

July 19, 2005

A Regular Meeting of the Common Council was held on Tuesday, July 19, 2005 at 7:00 P.M., in the Common Council Chambers, City Hall with President Michael Vertetis presiding.

Alderman Kenneally recited the prayer and led those present in the Pledge of Allegiance to the Flag.

Upon roll call, there were present: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.
Excused: Alderman Harter.

On motion of Alderman Shook, seconded by Alderman Goetz, the reading of the minutes of the previous meetings were ordered dispensed with and placed on file.
Carried.

On motion of Alderman Cross, seconded by Alderman Kenneally, the reading of the City Treasurer's Report for the month of May 2005 was dispensed with and then placed on file. Carried.

Committee Reports.

On motion of Alderman Hancock-Snead, seconded by Alderman Shook, the following Committee Reports were placed on file:

Arts, Entertainment and Tourism

"Arts, Entertainment and Tourism Committee Meeting June 27, 2005 7:15 In attendance Robert Donahue, William C. Hughes, Mike Vertetis and Robert O'Brien (chair).

"Also Present: HCDPA Executive Director Peter Markou, Hudson Opera House Executive Director Gary Schiro.

“Hudson Opera House Executive Director Gary Schiro came before the committee to discuss the economic impact of the Hudson Opera House’s Annual Winter Walk Festival which takes place the first Saturday in December and to request funding to offset the costs of putting on the event. The event costs approximately \$40,000 to put on.

“ Gary outlined 3 informal studies done by the Opera House which shows that many attendees of the show have traveled from outside the immediate area.

“These visitors also increased the amount of business for Warren St. merchants. Gary pointed out that visitors spend money and generate sales tax which is why the council should support the Winter Walk event.

“The first study was done over 2 years and tried to identify visitors by a raffle with attendees addresses. In the 3rd year study Warren St. merchants were asked questions 5-6 questions concerning business on the night of the event compared to regular night.

“After discussion by members, the committee arrived at a consensus to fund the Winter Walk event in the amount of \$2,500 by a budget amendment- the same amount the Arts Walk will receive. Gary was advised to appear before the full Council in August to request funds for the 2006 budget.

“Peter Markou, Executive Director of the Hudson Community Development & Planning Agency announced that Assemblyman Patrick Manning has given the City a member item for \$3,000. This money will be used to hire Fresh Air Flicks to show a movie in the waterfront park.

“Several titles were suggested but Peter was unsure which titles are available due to costs.

“A date will be announced later.

“To enhance the event, nonprofit organizations’ vendors will be allowed to sell food or drinks. The council would also look into the bus.

“There was no other business and the meeting was adjourned.”

Fire Committee Meeting

“The Fire Committee meeting for June took place on Monday June 27th at 6:30 P. M. Present were Chairman Donahue, Council President Vertetis, committee members Hughes, O’Brien, Comm. Van Deusen and HCDPA Director Markou.

“Comm. Van Deusen requested the Council to change the City Charter and allow Hudson Police Officers to serve as volunteer firefighters which they are unable to do under the present law.

“He further stated that the specifications for a new rescue truck will be presented to the committee at the August meeting.

“Comm Van Deusen informed the committee that Mid-Hudson Cablevision has been very helpful to the Hudson Fire Department and that his recent statement printed in the newspapers was not a criticism of Mid Hudson Cable but just disappointment that certain requests made by the Fire Department were unable to be met by the cable company.

“The meeting adjourned at 6:50 P.M.

“The next Fire Committee meeting will be held on Monday July 25th at 6:30 P.M.”

Respectfully Submitted

Robert J. Donahue Sr.
Fire Committee Chairman

Legal Committee

“A meeting of the Legal Committee was held on July 5, 2005 in attendance was Chairman Cross, Council President Vertetis, Alderman Goetz, Hancock-Snead & Riley, Legal Advisor Connor and Colwell.

“A local law permitting alcohol at mass gathering was forwarded to the full council.

“Georgene Gardner addressed the committee on the Habitat for Humanity Mill street project.

“Police Commissioner Pierro talked about Habitat bulldozing a new pistol range.

“Pastor Joel Mojica and his wife Rachel of Power and Restoration Church of God presented a plane for Columbia Street.

“City Attorney Colwell briefed us on the Northbay intermunicipal agreement with the county.

“Johnny Colgrove came requesting to purchase land owned by the City more debate to follow.

“On a motion by Council President Vertetis seconded by Alderman Riley the Committee went into executive session on a motion by Alderman Goetz seconded by Alderman Riley the committee came out of executive session.

“The meeting adjourned at 8:20 p.m.”

Respectfully submitted,
Quintin Cross

President Vertetis announced the creation of an Affordable Housing and Land Use Special Committee. He stated Alderman Cross would Chair the committee and members would include: himself, City Treasurer Walsh, Alderman Hughes, Alderman Harter, Alderman O’Brien, Alderman Riley and HCDPA & HDC Executive Director Peter Markou.

Finance & Economic Development Committee

“A meeting of the Finance and Economic Development Committee was held on June 1, 2005. In attendance were Chairman Riley, Common Council President Vertits, Aldermen Harter and Cross. Absent was Alderman O’Brien.

“Treasurer’s Report: Treasurer Kevin Walsh reported on the foreclosure process. 5 of 12 properties have been removed from the list, with 3 paid in full, 2 in installation agreements. Property owners have until August 1 to reach an agreement for payment.

“The second shipment of parking meters have arrived. 117 meters have been purchased for \$127.46/each, which were budgeted for, but 183 more are needed.

“Chairman Riley brought up the topic of creating a pay parking lot at the long-term Amtrak lot, owned by the City, like the City of Poughkeepsie. Riley recommended \$1.50/day, others felt we should go higher. A consensus of \$2. /day was reached to be forwarded to the full council for review. Mayor Scalera said plans were already underway for the City parking lot at the former Gold’s site to be a meterless pay lot.

“Treasurer Walsh then circulated a notice from NYCOM which states that in order for municipalities to be eligible for 12.75% increase in general purpose aid, they must have a 3 yr. Fiscal plan complete with financial projections.

“A brief discussion of the proposed Police station took place, with the Treasurer raising the issue of the Constitutional Tax Limit, which limits how much money a municipality can borrow. While the water treatment plant doesn’t affect this limit, the firehouse does, as would the police station.

“The topic of Washington Hose was raised by HCDPA Exec. Director Peter Markou. The Committee is recommending to the full Council that we establish an asking price of \$530,000. with a 3% commission for realtors, and handle the sale similar to the sale of HDC property at 444 Warren St.

“A discussion of funding for ArtsWalk and Winter Walk took place. CC President Vertitis cautioned to beware of setting precedents for any and every organization to expect City funding for events.

“Mayor Scalera then raised the idea of allocating \$100,000. of City funds towards HCSD’s budget cutting of sports, arts and music, pointing out that City of Hudson voters had voted to approve the contingency budget. Alderman Cross asked what other municipalities within the District would be doing, and stressed the importance of reading, writings, and basics.

“The meeting was adjourned at 7:56 pm.

“The next meeting will be held August 3, 2005 at 6:30 pm.”

Respectfully submitted,
Colum Riley
Committee Chair

Police Committee

“The monthly meeting of the Police Committee was held July 5, 2005 at City Hall. Members in attendance Aldermen Goetz, Cross, Riley, Hancock-Snead and Council President Vertetis.

“The Committee discussed complaints of excessive speeding in Long Alley and along Green St. It was suggested that enforcement in those areas be increased, Commissioner Pierro will discuss enforcement with the Chief. Also discussed was the need for pedestrian cross walks on Green St. in the area of the rosary, prospect St. by Eden Park, Columbia St. by the new County office building and Columbia St. by the Medical Center across from the hospital. The Commissioner will look into what can be done in those areas. It was agreed that the City should look into having a traffic study done to address traffic flow, parking and noise related to large trucks with engine brakes. An RFP will have to be written and sent out to interested parties to find out the cost of such a study.

“The proposed charter changes eliminating or reducing the police commissioner’s powers and duties was discussed.”

Mike Vertetis

Resolutions.

On motion of Alderman Cross, seconded by Alderman Shook, the following resolution was adopted by the following vote:

RESOLUTION NO. 1 JULY 19, 2005

RESOLVED, that the following be and hereby are appointed/reappointed Commissioners of Deeds for the following terms:

For Term ending July 31, 2007	(work)
Nicholas Pierro 69 Glenwood Blvd Hudson, NY 12534	427 Warren St
Theresa M. Eckel 711 Fish & Game Rd Hudson, NY 12534	“

For Term ending August 31, 2007
Claudia Bruce 308 State Street Hudson, NY 12534
Samuel S. Pratt 32 Warren St. Hudson, NY 12534
Angela M. Falkner PO Box 842 Hudson, NY 12534 PO Box 458 25 Railroad Ave

Ayes: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.
Nays: None.

On motion of Alderman Kenneally, seconded by Alderman Cross, the following resolution was adopted by the following vote:

RESOLUTION NO. 2 JULY 19, 2005

WHEREAS, the City Treasurer has received and deposited reimbursement of wages for worker's compensation for a FY2004 claim for a City of Hudson Bus Operator and

WHEREAS, the City Treasurer deposited said funds in A2701, Refund of Prior Year Expense and

WHEREAS, due to an unusual amount of absences in FY 2005, the personal services for Bus Operations has experienced more expenses than budgeted

NOW, THEREFORE BE IT

RESOLVED, the City Treasurer is hereby authorized and directed to make the following budget amendment

Increase	A5630.1	Bus Operation Personal Services	\$1,020.95
Decrease	A2701	Refund Prior Year Expense	\$1,020.95

Approved by Board of Estimate and Apportionment

Ayes: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.

Nays: None.

On motion of Alderman Cross, seconded by Alderman Riley, the following resolution was adopted by the following vote:

RESOLUTION NO. 3 JULY 19, 2005

A RESOLUTION AUTHORIZING THE SALE OF A PORTION OF TAX MAP PARCEL #109.08-01-27 LOCATED AT MILL AND NORTH THIRD STREETS

WHEREAS, the City of Hudson has acquired vacant land located at the corner of Mill and North Third Streets, Hudson, New York by tax sale, for unpaid taxes on or about February 8, 1943; and,

WHEREAS, the Columbia County Habitat for Humanity has expressed interest in acquiring portions of the parcel for the construction of four one-family homes; and,

WHEREAS, the corner of Mill and North Third Streets is in danger of becoming a substandard or insanitary area as defined in New York State General Municipal Law Section 502; and

WHEREAS, the aforesaid sale of the aforementioned property will serve to renew and improve the neighborhood, eliminate blight, put the vacant land back on the real property tax rolls and is generally in the best interest of the City.

NOW, THEREFORE, BE IT

RESOLVED, that the Mayor of the City of Hudson is hereby authorized to file the necessary forms to subdivide a portion of the lands now owned by the City of Hudson located on the corner of Mill and North Third Streets (Tax Map Parcel Number 109.08-01-27) in such a way as to create four residential parcels and to subsequently enter into a contract with Columbia County Habitat for Humanity to sell each of the parcels created for \$1.00 and an agreement to provide crushed stone and the bulldozing work for the City of Hudson's proposed new pistol range on Mill Street, subject to the condition that one-family residences with valid certificates of occupancy must be constructed on each newly created parcel within two years of closing.

Ayes: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.

Nays: None.

On motion of Alderman Cross, seconded by Alderman Kenneally, the following resolution was adopted with the following vote:

RESOLUTION NO. 4 JULY 19, 2005

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF HUDSON TO ENTER INTO A CONTRACT WITH THE HUDSON CITY SCHOOL DISTRICT

WHEREAS, the City of Hudson Department of Youth requires the use of the Hudson City School District facilities to operate its Youth Department program; and

WHEREAS, the parties have been in negotiation as to the use of these facilities for the operation of City Youth Department programs, including Department of Youth soccer, basketball, Indoor Soccer, Pop Warner football, AAU basketball, punt, pass and kick, playgrounds and youth activities.

NOW, THEREFORE, BE IT RESOLVED that the City of Hudson hereby appropriates \$100,000.00 to be paid to the Hudson City School District for use of School District facilities for the operation of the City Youth Department program for a five-year period; and it is further,

RESOLVED, that the Mayor of the City of Hudson is hereby authorized to enter into a contract with the Hudson City School District.

Ayes: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.

Nays: None.

Prior to the vote on Resolution No. 4, **Alderman O'Brien** stated he was in support of the resolution and that a concern he had was that "other towns that are a part of the school district should also step up and contribute something". He stated another concern he had was that the city had very little say on how the money would be allocated over the three seasons, Fall, Winter and Spring, and also between sports, art and music. He then introduced Mr. Ed Sisk a music teacher in the school district.

Mr. Sisk stated he was a resident of the Town of Greenport and he hoped that the town would also donate funds. He stated that the mission of the Booster Club was that the funds be used for extra curricular activities. He stated after the Fall, Winter and Spring sports are taken care, and if there was money left over, he had hoped it would go to the music department. He stated the music department had lost two full time positions and that he realized that the money being raised by the Booster Club was not for staff. He stated the music department could use money for instruments for the band.

Alderman Cross stated he agreed with Alderman O'Brien and that the resolutions should reflect that the money be directed to all programs including the arts and music.

President Vertetis requested a member of the Booster Club, in attendance, to explain the mission statement of the booster club.

Mr. Richard Koweek, stated that one thing discussed at a Booster Club Board of Directors meeting was the short time line for the school district to pay the necessary dues for the musical program, the all county band and choir program. He stated that was one item the booster club looked at that may not have been budgeted.

Mr. Sisk stated the money for the dues was in the contingency budget.

Alderman Riley asked if the contract had been finalized.

Legal Advisor John Connor Jr. stated he was still working with the school attorney on the final contract.

President Vertetis suggested that the contract refer to all extracurricular activities and not just sports.

Alderman Riley stated he was 100% behind the resolution. He stated if the city did not support the programs the taxpayers would be paying one way or another, either through Youth Department programs, through the Police Department, or after school programs. He stated he had hoped the school district now understood that there was a “huge lack of communication between the city council and the school district and the school board”. He said: “I think it is a travesty that the budget got voted down and I think it is a travesty that none of the elected officials here on the Board understood what the ramifications were if the budget was voted down”. He stated the school district chose to act on their own when the budget came up for the first time and also the second time, and he said, “this is the result”.

Alderman Hughes stated he was “more than happy to give the \$100,000 to the school”. He stated he would also like to see other municipalities in the school district “step up to the plate and make monetary donations”. He stated as for the programs he would like to see that the money be given over the three season period and not be given in one lump sum. He also stated the Board of Education failed to educate the public with regard to the budget.

Alderman O’Brien questioned why the contract to be entered into was with the Hudson City School District and not the Booster Club. He stated that when he had attended recent School Board meetings it was stated that the school budget was at a fixed dollar amount and, he said, “even if there was money donated they cannot spend more than what was budgeted and voted on by the taxpayers”.

Legal Advisor Connor stated the city would be entering into a contract with the school district to use their facilities for the next five years. He stated the school district had agreed to use those funds for the sports programs. He stated the city could not hand over a hundred thousand dollars to the Booster Club.

President Vertetis noted that the Booster Club would turn over funds that they raise to the School District for the programs.

Alderman O'Brien stated this was a “one shot deal” and reiterated that all other towns in the district be asked to contribute.

Mayor Scalera stated there were only a few days left to meet the funding requirement for the Fall Sports program. He stated there would be an ongoing commitment to raise further funds for the winter and spring programs.

Michael Tice, of 43 Glenwood Blvd., Hudson, stated he had voted against the school budget and as a taxpayer he questioned the legality of giving the money to the school district.

President Vertetis stated yes it was legal, if the council approved it and that the city was purchasing services through a contract.

Bill Toussaint, of Greenport, commended the Common Council for taking under advisement and researching this expense, being in the fore front and setting precedence for other municipalities.

Mike Bucci, Treasurer of the Booster Club, stated that in a week and a half the club had raised \$17,000 through coin drops, bake sales and knocking on doors. He stated those efforts would continue. He stated he believed the taxpayers who voted no on the budget were trying to send a message to the school district and the message was not received the way they wanted it received. He said: “the kids suffered and not the administration”.

Local Laws.

On motion of Alderman Riley, seconded by Alderman Cross, the following Local Law was ordered removed from the aldermen’s desks and was defeated by the following vote:

LOCAL LAW NO. 5 OF 2005

A LOCAL LAW AMENDING CHARTER PROVISION C 9-1, LEGAL COUNCIL

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF HUDSON AS FOLLOWS:

Section 1. Pursuant to the City Charter, the Mayor of the City of Hudson is hereby authorized to retain legal counsel for the City. Members of the Common Council wish to hire additional counsel for the common council, without the approval of the Mayor.

Article IX, Legal Counsel, C9-1 Mayor Authorized to Retain is hereby amended as follows:

C 9-1 Mayor and Common Council Authorized to Retain.

The Mayor shall, during the term of office, has the authority to retain such legal counsel as he may deem necessary or expedient for the preservation of the rights of the protection of the interest of the City. Nonetheless, the Common Council, by majority vote, may employ their own legal counsel to advise them on City matters.

Section 3. If any clause, sentence, paragraph, section or part of this Local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined to its operation in said clause, sentence, paragraph, section or part of this Local Law.

Section 4: All Local Law or parts of Local Laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5: This Local Law shall take effect upon filing with the Secretary of State and approval of a mandatory referendum.

Ayes: President Vertetis, Aldermen Cross, Hancock-Snead, O'Brien and Riley.
(Total Weighted Vote: 654)

Nays: Aldermen Donahue, Goetz, Hughes, Kenneally and Shook. (Total Weighted Vote: 1,100)

Prior to his vote on the proposed Local Law No. 5, Alderman Hughes stated he would like an Ethics Committee to research the matter.

President Vertetis stated that proposed Local Law No. 7, allowing policemen to also serve as volunteer firemen would remain on the aldermen's desks until further details were received from the city's insurance carrier regarding compensation claims. In serving in the two positions of police officer and also volunteer fireman.

On motion of Alderman Cross, seconded by Alderman Hughes, the following proposed Local Law introduced by Alderman Cross and seconded by Alderman Shook, was ordered placed on the aldermen's desks:

**LOCAL LAW NO. 8
OF 2005**

**A LOCAL LAW AMENDING CHAPTER 244 OF THE
HUDSON CITY CODE PERTAINING TO SIGNS**

Section 1. The City of Hudson Signs law was enacted in 1973 and since that time, there have been various federal court decisions pertaining to the effect of sign laws on free speech and various provisions of the City Signs law have not been enforced since 1973, and the City wishes to insure that the Signs law is constitutionally content-neutral.

Section 2. The following sections of Chapter 244 are amended to read as follows:

Section 244-3. Permit required.

It shall be unlawful for any person to erect, repair, alter or relocate within the City of Hudson any sign or other advertising structure, as defined in this chapter, without first obtaining a permit from the Building Inspector and making payment of the fee required by section 244-7. Temporary signs are exempt from the permitting process.

Section 244-7. Permit fees.

Every applicant, before being granted a permit hereunder, shall pay to the Building Inspector a permit fee as established by the Common Council for each such sign or other advertising structure regulated by this chapter:

- (a) All signs requiring a permit other than temporary signs.

- (b) Canopy or awning.
- (c) Marquee.
- (d) Street or wall clocks.
- (e) For illuminated signs, an additional charge shall be paid over and above the aforesaid fees.

Section 244-8. Permit revocable at any time.

All rights and privileges acquired under the provisions of this chapter or any amendment thereto are merely licenses revocable at any time by the Building Inspector of the City of Hudson, upon violations of the terms of this chapter, and all such permits shall contain this provision.

Section 244-14. Exceptions.

The provisions and regulations of this chapter concerning permits and fees shall not apply to the following signs, provided, however, that said signs shall be subject to the provisions of Section 244-10:

- A. Professional nameplates not exceeding six inches in height or 18 inches in length for lawful occupants of the premises under the Zoning Ordinance.
- B. Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency or non-advertising signs as may be approved by the Building Inspector.
- C. Flags of the United States, State of New York or other governmental or quasi-public agencies.
- D. Christmas decorations and lights on residential premises.
- E. Signs of any governmental agency deemed necessary to the public welfare.

- F. Municipal signs erected to control the movement of traffic on premises, provided that these signs shall provide traffic directions only and shall not be used for any advertising purpose. These signs shall not exceed four square feet in area and shall have been approved by the Planning Commission.

Section 244-34. Temporary signs.

- A. Definition. "temporary sign", as regulated by this chapter, shall include any sign, banner, pennant, flag, other than a flag of the United States or a municipal subdivision, valance or advertising display constructed of cloth, canvas, light fabric cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a short period of time only.
- B. Construction. Materials and area limitation. No temporary sign of combustible material shall exceed four feet in one of its dimensions or 16 square feet in area; and provided such signs in excess of 16 square feet shall be made of rigid materials, that is, of wallboard or other light material, with frames. No temporary sign shall be in excess of 60 square feet.
- C. Location.
- a. Projection from wall and over public property. No temporary sign shall extend over or into any alley, sidewalk or other public thoroughfare a distance greater than four inches from the wall upon which it is erected, nor shall any temporary sign be placed or project over any wall opening except for street banners, which shall be no less than 18 feet above said street.
 - b. Obstruction to doors, windows and fire escapes. No temporary sign shall be erected so as to prevent free ingress or egress from any door, window or fire escape, nor shall such sign be attached to any standpipe or fire escape.
- D. Erection. Anchorage and support. Every temporary sign shall be attached to the wall with wire or steel cables, and no strings, ropes or wood slats for anchorage or support purposes shall be permitted.

- E. Temporary signs shall be displayed for a period not exceeding 60 days, as determined by the Building Inspector, and such signs shall be removed sooner if torn or damaged. Temporary signs may only be displayed for 60 days in a calendar year.

Section 244-35. Portable signs

- A. Definition. "Portable sign" shall be any sign easily moved from place to place on a stand or A-type frame having no permanent attachment to the ground, building or structure.
- B. Area. Said sign shall not exceed three feet by four feet (12 square feet) in area.
- C. Location. Said sign shall not be located in sidewalk or driveway areas nor shall they obstruct traffic or motorists' vision.
- D. Limitation of signs. One portable sign will be permitted for each 100 feet of street frontage of the premises on which said sign or signs are located; provided, however, that a maximum of only two such signs shall be permitted. Portable signs shall only be displayed for the same time limits as temporary signs.

Section 3. If any clause, sentence, paragraph, section or part of this Local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined to its operation in said clause, sentence, paragraph, section or part of this Local Law.

Section 4: All Local Law or parts of Local Laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5: This Local Law shall take effect upon filing with the Secretary of State.

On motion of Alderman Cross, seconded by Alderman O'Brien, the following proposed Local Law was introduced and ordered placed on the aldermen's desks:

LOCAL LAW NUMBER 9 OF 2005

OF THE CITY OF HUDSON A LOCAL LAW REGULATING THE SITING OF WIRELESS TELECOMMUNICATIONS FACILITIES

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF HUDSON AS FOLLOWS:

Section 1: Chapter 284 of the Code of the City of Hudson is hereby amended in its entirety as follows:

Section 284-1. Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the City of Hudson's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. The City of Hudson finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the City's land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Law is to minimize impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City of Hudson.

Section 284-2. Title.

This Local Law shall be known and cited as the Wireless Telecommunications Facilities Siting Law for the City of Hudson, New York.

Section 284-3. Severability.

- A) If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Local Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

- B) Any Special Use Permit issued under this Local Law shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

Section 284-4. Definitions.

For purposes of this Local Law, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.

- A) “**Accessory Facility or Structure**” means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- B) “**Applicant**” means any Wireless service provider submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.
- C) “**Application**” means all necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications Facilities.
- D) “**Antenna**” means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
- E) “**Co-location**” means the use of an existing Tower or structure to support Antennae for the provision of wireless services.
- F) “**Commercial Impracticability**” or “**Commercially Impracticable**” means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercial impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
- G) “**Completed Application**” means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
- H) “**Council**” means the City Council of the City of Hudson.
- I) “**FAA**” means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- J) “**FCC**” means the Federal Communications Commission, or its duly designated and authorized successor agency.

- K) **“Height”** means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.
- L) **“Modification” or “Modify”** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
- M) **“NIER”** means Non-Ionizing Electromagnetic Radiation
- N) **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
- O) **“Personal Wireless Facility”** See definition for ‘Wireless Telecommunications Facilities’
- P) **“Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
- Q) **“Repairs and Maintenance”** - means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
- R) **“Special Use Permit”** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the City.
- S) **“Stealth” or “Stealth Technology”** means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances,.
- T) **“State”** means the State of New York.
- U) **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- V) **“Telecommunication Site”** See definition for Wireless Telecommunications Facilities

- W) **“Telecommunications Structure”** means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities’.
- X) **“Temporary”** means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does, exist for fewer than ninety (90) days.
- Y) **“Tower”** means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.
- Z) **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Site”** and **“Personal Wireless Facility”**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

Section 284- 5. Overall Policy and Desired Goals for Special Use Permits for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the City’s health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Local Law, the City hereby adopts an overall policy with respect to a Special Use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

- A) Requiring a Special Use Permit for any new, co-location or modification of a Wireless Telecommunications Facility.
- B) Implementing an Application process for person(s) seeking a Special Use Permit for Wireless Telecommunications Facilities;
- C) Establishing a policy for examining an application for and issuing a Special Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.
- D) Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers
- E) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

- F) That in granting a Special Use Permit, the City has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the City.

Section 284- 6. Exceptions from a Special Use Permit for Wireless Telecommunications Facilities.

- A) No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Local Law without having first obtained a Special Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Special Use Permit shall be required for those non-commercial exceptions noted in Section 7.
- B) All Wireless Telecommunications Facilities existing on or before the effective date of this Local Law shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Local Law.
- C) Any Repair and Maintenance of a Wireless Facility does not require the application for a Special Use Permit.

Section 284-7. Exclusions. The following shall be exempt from this Local Law:

- A) The City's fire, police, department of transportation or other public service facilities owned and operated by the local government.
- B) Any facilities expressly exempt from the City's siting, building and permitting authority.
- C) Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
- D) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
- E) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

Section 284-8. Special Use Permit Application and Other Requirements.

- A) All Applicants for a Special Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Local Law. The City Planning Commission is the officially designated agency or body of the City to whom applications for a Special Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking special use permits for Wireless Telecommunications Facilities. The City may at its discretion delegate or designate other official agencies or officials of the City to accept, review, analyze, evaluate and make

recommendations to the City Planning Commission with respect to the granting or not granting or revoking Special Use Permits for Wireless Telecommunications Facilities.

- B) The City may reject applications not meeting the requirements stated herein or which are otherwise incomplete
- C) No Wireless Telecommunications Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the City, and the Special Use Permit has been issued.
- D) Any and all representations made by the Applicant to the City on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the City
- E) An Application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
- F) The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- G) The Applicant shall include a statement in writing:
 - 1) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the City in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable City, State and Federal Laws, rules, and regulations;
 - 2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.
- H) Where a certification is called for in this Local Law, such certification shall bear the signature and seal of a Professional Engineer licensed in the State
- I) In addition to all other required information as stated in this ordinance, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth.
 - 1) A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
 - 2) Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, include an analysis of current and projected usage;
 - 3) The Name, address and phone number of the person preparing the report;

- 4) The Name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;
 - 5) The Postal address and tax map parcel number of the property;
 - 6) The Zoning District or designation in which the property is situated;
 - 7) Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
 - 8) The location of nearest residential structure;
 - 9) The location, size and height of all existing and proposed structures on the property which is the subject of the Application;
 - 10) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
 - 11) The azimuth, size and center line height location of all proposed and existing antennae on the supporting structure;
 - 12) The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;
 - 13) The make, model, type and manufacturer of the Tower and design plan stating the tower's capacity to accommodate multiple users
 - 14) A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - 15) The frequency, modulation and class of service of radio or other transmitting equipment;
 - 16) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
 - 17) Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
 - 18) A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
 - 19) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
 - 20) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing tower site and if existing tower or water tank site, a copy of the installed foundation design.
- J) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
- K) Application for New Tower
- 1) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the City. Copies of written requests and responses for shared use shall be provided to the City in the Application, along with any letters of rejection stating the reason for rejection.

- 2) In order to better inform the public, in the case of a new Telecommunication Tower, the applicant shall, prior to the public hearing on the application, hold a “balloon test”. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City. The Applicant shall inform the City, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 PM on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the application.
- 3) The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant’s Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
 - a) The foreseeable number of FCC licenses available for the area;
 - b) The kind of Wireless Telecommunications Facilities site and structure proposed;
 - c) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
 - d) Available space on existing and approved Towers.
- 4) The owner of a proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:
 - a) Respond within 60 days to a request for information from a potential shared-use Applicant;
 - b) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
 - c) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a Pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - d) Failure to abide by the conditions outlined above may be grounds for revocation of the Special Use Permit.

- L) The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, City, State and Federal structural requirements for loads, including wind and ice loads.
- M) If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.
- N) All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible, given the facts and circumstances involved and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.
- O) If a new tower, proposal for a new antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:
- 1) If a new tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
 - 2) Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the City as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
 - 3) A written description of the visual impact of the proposed facility including an s applicable the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- P) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility
- Q) The Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the City.

- R) All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate
- S) At a Telecommunications Site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- T) All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- U) A holder of a Special Use Permit granted under this Local Law shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- V) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- W) An Applicant shall submit to the City the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- X) The holder of a Special Use Permit shall notify the City of any intended Modification of a Wireless Telecommunication Facility and shall apply to the City to modify, relocate or rebuild a Wireless Telecommunications Facility.
- Y) With respect to this application process, the Planning Commission will normally seek to have lead agency status pursuant to SEQRA. The Planning Commission shall conduct an environmental review of the proposed project pursuant to SEQRA in combination with its review of the Application pursuant to this Article.

Section 284-9. Location of Wireless Telecommunications Facilities.

- A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and five (5) being the lowest priority.

- 1) On existing towers or other structures on City-owned properties;
 - 2) On existing Towers or other structures on other property in the City.
 - 3) A new tower on city-owned properties;
 - 4) On properties in areas zoned for Heavy Industrial use;
 - 5) On properties in areas zoned for Commercial use
- B) If the proposed site is not proposed for the highest priority listed above, then a detailed technical and narrative explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate, technologically, the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
- C) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is a hardship, such being that it is Commercially or technologically Impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.
- D) Notwithstanding the above, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
- E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
- F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an Application for any of the following reasons.
- 1) Conflict with safety and safety-related codes and requirements;
 - 2) Conflict with the historic nature or character of a neighborhood or historical district;
 - 3) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
 - 4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers;
 - 5) Conflicts with the provisions of this Ordinance.

Section 284-10. Shared use of Wireless Telecommunications Facilities and other structures.

- A) The City, as opposed to the construction of a new Tower, shall prefer locating on existing Towers or others structures without increasing the height. The Applicant shall submit a comprehensive report inventorying existing Towers and all other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more appropriate

technologically, and demonstrate conclusively why an existing Tower or other suitable structure can not be used.

- B) An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.
- C) Such shared use shall consist only of the minimum Antenna array technologically required to provide service primarily and essentially within the City, to the extent practicable, unless good cause is shown.

Section 284-11. Height of Telecommunications Tower(s).

- A) The Applicant shall submit documentation justifying the technological need for the total height of any Tower, Facility and/or Antenna requested, and the basis therefore. Documentation in the form of RF propagation studies must include all backup data used in the production of the propagation studies. The propagation studies shall show the coverage at the requested height and also at a minimum of ten (10') ft. lower, the combination of which should show the lowest, least intrusive height needed. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the City, to the extent practicable, unless good cause is otherwise shown.
- B) In no instance shall a Tower constructed after the effective date of this Ordinance, including allowing for all attachments, exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, City, State, and/or any Federal statute, law, local law, City ordinance, code, rule or regulation.

Section 284- 12. Visibility of Wireless Telecommunications Facilities.

- A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
- B) Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Local Law.
- C) If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. Specifically, this shall mean eliminating or minimizing the visual effects at or near ground level.

Section 284-13. Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- A) All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- B) Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

Section 284-14. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

Section 284-15. Lot Size and Setbacks.

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

Section 284-16. Retention of Expert Assistance and Reimbursement by Applicant.

- A) The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.
- B) An Applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any Application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500 with the City shall precede the pre-application meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for its services in reviewing the Application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the Applicant.
- C) The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

Section 284-17. Public Hearing and Notification Requirements.

- A) Prior to the approval of any Application for a Special Use Permit for Wireless Telecommunications Facilities, a public hearing shall be held by the City, notice of which shall be published in the official

newspaper of the City no less than ten (10) calendar days prior to the scheduled date of the public hearing. In order that the City may notify nearby landowners, the Application shall contain the names and address of all landowners whose property is located within five hundred (500) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.

- B) There shall be no public hearing required for an application to co-locate on an existing tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.
- C) The City shall schedule the public hearing referred to in Subsection (A) of this section once it finds the Application is complete, the City, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

Section 284-18. Action on an Application for a Special Use Permit for Wireless Telecommunications Facilities.

- A) The City will undertake a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.
- B) The City may refer any Application or part thereof to any advisory or other committee for a non-binding recommendation.
- C) After the public hearing and after formally considering the Application, the City may approve, approve with conditions, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the Applicant.
- D) If the City approves the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the City's action, and the Special use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Special Use Permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the Wireless Telecommunications Facilities covered by the Special Use Permit.
- E) If the City denies the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the City's action.

Section 284-19. Extent and Parameters of Special Use Permit for Wireless Telecommunications Facilities.

The extent and parameters of a Special Use Permit for Wireless Telecommunications Facilities shall be as follows:

- A) Such Special Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the City.

- B) Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit, or for a material violation of this Local Law after prior written notice to the holder of the Special Use Permit.

Section 284-20. Application Fee.

At the time that a person submits an Application for a Special Use Permit for a new Tower, such person shall pay a non-refundable application fee of \$5,000.00 to the City. If the Application is for a Special Use Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, the non-refundable fee shall be \$2,500.00.

Section 284-21. Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the City to assure the faithful performance of the terms and conditions of this Local law and conditions of any Special Use Permit issued pursuant to this Local Law. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit.

Section 284-22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

Section 284-23. Liability Insurance.

- A) A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below
- 1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - 2) Automobile Coverage: \$1,000,000.00 per occurrence/ \$2,000,000 aggregate;
 - 3) Workers Compensation and Disability: Statutory amounts
- B) For a Wireless Telecommunications Facility on City property, the Commercial General liability insurance policy shall specifically include the City and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty-(30) days prior written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

Section 284-24. Indemnification.

- A) Any application for Wireless Telecommunication Facilities that is proposed for City property, pursuant to this Local Law, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.
- B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a Special Use Permit for Wireless Telecommunications Facilities

Section 284-25. Fines.

- A) In the event of a violation of this Local Law or any Special Use Permit issued pursuant to this Local Law, the City may impose and collect, and the holder of the Special Use Permit for Wireless Telecommunications Facilities shall pay to the City, fines or penalties as set forth below.
- B) Violations of this Chapter will be punishable in accordance with the provisions of Chapter 325 of the Code of the City of Hudson.
- C) Notwithstanding anything in this Local Law, any party in violation of this Local Law may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Local Law or any section of this Local Law. An attempt to do so shall subject the party to termination and revocation of any Special Use Permit and all fines and penalties described above.. Without limiting other remedies available to the City ,the City may also seek injunctive relief to prevent the continued violation of this Local Law.

Section 284-26. Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Local Law or of the Special Use Permit, then the City shall notify the holder of the Special Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Special Use Permit shall be subject to revocation.

Section 284-27. Removal of Wireless Telecommunications Facilities.

A) Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of Wireless Telecommunications Facilities.

- 1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
- 2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
- 3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization and the Special Permit may be revoked.

B) If the City makes such a determination as noted in subsection (A) of this section, then the City shall notify the holder of the Special Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the City may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

- C) The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the City.
- D) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

- E) If, the City removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.
- F) Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

Section 284-28. Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Local Law may request such at the pre-Application meeting, provided that the relief or exemption is contained in the submitted Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the City in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the City, its residents and other service providers.

Section 284-29. Periodic Regulatory Review by the City.

- A) The City may at any time conduct a review and examination of this entire Local Law.
- B) If after such a periodic review and examination of this Local Law, the City determines that one or more provisions of this Local Law should be amended, repealed, revised, clarified, or deleted, then the City may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the City, the City may repeal this entire Local Law at any time.
- C) Notwithstanding the provisions of subsections (A) and (B) of this Section, the City may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Local Law.

Section 284-30. Adherence to State and/or Federal Rules and Regulations.

- A) To the extent that the holder of a Special Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 2: If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined to its operation in said clause, sentence, paragraph, section or part of this Local Law.

Section 3. All Local Laws or parts of Local Laws inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4: This Local Law shall take effect immediately upon passage and filing with the Secretary of State.

Bills.

On motion of Alderman Kenneally, seconded by Alderman Cross, the following bills were audited and ordered paid by the following vote:

Shallo, Galluscio Bianch	3,000.00	Chazen Engineering	1,250.00
RPC Works	113.75	MidHudson Cable	19.98
Staples Business Advantag	169.95	Crystal Rock Water	21.75
K. Colwell, Attorney	2,900.00	City Clerks Office	37.00
The Independent	222.47	Mabey's	70.00
MidHudson Online	19.95	Tracy Delaney	150.00
Long Fuels	81.19	J.C. Rogerson Co.	14.57
Hudson Catskill Newspaper	57.62	Joanne Graziano	450.00
Melissa Finn	120.00	Sentry Business Prod.	193.69
Xerox	59.17	Federal Express Corp.	12.77
Weekly Shopper	200.00	Staples	123.90

Ayes: President Vertetis, Aldermen Cross, Donahue, Goetz, Hancock-Snead, Hughes, Kenneally, O'Brien, Riley and Shook.

Nays: None.

New Business.

Alderman Hughes stated that the Mayor had created the committee H.E.L.P. Hudson Educational Liaison Panel, and as a member of the Youth Committee he wanted to submit his name for membership on that committee.

Mayor Scalera stated that the Commissioner of Youth had set-up the make up the committee and the council should submit the name of the alderman to serve on the committee.

President Vertetis stated the appointment to H.E.L.P. would go through Committee.

Elena Mosley, of Operation Unite, presented the council members information regarding the 2005 Annual Hudson Black Arts and Cultural Festival including the request for financial support from the City.

President Vertetis stated that a resolution and contract for the funding are to be drawn up.

On motion of Alderman Cross, seconded by Alderman Kenneally, the council went into executive session regarding a personnel matter.

Following the executive session, the regular meeting was adjourned on motion of Alderman Cross seconded by Alderman Kenneally.

City Clerk