

Council Member Anane introduced the following, which was approved:

ORDINANCE 3.21.24 (As Amended 7/1/24)

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO SMOKE OR VAPE SHOPS

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

Section 1. Section 375-302 (Permitted Use Table) of Article III (Use Regulations) 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:

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																				
COMMERCIAL USES																				
Retail																				
Adult retail										C						C	P		§ 375-303(4)(f)(i)	
Cannabis dispensary							C	P ^[5]	P	P	P	P	P	P	P	P ^{[6][7]}	A	A		§ 375-303(4)(f)(ii)
Controlled substance dispensary										C		C	C	C			P	P		§ 375-303(4)(f)(iii)
Convenience retail								P ^[5]	P	P	P	P	P	P	P	P ^{[6][7]}	P			§ 375-303(4)(f)(iv)
General retail							C	P ^[5]	P	P	P	P	P	P	P	P ^{[6][7]}	A			§ 375-303(4)(f)(v)
<u>Smoke or vape shop</u>							<u>C</u>	<u>P^[5]</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P^{[6][7]}</u>				<u>§ 375-303(4)(f)(vi)</u>
Specialty retail			P ^[1]	P ^[1]	P ^[1]		P ^[4]	P ^[5]	P	P	P	P	P	P	P	P ^{[6][7]}	A			<u>§ 375-303(4)(f)(vi)</u> <u>§ 375-303(4)(f)(vii)</u>
Supermarket									P	P	P	C	P	P	P	P ^{[6][7]}	P			<u>§ 375-303(4)(f)(vii)</u> <u>§ 375-303(4)(f)(viii)</u>

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

Section 2. Subparagraph viii (Smoke or vape shop) of paragraph f (Retail) of subsection 4 (Commercial Uses) of section 375-303 (Use-specific standards) of article III (Use Regulations) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is added as follows:

(vi) Smoke or vape shop.

- A. No smoke or vape shop use shall be located within 1,000 feet of another smoke or vape shop use.
- B. No smoke or vape shop use shall be located within 500 feet of a school.
- C. No smoke or vape shop use shall be located within 250 feet of a religious institution.

~~(vi)~~ (vii) Specialty retail

~~(vii)~~ (viii) Supermarket

Section 3. Paragraph c (Minimum required and maximum parking allowed) of Subsection 2 (Off-street parking requirement) of Section 375-405 (Parking and loading) of Article IV (Development Standards) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is added as follows:

(c) Minimum required and maximum parking allowed.

- (i) In all zoning districts, off-street parking shall be provided in accordance with Table 375.405.1, Minimum and Maximum Off-Street Parking, as adjusted by other provisions of this USDO.

Table 375.405.1 Minimum and Maximum Off-Street Parking GFA = Gross Floor Area; NLA = Net Leasable Area		
Land Use Category	Minimum Number of Spaces Required	Maximum Number of Spaces Allowed
COMMERCIAL USES		
Retail		
General retail	1 per 400 square feet NLA	1 per 350 square feet NLA
Specialty retail	1 per 400 square feet NLA	1 per 350 square feet NLA
Adult retail	1 per 300 square feet NLA	1 per 250 square feet NLA
Cannabis dispensary	1 per 400 square feet NLA	1 per 350 square feet NLA
Controlled substance dispensary	1 per 300 square feet NLA	1 per 250 square feet NLA
Convenience retail	1 per 300 square feet NLA	1 per 250 square feet NLA
<u>Smoke or vape shop</u>	<u>1 per 400 square feet NLA</u>	<u>1 per 350 square feet NLA</u>
Supermarket	1 per 300 square feet NLA	1 per 250 square feet NLA

Section 4. Section 375-602 (Definitions) of Article VI (Rules of Construction; Definitions) of Chapter 375 (Unified Sustainable Development Ordinance) of Part II (General Legislation) of the Code of the City of Albany is hereby amended by adding a new definition, to be inserted into the section in its proper alphabetical place, to read as follows:

SMOKE OR VAPE SHOP

An establishment primarily engaged in the retail sale of tobacco, tobacco products, or tobacco paraphernalia, electronic smoking devices, liquid nicotine containers or vapor products. A use shall be defined as a smoke or vape shop by considering factors such as the proportion of floor area dedicated to the display or sale of said products, the proportion of total revenue derived from said products, and the overall marketing or branding of the establishment.

Section 5. This ordinance shall take effect immediately.

**APPROVED AS TO FORM THIS
1st DAY OF JULY, 2024**

Corporation Counsel

To: Shaniqua Jackson, Acting City Clerk
From; Brett Williams, Senior Assistant Corporation Counsel
Re: Common Council Legislation
Supporting Memorandum
Date: January 24, 2024
Sponsor: Council Member Anane

ORDINANCE 3.21.24 (As Amended 7/1/24)

TITLE

AN ORDINANCE AMENDING CHAPTER 375 (UNIFIED SUSTAINABLE DEVELOPMENT ORDINANCE) OF THE CODE OF THE CITY OF ALBANY IN RELATION TO SMOKE OR VAPE SHOPS

GENERAL PURPOSE OF LEGISLATION

This ordinance clarifies certain ambiguities present in the USDO as to how smoke shops, vape shops, tobacco or vape consumption businesses and other retail businesses primarily engaged in the sale of smoking and tobacco products should be classified and regulated.

NECESSITY FOR LEGISLATION AND CHANGES TO EXISTING LAW

The legalization of cannabis at the state level has led to an influx of smoke shops, vape shops, tobacco or vape consumption businesses and other retail businesses primarily engaged in the sale of smoking and tobacco products, and tobacco or cannabis paraphernalia throughout the City. While considerable licensing requirements exist, and many zoning functions preempted, under New York State Law regarding cannabis uses, no such state-wide authority exists which regulates smoke shops, vape shops and tobacco or vape consumption businesses.

TIME FRAME FOR PASSAGE

Applications for smoke or vape shops will be delayed until such time that the USDO is amended. Accordingly, it is recommended that the proposed amendments be considered as expeditiously as is practicable.

FISCAL IMPACTS

Unknown.

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

Ordinance 3.21.24 was co-sponsored by Council Members Balarin, Farrell, and Hoey

Affirmative – Adams, Anane, Balarin, Clarke, Farrell, Frederick, Hoey, Johnson, Keegan,
Kimbrough, Love, Romero, and Zamer

Affirmative: 13 | Negative: 0 | 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 3.21.24 was passed at a meeting of the Albany Common Council on August 5, 2024.

In affirmation thereof, I hereto set my hand and affix The Seal of the City of Albany this 16th day of August, 2024.

Shaniqua Jackson, Clerk of the Common Council