



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

DATE: MONDAY, JUNE 16, 2025

TIME: 5:00PM

LOCATION: Council Chambers-2nd Floor, City Hall

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

TOPICS OF DISCUSSION:

- **ORDINANCE 3.41.25**
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

PUBLIC COMMENT PERIOD: YES

Council Member Conti introduced the following:

ORDINANCE 3.41.25

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3 (Cabarets) of Chapter 111 (Amusements) of Part II (General Legislation) of the Code of the City of Albany is hereby repealed, and replaced with the following:

Part 3 (Accessory Entertainments)

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 New York State Uniform Fire Prevention and Building Code, as applied by the Chief Building Official.

§ 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.
- (4) The principal offices of the business if different from the business location.
- (5) The location where the accessory entertainment shall take place.
- (6) Whether such events are proposed to take place indoors or outdoors.
- (7) The owner of the building where said entertainment shall take place.
- (8) If an establishment is licensed to serve alcohol, a copy of the liquor license or, if the establishment has no such license to serve alcohol, a statement as to whether applicant intends to pursue a liquor license during the period of the proposed accessory entertainment license.
- (9) A copy of the certificate of occupancy for the premises at which the accessory entertainment is proposed to be undertaken.

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

(11) The type of entertainment provided.

(12) The expected number of persons in attendance.

(13) 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, the Chief Planning Official, all members of the Common Council, the neighborhood association in whose area the property is located, if such exists, and the Business Improvement District in whose area the property is located, if such exists.

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 attempt to notify, by mail, property owners within 100 feet of the applicant's property, as currently identified by the City Assessor's Office, 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, Chief Building Official, and Chief Planning 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, Chief Building Official, or Chief Planning 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.

(c) The Chief Planning Official shall review the application to ensure that granting the proposed license:

(i) Would not result in a random pattern of uses with little relationship to existing or planned development; and

(ii) Would be consistent with the purposes and objectives of the zoning district and character of the neighborhood in which the proposed accessory entertainment is proposed to be located and the specific use standards applicable to the use.

(d) Prospective violations of applicable noise ordinances and/or the conduct of individual prospective attendees to the proposed accessory entertainment

shall not be a basis for the denial of an accessory entertainment license application.

- (3) If the Chief of Police, Chief Building Official, or Chief Planning 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 forward such writing to the applicant.
- (4) The Chief of Police, Chief Building Official, and Chief Planning Official may approve an application with such conditions 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. If the City Clerk fails to issue a decision denying or approving a license within 45 days of the submission of the completed application, the Clerk shall issue a temporary license effective on the 46th day, to be effective for a period of 30 days from its effective date, with such temporary license to renew for continuing 30 day periods until such time as the City Clerk grants or denies the application or notifies the applicant of a defect in their application.
- 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, the Chief Planning 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 City Clerk's decision 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, Chief Building Official, or Chief Planning 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, Chief Building Official, or Chief Planning 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.

- A. No license issued under the provisions of this article shall be transferred or assigned to any location other than the location stated in such license. If, during the term of the licensing period, one or more owners of a license are substituted or added, such substituted or added owners shall, within five days of such substitution or addition, file with the City Clerk an application for an approval of the change of ownership on such forms as are prescribed by the City Clerk.
- B. If, during the term of the licensing period, one or more directors, stockholders or officers of a license issued to a corporation or partnership are substituted or added, such substituted or added directors, stockholders, partners or officers shall, within five days of such substitution or addition, file with the City Clerk an application for an approval of the change of directors, stockholders, partners or officers on such forms as are prescribed by the City Clerk. A waiver of this provision may be granted in the discretion of the City Clerk to any corporation with regard to stockholders holding less than 10% of the issued stock.

§ 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

[illegible]

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 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 Accessory Entertainment	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 3. Subparagraph (c) (Cabaret) of paragraph 6 (Accessory uses) of section 303-375 (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.

- (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 4. The definition of “Cabaret” in section 602-375 (Definitions) of Article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) is hereby deleted in its entirety, and the following definition for “Accessory Entertainment” is added to such section:

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 5. This ordinance shall take effect 60 days from final passage.

**APPROVED AS TO FORM THIS
28TH DAY OF MARCH, 2025**

Corporation Counsel

To: Shaniqua Jackson, City Clerk

From: Robert Magee, Esq., Corporation Counsel

Re: Request for Common Council Legislation
Supporting Memorandum

Date: March 28, 2025

Sponsor: Council Member Conti

Ordinance 3.41.25

TITLE

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

GENERAL PURPOSE OF THE LEGISLATION

This legislation will improve the efficiency of the former “cabaret” licensing process. It is designed to update and streamline the approval process, provide clearer guidance to applicants, and reduce the administrative burden on City officials. These changes are informed by lessons learned from the City’s operation of the current “cabaret” approval process over the past fifteen years. They will also improve transparency and support local businesses while ensuring responsible business operation.

The proposed ordinance, among other things, clarifies what types of uses for which licensure is required, reduces the number of uses licensure is required for, imposes time limits on the approval of applications, specifies how applications are to be reviewed, reduces hurdles to obtaining a license, and extends the period of time a license is active from one to three years.

NECESSITY FOR LEGISLATION

By updating the existing law, this ordinance will encourage economic activity and promote businesses that bring value to City residents and businesses, particularly as it relates to nightlife, while preserving the City’s ability to protect public health and safety and address public nuisances.

FISCAL IMPACT

None.