

January 29, 2018

Mayor Harry “Rick” Rector held a public hearing in the Common Council Chambers, City Hall, on Monday, January 29, 2018 at 4:00 PM on Proposed Local Laws Introductory Nos. 5 and 6 of 2017.

The following notice of the hearing was duly published in the city’s official newspaper on January 19th & 20th, 2018:

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Mayor of the City of Hudson, New York, will hold a public hearing on Monday, January 29, 2018 at 4:00 PM in the Common Council Chambers, City Hall, 520 Warren Street, Hudson, on the following proposed Local Laws which were adopted by the Common Council on January 16, 2018:

Proposed Local Law Introductory No. 5 of 2017 – Amending the City Zoning Law as It Pertains to the Reimbursement of Costs Incurred by the Planning Board and the Zoning Board of Appeals in Connection With Applications and Appeals.

Proposed Local Law Introductory No. 6 of 2017 – A Local Law to Preserve Community Character, Local Business Ownership and Local Wealth.

Complete texts of the above proposed laws are on file and may be examined at the City Clerk’s Office, City Hall during regular office hours. The proposed laws may also be viewed on the city website www.cityofhudson.org

Tracy Delaney
City Clerk

Publish: January 19th & 20th, 2018

Mayor Rector: I would like to open comments now from any of you regarding Local Law Number Five, the reimbursement of costs. Anybody have any comments about that?

(no response)

Mayor Rector: Alrighty. Now I’d like to open up the floor for comments on Proposed Law Number Six, this is the Preservation of Community Character. Anybody have any comments or, no questions because I won’t answer them, any comments regarding Local Law Number Six? Yes ma’am.

Carole Osterink: Carol Osterink, 209 Allen Street.

Mayor Rector: Thank you for identifying yourself, Ms. Osterink.

Ms. Osterink: I congratulate the City for enacting this law. I believe it's important for our community and I believe it's a very forward-thinking action.

Mayor Rector: Thank you very much. Anybody else?

(no response)

Mayor Rector: That being said, no further comments, the public hearing is now closed.

(Public Hearing closed at 4:04 PM)

City Clerk

The proposed laws follow:

Local Law No. Intro. #5 of 2017

A LOCAL LAW AMENDING THE CITY ZONING LAW AS IT PERTAINS TO THE REIMBURSEMENT OF COSTS INCURRED BY THE PLANNING BOARD AND THE ZONING BOARD OF APPEALS IN CONNECTION WITH APPLICATIONS AND APPEALS

SECTION 1. TITLE

This Local Law shall be known as Local Law No. ____ for the year of 2017.

2. LEGISLATIVE FINDINGS

The Common Council of the City of Hudson finds the following:

A. Reasonable costs incurred by the Planning Board and the Zoning Board of Appeals that are deemed necessary for such bodies to properly perform their duties in connection with applications and appeals should be reimbursed by the applicant or appellant and not be costs borne by the City of Hudson.

B. Current law does not adequately provide for the reimbursement of all such costs, nor the procedure as to how and when such costs are to be reimbursed, and thus needs to be amended.

§3. LEGISLATIVE INTENT

It is the intent of the Common Council to improve the health and welfare of the people of the City of Hudson by amending its Zoning Law to provide for the reimbursement by applicants and appellants of certain costs incurred by the City of Hudson's Planning Board and Zoning Board of Appeals with respect to such applications and appeals.

§4. AMENDMENT

I. Hudson City Code, Chapter 325, §325-39, Local Law No. 12-1968 (ch. 121 of the 1973 Code), as amended by Local Law No. 5-2011, by *DELETING* the Paragraph and *REPLACING* it with the following:

“A. The Planning Board and Zoning Board of Appeals shall have the right, at the applicant's expense, to hire a planner, engineer, attorney or other consultant, including without limitation City attorneys if the scope of the services involved will cause the incurrence of additional legal fees payable by the City, to assist the applicable board in its review of any application before such board, including any required SEQRA review of said application, or to obtain any other information deemed necessary by such board for it to appropriately perform its duties. All such costs related to such board's review, including studies, reports, analysis, legal research or drafting, or other information that may be required, as well as the advertising of public hearing notices, shall be borne by the applicant. Any such costs incurred by the Zoning Board of Appeals in connection with its adjudication of appeals that come before it, shall be similarly reimbursed.

“B. When a board makes a determination that costs as described in paragraph A above will be incurred in connection with an application or appeal, such board shall estimate the amount of such costs, and within 10 days of such determination, the applicant or appellant shall tender a payment to the Treasurer of the City of Hudson in the amount of such estimated costs, to be held by the Treasurer in

escrow, to be disbursed to pay such costs as and when they become due and payable. A board may from time to time change its estimate of the amount of such costs remaining to be incurred, in which event, within 10 days of such change of its estimate, the applicant or appellant shall make an additional payment to the Treasurer, or receive a disbursement from the Treasurer, as the case may be, such that the amount held in escrow equals the amount of such remaining costs to be incurred. Upon completion of a board's duties in connection with an application or appeal, if insufficient funds remain in escrow to pay all such costs remaining unpaid, the applicant or appellant shall within 10 days of receiving notice thereof from the Treasurer, make an additional payment to the Treasurer in an amount equal to the amount by which such unpaid costs exceed the amount of funds remaining in escrow, or if after all costs have been paid, funds remain in escrow with respect to such application or appeal, such remaining funds shall be disbursed to the applicant or appellant within 10 days of the payment of all such costs.

“C. In the event an applicant or appellant fails to pay when due to the Treasurer the amounts specified in paragraphs A and B above, the applicable boards shall cease acting upon or other processing the application or appeal of the party failing to make such payment.”

II. Hudson City Code, Charter 325, §325-35.12(H), Local Law No. 12-1968 (Ch. 121 of the 1973 Code), as amended by Local Law Local Law No. 12-1994, 3-2004, 5-2009, 5-2-11. 6-2011, 7-2013 and 2-2014, is hereby AMENDED by DELETING the paragraph, which deleted paragraph reads as follows:

“H. Costs. All costs for outside expertise, including engineering, planning, legal and/or other projects costs deemed necessary the Planning Board, for with either a minor or major subdivision or conservation development, shall be borne by the applicant.”

§ 5. STATEMENT OF AUTHORITY

This local law is authorized by Article 3, section 28-a, of the New York General City Law, Article 2, subsections 1 and 2 of section 10 of the New York Municipal Home Rule Law, and Chapter 325, section 325-40 of the Hudson City Code.

§ 6. SEVERABILITY

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part of provision hereof other than the provision so found to be invalid.

§ 7. EFFECTIVE DATE

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law., and shall apply with respect to the reimbursement of all costs incurred after the effective date of this local law with respect to applications that have been filed prior to the effective date hereof.

Proposed Local Law Introductory No. 6 of 2017

A LOCAL LAW TO PRESERVE COMMUNITY CHARACTER, LOCAL BUSINESS OWNERSHIP AND LOCAL WEALTH

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

SECTION 1. TITLE This Local Law shall be known as Local Law No. _____ for the year 2017.

SECTION 2. LEGISLATIVE FINDINGS

The Common Council of the City of Hudson finds it to be in the best interests of the residents of the City of Hudson to modify the current law with regard to the siting, development and operation of certain retail uses within the City in order to promote and preserve the character of the Hudson community while encouraging the development, expansion and/or retention of business organizations seeking to be a local force in the City's economy in a manner that does not harm public health, welfare and safety.

SECTION 3. LEGISLATIVE INTENT

It is the intent of the Common Council to amend Chapter 325 of the Code for the City of Hudson to add an additional Article addressing the preservation of community character through provisions intended to promote investment of local businesses dedicated to the Hudson economy.

SECTION 4. AMENDMENT

This Local Law adds a new article, Article XIV of Ch. 325 of the Hudson City Code to such Code:

Article XIV The Community Character Preservation Act

Notwithstanding anything to the contrary in this Chapter or the Hudson City Code generally, the following sections of the City Code shall be read to limit both permitted and conditional uses allowed pursuant to this Chapter of the Hudson City Code. No language included in this Article shall be read to make a prohibited use pursuant to this Chapter of the Hudson City Code permissible thereunder or otherwise.

§325-43 Definitions.

A. A "Formula Retail use" is hereby defined as a type of retail sales or service activity or retail sales or service establishment that has four or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the four establishments either in operation or with local land use or permit entitlements approved for operation, the

business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a service mark.

B. A “standardized array of merchandise” shall be defined as

50% or more of in-stock merchandise and/or services from a single distributor bearing uniform markings.

C. A “trademark” shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

D. A “service mark” shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

E. “Décor” shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

F. “Color scheme” shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

G. “Façade: shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

H. “Limited financial services” shall mean a provider of loans that are secured by (i) title to an automobile, (ii) access to the borrower’s bank account whether via electronic or other means or (iii) collateral deposited by or on behalf of the borrower.

I. "Uniform apparel" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

J. "Retail sales or service activity" or "retail sales or service establishment." For the purposes of this Chapter, a retail sales or service activity or retail sales or service establishment shall include the following uses whether functioning as a principal or accessory use; if any such use is defined in this Chapter then the term shall have that meaning, otherwise it shall have its common meaning:

- (1) Bar, tavern, saloon, tap room, tasting room.;
- (2) Drive-up facility where a customer may order and/or receive any food or beverage;
- (3) Liquor store or beer distributor;
- (4) Retail sales and rentals including retailers offering, for sale or rent, household items, clothing including outerwear and hats, footwear, books and magazines, household and/or business appliances and/or electronics, pet supplies, office supplies, food service industry supplies and beauty industry supplies;
- (5) Restaurant (i.e. businesses that process and/or serve food for on- or off-premises consumption) regardless of what type of food it serves and/or the nature of the service provided;
- (6) Hotel, motel, inn, lodging house, rooming house and bed & breakfast;
- (7) Movie theater, amusement and game arcade, entertainment venue;
- (8) Limited financial services, except a single automated teller machine at the street front that meets the Planning Board's approval and automated teller machines otherwise permitted pursuant to this Chapter and that are both located within another use and are not visible from the street;
- (9) Spa or massage establishment; and
- (10) Gym.

§325-44 Prohibition

Formula retail uses are prohibited in all districts within the city except as otherwise expressly set forth in §325-45 of this Chapter. No site plan approval shall issue from the Planning Board, nor variance issue from the Zoning Board of Appeals, nor shall the Code Enforcement Officer issue any building or other permit including a certificate of occupancy, for any formula retail use within the city except as permitted by this section.

§325-45 Exceptions

The prohibitions contained in §325-44 of this Chapter shall not apply to (a) federally or New York State chartered banking, savings and loan, and trust institutions, (b) pharmacies and drug stores, (c) stores where the overwhelming majority of the foods sold are un- or minimally-processed and intended for preparation and consumption by the purchaser at another location, and (d) convenience stores that also sell gasoline.

§325-46 Identification As a Formula Retail Use

A. In any written application for an approval, permit, license, variance or like determination or preference from or by the city (each and collectively an “Approval”), an applicant therefor that is operating or plans to operate a Formula Retail use within the city as such use is defined in this Chapter shall identify itself as a Formula Retail use in all correspondence with the City seeking or regarding such Approval.

1. In the event the city determines any such application pending before any agency of the city or the city itself is for a Formula Retail use and the applicant therefor has failed to identify itself as such on such application as required hereby then that application shall be deemed to be incomplete as a matter of law and the Approval sought thereby shall not issue until such oversight is cured by the applicant.
2. In the event the city determines an Approval issued pursuant to an application from an applicant that failed to identify itself as a Formula Retail use on such application as required hereby then any and all such Approvals issued pursuant to such application shall be a nullity *ab initio* and subject the applicant to all penalties that may accrue hereunder.
3. Once the city has determined that a particular use is a Formula Retail use pursuant to this Section, the burden to prove otherwise shall shift to the applicant or holder of the affected Approval.

(j) Change of Use. Changes of Formula Retail establishments shall be governed by this chapter, except that a change of a Formula Retail use that is also a nonconforming use pursuant to this chapter is prohibited. In all other instances, changes of Formula Retail establishments from one use category to another require a new Conditional Use authorization as a new Formula Retail use. Changes of Formula Retail owner or operator within the same use category that are determined to be an enlargement or intensification of use are required to obtain Conditional Use authorization.

SECTION 5. STATEMENT OF AUTHORITY

This local law is authorized by Article 2-A and section eighty-three of the General City Law, Municipal Home Rule Law Article 2, and section 325-40 of the Hudson City Code.

SECTION 6. SEVERABILITY

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(Upon approval, this Local Law shall be known as Local Law No. 2 and 3 of 2018)