



**COMMON COUNCIL MEETING
PLANNING, ECONOMIC DEVELOPMENT AND LAND USE
Alfredo Balarin, Chair**

DATE: TUESDAY, MARCH 25, 2025

TIME: 5:30PM

LOCATION: Council Chambers-2nd Floor, City Hall

LIVESTREAM: YouTube— <https://www.youtube.com/@albanycommoncouncil>
Facebook— <https://www.facebook.com/albany.commoncouncil>

TOPICS OF DISCUSSION:

- **Update from the Sponsor: Ordinance 17.53.24**
AN ORDINANCE AMENDING PART 3 (CABARETS) OF CHAPTER 111 (AMUSEMENTS), PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS), AND CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REVISING REQUIREMENTS FOR CABARET AND ACCESSORY ENTERTAINMENT
- **Ordinance 68.121.24**
AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PERMITTING ACCESSORY DWELLING UNITS

PUBLIC COMMENT PERIOD: YES

Council Members Flynn and Adams introduced the following:

ORDINANCE 17.53.24

AN ORDINANCE AMENDING PART 3 (CABARETS) OF CHAPTER 111 (AMUSEMENTS), PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS), AND CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REVISING REQUIREMENTS FOR CABARET AND ACCESSORY ENTERTAINMENT

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

Section 1. Paragraph C of Section 360 of Article XLVI (General Provisions) of Part 35 (Board of Zoning Appeals) of Chapter 42 (Departments and Commissions) of Part I (Administrative Legislation) is hereby amended as follows:

§ 42-360. Powers and duties.

- A. The Board of Zoning Appeals shall have the power and duty to hear and decide appeals from any orders, requirements, decisions or determinations made by a City administrative official interpreting or implementing the provisions of Chapter 375, or as otherwise provided by law.
- B. The Board may interpret the provisions of Chapter 375, grant or deny variances as therein provided.
- ~~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 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 2. Part 3 (Cabarets) of Chapter 111 (Amusements) of Part II (General Legislation) is hereby repealed in its entirety and replaced as follows:

Part 3 Accessory Entertainment

Article VIII Accessory Entertainment

§ 111-64. Standard for Sound.

The operation of Accessory Entertainment shall be unlawful when the level of sound is deemed unreasonably loud by a reasonable person of normal sensitivity. In determining reasonableness of the sound, the following factors shall be considered:

- A. Level or intensity of the noise.** Whether the noise produced is at a level or volume that exceeds the level or intensity normally expected for the operation of the Accessory Entertainment.

- B. Duration of the noise.** Whether the noise is constantly at an unreasonable volume or whether the noise occasionally reaches an unreasonable volume, including but not limited to such factors as permanence, continuance, intermittence, and temporariness.
- C. The ambient noise.** Whether the operation of Accessory Entertainment significantly impacts the ambient noise level or whether the accessory entertainment is not substantially louder than the ambient noise at that location.
- D. Time of day.** Whether the noise occurs at a time that loud noises are considered common or expected.
- E. Mitigation strategies employed to lessen noise.** Whether the operators of the Accessory Entertainment employ reasonable mitigation strategies to lessen the impacts of excess noise.

§ 111-65. Enforcement.

- A.** The Albany Police Department shall issue warnings to owners and operators of Accessory Entertainment in violation of **§111-64**. After receipt of a warning, owners or operators shall be provided a reasonable time to reduce the level of sound to comply with the standard set by **§111-64**. Upon expiration of this time, the Albany Police Department shall coordinate with the Department of Buildings and Regulatory Compliance to issue a Cease and Desist for violations of the rules regarding the operation of Accessory Entertainment.
- 1.** Cease and Desists issued under this section shall be in effect for 12 hours and require a sworn statement by an officer of the Albany Police Department witnessing the violation.
 - 2.** Warnings shall be provided once per day to each establishment in violation prior to the issuance of a Cease and Desist for Accessory Entertainment.
- B.** The recipient of a Cease and Desist related to the operation of Accessory Entertainment shall have the right to a hearing before the Board of Zoning Appeals regarding such order. The Board of Zoning Appeals shall be empowered to reduce a Cease and Desist related to the operation of Accessory Entertainment to a warning retroactively. The absence of testimony in support of upholding a Cease and Desist at such hearing shall automatically reduce the Cease and Desist to a warning retroactively. Cease and Desists reduced in accordance with this subsection shall not be considered an accrued Cease and Desist for the purposes outlined in **§ 375-303(6)(c)**.
- C.** The Department of Neighborhood and Community Services shall provide a manner by which the public may submit complaints on the operation of Accessory Entertainment.

D. The Department of Neighborhood and Community Services shall post online and provide notice of the prohibition of Accessory Entertainment to the:

1. Prohibited owners or operators whom such notice relates
2. Department of Planning and Development
3. Albany Police Department
4. Albany Fire Department
5. Law Department
6. City Clerk
7. Common Council member representing the ward within which such prohibition is in effect
8. Business Improvement District within which such prohibition is in effect, should such exist
9. Neighborhood Association, whose boundaries, such as are catalogued by the Department of Neighborhood and Community Services, contain the prohibition therein

§ 111-66 through § 111-83. (Reserved)

Section 3. 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 as follows:

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

~~(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.~~

(i) General Requirements

(A) No owner or operator who has accumulated four or more Cease and Desists at a particular premise within the preceding two years regarding the operation of Accessory Entertainment shall be allowed to operate Accessory Entertainment at that particular premise.

(B) Operation of Accessory Entertainment shall be unlawful when its operation violates the standards of § 111-64.

(ii) Outdoor Accessory Entertainment Limitations

(A) Operation of Accessory Entertainment outside of a building shall be permitted in residential/mixed-use districts from 8:00 a.m. to 11:00 p.m.

(B) Operation of Accessory Entertainment outside of a building shall be lawful in nonresidential zoning districts from 8:00 a.m. to 2:00 a.m.

Section 4. Paragraph “Cabaret” of Section 602 (Definitions) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is hereby amended as follows:

CABARET ACCESSORY ENTERTAINMENT

~~Any room, place or space in the City in which any musical entertainment, singing, dancing or other form of entertainment is permitted in connection with a catering establishment, tavern or restaurant business or an establishment directly or indirectly selling to the public food or drink, except eating or drinking places that provide incidental musical entertainment performed by fewer than three people with no amplification, or through a central audio system, including the use of a jukebox. Cabaret shall also include:~~ Any room, place or space in the City in which any entertainment is provided by a commercial establishment where such entertainment is not the primary purpose of the property. Accessory Entertainment shall also include:

- (1) A membership corporation, club, association or society that permits musical entertainment, singing, dancing or other form of entertainment in premises wherein food or drink is directly or indirectly sold to its members, or their guests, or to the public;
- (2) A premises owned or occupied by a religious or educational institution that permits musical entertainment, singing, dancing or other forms of entertainment in said premises that do not coincide with a religious or educational service or do not arise directly from the ~~eleemosynary~~ charitable purposes of such institution; or
- (3) A ship, boat or barge moored or tied to a dock, pier or shore and that contains ~~a cabaret~~ Accessory Entertainment in use while so moored or tied.

Section 6. Paragraph “Cabaret” of 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 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)
Cabaret <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	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	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	A	§ 375-303(6)(j)

Section 7. Subsection iii of Subparagraph m (Sidewalk or outdoor cafe) 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 as follows:

(iii) Sidewalk or outdoor cafes shall not use music or noise amplification devices, ~~and no music or entertainment of any type is permitted outdoors~~ at volumes above an ambient level.

Section 8. This ordinance shall take effect 60 days from final passage.

APPROVED AS TO FORM
DATE

Corporation Counsel

To: Shaniqua Jackson, City Clerk

From: Bryan Jimenez, Legislative Director

Re: Common Council Legislation
Supporting Memorandum

Date: May 9, 2024
Updated: November 19, 2024

Sponsor: Council Members Flynn and Adams

ORDINANCE 17.53.24

TITLE

AN ORDINANCE AMENDING PART 3 (CABARETS) OF CHAPTER 111 (AMUSEMENTS), PART 35 (BOARD OF ZONING APPEALS) OF CHAPTER 42 (DEPARTMENTS AND COMMISSIONS), AND CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO REVISING REQUIREMENTS FOR CABARET AND ACCESSORY ENTERTAINMENT

GENERAL PURPOSE OF LEGISLATION

To repeal the cabaret licensing system, rename cabarets to "Accessory Entertainment," clarify the applicability for consistency and fairness, and establish regulations governing the operation of Accessory Entertainment.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

This ordinance repeals a licensing system established in 2012 that:

- Established an unclear definition of "cabaret" that captures standard operations for a substantial number of businesses, from sports bars to comedy clubs;
- Delegated nontransparent rulemaking authorities to 5 City officials and duplicated existing regulatory reviews;
- Required yearly renewals with no guarantee or timeline for decision-making;
- Burdened the City Clerk's office with a public hearing and noticing process;
- Prohibited the transference of a license, limiting the ability of owners to sell their businesses; and
- Restricted convicted felons from operating an establishment with this type of accessory entertainment, regardless of time served.

The zoning code is then amended to:

- Rename "cabaret" to "Accessory Entertainment;"
- Clarify the scope of Accessory Entertainment by expanding it to cover all forms of entertainment provided by an establishment where it is not the primary purpose of the establishment;
- Utilize the regulatory powers of the Department of Buildings and Regulatory Compliance to establish a system that automatically prohibits establishments that frequently flout the

noise ordinance from further operation of the accessory entertainment for a period of two years from the first of the fourth most recently received cease and desists, and automatically lifts the prohibition upon the expiration of two years;

- Provide an opportunity for establishments to appeal cease and desists related to the operation of Accessory Entertainment to the Board of Zoning Appeals which may decide to reduce the order to a warning retroactively;
- Provide that warnings be issued to establishments prior to the issuance of cease and desists related to the operation of accessory entertainment;
- Establish prohibited hours of operations for outdoor accessory entertainment in-line with the sidewalk or outdoor café regulations; and
- Permit the provision of music by an establishment at their sidewalk or outdoor cafes at levels at or below an ambient level.

The transition from a licensing system to allowing operation of accessory entertainment by right reduces barriers for businesses to provide entertainment to their guests and customers without

FISCAL IMPACT(S)

Cabaret licenses have certain fees associated with their issuance. The City would no longer collect such fees if cabaret licenses are no longer issued, but the full fiscal impact of this legislation has yet to be determined.

Council Members Anane, Adams, Johnson, Keegan, Love, and Robinson introduced the following:

ORDINANCE 68.121.24

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PERMITTING ACCESSORY DWELLING UNITS

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

Section 1. Section 375-302 (Permitted Use Table) of Chapter 375 of the Code of the City of Albany is 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	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				§ 375-303(6)(a)

Section 2. Paragraph (a) (Accessory Dwelling Unit) of Subsection (6) (Accessory Uses) of Section 375-303 (Use-specific standards) of Chapter 375 of the Code of the City of Albany is amended as follows:

(a) Accessory dwelling unit. ~~No accessory dwelling unit shall be allowed until stated otherwise.~~

- (i) This use shall be accessory to a single-unit detached dwelling or shall be a caretaker unit for a nonresidential use.
- (ii) The property owner shall occupy either the primary or the accessory dwelling unit as their primary residence.
- (iii) On lots containing an accessory dwelling unit, neither the primary nor accessory dwelling unit may be made available for rent by guests for less than thirty consecutive days where the unit is offered for tourist or transient use.

Matters in strikethrough to be deleted. Matter underlined is new material

- (iv) No more than two dwelling structures, including structures containing an accessory dwelling unit, may be permitted on a single lot.
- (v) For the purpose of providing adequate fire protection access, the distance from the nearest street frontage to the center of the rear wall of the accessory dwelling unit shall not exceed 150 feet of travel distance.
- (vi) An accessory dwelling unit shall not exceed 800 square feet of gross floor area.
- (vii) A detached accessory dwelling unit shall not occupy more than 30 percent of the rear yard.
- (viii) A detached accessory dwelling unit shall not exceed the height of the principal dwelling structure or 24 feet, whichever is less.
- (ix) An attached accessory dwelling unit shall be subject to the same setback, height and impervious lot coverage regulations as the primary structure.
- (x) A detached accessory dwelling unit shall be subject to the same setback regulations as accessory structures.
- (xi) An accessory dwelling unit, whether detached or attached to a primary dwelling structure, may be directly accessed from an alley, but shall not be accessed via a driveway separate from that serving the primary dwelling structure.
- (xii) When an accessory dwelling unit is attached to a principal dwelling structure, only one entrance structure may face the front lot line.
- (xiii) An existing accessory structure whose height, setbacks, or impervious lot coverage do not meet the requirements of a dwelling in its zoning district, may be converted into an accessory dwelling unit, but the structure may not be altered in any way that increases the noncompliance.
- (xiv) Mobile homes, trailers, or other wheeled and transportable structures may not be used as an accessory dwelling unit.

Section 2. This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS
22ND DAY OF AUGUST, 2024**

Corporation Counsel

To: Shaniqua Jackson, City Clerk

From: Jake Eisland, Research Counsel

Re: Common Council Legislation
Supporting Memorandum

Date: November 21, 2024

Sponsor: Council Member Anane

ORDINANCE 68.121.24

TITLE

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO PERMITTING ACCESSORY DWELLING UNITS

GENERAL PURPOSE OF LEGISLATION

This ordinance seeks to increase permit Accessory Dwelling Units in Zoning Districts

NECESSITY FOR LEGISLATION AND CHANGE TO EXISITING LAW

In order to effect a change to the USDO, an ordinance would be required alongside all requisite reviews and public hearings.

FISCAL IMPACT

None.