

**A LOCAL LAW AMENDING CHAPTER 325, ARTICLES V AND XIV
OF THE CITY OF HUDSON CODE**

**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 2024.

SECTION 2. LEGISLATIVE FINDINGS, INTENT AND PURPOSE

The general purposes of the formula retail standards are to regulate the location and operation of formula retail businesses and to maintain and preserve the community's character, the city's unique historic aesthetic, the residents' quality of life, and the vitality of small entrepreneurial businesses. The Common Council finds that the current law does not provide a mechanism to allow for the Code Enforcement to readily determine compliance prior to a formula retail use commencing operation and that revisions to the zoning law are necessary to allow regulate formula retail uses.

The Common Council further finds that for "turn-key" businesses which do not require a building permit or other City approval upon change of ownership or tenancy, violations of the City of Hudson's zoning law are not readily apparent. It is the intention of this legislation to further require all new commercial uses and change in commercial tenancy to obtain a Certificate of Compliance from the City certifying that the business is in compliance with the City's zoning law and has no outstanding code violations. The Common Council further finds that an application fee is necessary to cover administrative costs associated with the investigation and issuance of Certificates of Compliance.

SECTION 3. STATEMENT OF AUTHORITY

This local law is authorized by the Municipal Home Rule Law (Chapter 36-a of the Consolidated Laws of the State of New York).

SECTION 4. AMENDMENT Chapter 325 of the Hudson City Code is hereby amended as follows:

A. Chapter 325, Article XIV added 1-16-208 by Local Law No. 3-2018 is hereby amended as follows:

I. § 325-43 is hereby DELETED and REPLACED with the following:

Definitions.

As used in this article, the following terms shall have the meanings indicated:

COLOR SCHEME — Selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.

DECOR — The style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.

FACADE — The face or front of a building, including awnings, looking onto a street or an open space.

FORMULA RETAIL USE — 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 pending applications for local land use or permit entitlements, or with local land use or permit entitlements approved for operation located anywhere in the United States at the time of application for a Certificate of Compliance in the City of Hudson. In addition to the four establishments either in operation or with local land use or permit entitlements approved for operations, the business maintains two or more of the following features: a standardized array décor and color scheme, uniform apparel, standardized signage, a trademark or a service mark.

LIMITED FINANCIAL SERVICES — 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.

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 and 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.

SERVICE MARK — 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.

TRADEMARK — 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.

UNIFORM APPAREL — 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

II. § 325-46 is hereby DELETED and REPLACED with the following:

Identification as formula retail use; change of use.

A. Identification.

1. 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.
2. In the event the City determines any such application pending before any agency of the City or the City itself is at the time of the application 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.
3. 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 and subject the applicant to all penalties that may accrue hereunder.
4. The determination of a use as Formula Retail shall be based on the status of applicant at the time of submission of an application to the City for a Business Certificate of Compliance.
5. 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.

- B. 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 Business Certificate of Compliance as a new formula retail use. Changes of formula retail owner or operator within the same use category are required to obtain a new Business Certificate of Compliance.

III. Chapter 325, Article XIV is hereby AMENDED by ADDING the following:

§ 325-47. Business Certificate of Compliance Required.

Every formula retail use is required to obtain a Business Certificate of Compliance prior to operation.

B. Chapter 325, Article V, Section 325-24 is hereby DELETED and REPLACED with the following:

§325-24 Supplementary regulation for nonresidential buildings and commercial uses.

A. Business Certificate of Compliance required.

1. In any district, a Business Certificate of Compliance certifying that a business is in compliance with the City of Hudson's Zoning Law shall be required prior to commencement of operations for all commercial uses.
2. Change of use or tenancy. Business Certificates of Compliance are not transferable upon change of use or change of tenancy for commercial tenants. A Business Certificate of Compliance is required for all changes in (1) commercial use or (2) change in commercial tenant.
3. Application requirements; Fees. Business owners shall be required to submit an application for a Business Certificate of Compliance in a form as prescribed by the City Clerk. All applications shall be accompanied by a fee in the amount of \$75. The City Clerk shall submit a copy of the application to the City Code Enforcement Officer. Any outstanding Code violations shall be remedied to the satisfaction of the City Code Enforcement Officer prior issuance of a Business Certificate of Compliance. In addition, if deemed necessary by the City Code Enforcement Officer, the applicant shall obtain an updated fire inspection prior to issuance of a Business Certificate of Compliance. Upon issuance, a copy of the Business Certificate of Compliance shall be kept on file with the City Clerk, Code Enforcement Department, and on the premises of the business that it is issued for.
4. The issuance of a Business Certificate of Compliance shall be deemed a Type II action under New York State Environmental Quality Control Act (SEQRA).

B. Courts.

1. Inner courts. No inner court shall have a minimum dimension less than 1/2 of the average height of all surrounding walls.
2. Outer courts. The minimum width of an outer court shall be 20 feet and the depth thereof shall not exceed its width.

C. Railroad rights-of-way. No side or rear yard shall be required where such yard abuts an operating railroad right-of-way.

SECTION 5. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The Common Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 6. 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.