAND USE CATEGORY																				
ACCESSORY USES																				
Accessory dwelling unit																				§ 375-303(6)(a)
Alternative energy generation equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 375-303(6)(b)
<u>Cabaret</u> <u>Accessory Entertainment</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 375-303(6)(c)
Composting of household waste	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		§ 375-303(6)(d)
Customary accessory uses and related structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 375-303(6)(e)
Day-care home	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 375-303(6)(f)
Delivery service							A	A	A	A	A	A	A	A	A	A	A	A		§ 375-303(6)(g)
Drive-in or drive-through facility									C	A		A					A	A		§ 375-303(6)(h)
Electric vehicle charging station	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	§ 375-303(6)(i)
Home occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		§ 375-303(6)(j)

Section 5. Subsection C of Section 360 (Powers and duties) of Article XLVI (General Provisions) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) is hereby amended as follows:

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

C. The Board shall hear and decide appeals from the decision or determination of the City Clerk relative to the issuance of ~~a cabaret license~~ an accessory entertainment license pursuant to Part 3 of Chapter 111 of the Code of the City of Albany and as called upon by any other chapters in the Albany City Code.

Section 6. Subsection 6(c) of Section 375 (Use-specific standards) of Article III (Use Regulations of Chapter 375 (Unified Sustainable Development) of Part II (General Legislation) is hereby amended as follows:

~~(c) Cabaret.~~

~~(i) Dancing and/or the use of a disc jockey (DJ), karaoke machine, or live music entertainment that is amplified and/or performed by three or more people is permitted only where an establishment has sought and obtained a cabaret license from the City Clerk as set forth in Chapter 111 of the City Code.~~

(c) Accessory Entertainment.

(i) Accessory entertainment, as defined in Chapter 111-64 of the City Code, shall be allowed only where an establishment has obtained an accessory entertainment license as set forth in Chapter 111 of the City Code.

Section 7. This ordinance shall take effect 30 days after its enactment into law, provided, however, that the amendments made to Chapter 111 of the Code of the City of Albany by section one of this ordinance shall be deemed repealed and of no further force and effect four years after the effective date of this ordinance, provided, however, that such repeal shall only be effective to the extent that the Common Council of the city of Albany has adopted an alternative mechanism for the regulation of accessory entertainment through amendment of Chapter 375 (Uniform Sustainable Development) of the Code of the City of Albany.

**APPROVED AS TO FORM THIS
21ST DAY OF JULY, 2025**

Corporation Counsel