

Local Law No. ___ of 2019

**A LOCAL LAW AMENDING ARTICLE XXII OF THE CHARTER
FOR THE CITY OF HUDSON**

Section 1. Title.

This local law shall be known as Local Law No. __ for the year 2019.

Section 2. Legislative Findings, Intent and Purpose.

Pursuant to Municipal Home Rule Law Section 10(1)(ii)(c)(3) the City of Hudson is authorized to adopt a local law relating to the authorization, making, confirmation, and correction of benefit assessments for local improvements. Under the City's current policy, the abutting property owner is responsible for the full sidewalk construction and repair costs. This policy has led to the construction of very little new sidewalk in the last twenty years, and the enforcement of the repair policy is administratively difficult and leads to repair delays.

The Common Council makes the following findings of fact:

- A. Residents, businesses, organizations, and individual property owners beyond the abutting property owner are benefited by a comprehensive and high-quality network of sidewalks.
- B. Abutting property owners are better served by paying an annual assessment for the construction and repair of sidewalks near their property, rather than face unpredictable, large, lump-sum assessments for construction and repair of abutting sidewalk.
- C. Sidewalks are appropriately designated as a local improvement for which property owners may be assessed in proportion to the benefit the property receives, and such assessments are necessary to defray the cost of construction and maintenance of sidewalk in the City.

The Common Council finds that the creation of a Sidewalk Improvement District (SID) is the most efficient and effective way to meet the need for sidewalk construction and repair and to recognize the proportional benefits and enhanced property value received by property owners due to such work. The Common Council also considers sidewalk accessibility to be an important goal that is supported by this local law.

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) and the General City Law (chapter 21 of the Consolidated Laws of the State of New York).

Section 4. Amendment to the Charter of the City of Hudson.

Article XXII of the Charter of the City of Hudson is hereby amended as follows:

§C22-18 Sidewalk Improvement District.

A. Establishment of sidewalk improvement districts; map.

(1) The City is hereby establishes a sidewalk improvement district ("district" or "SID"); District No. 1. The district is bounded as shown on the map titled "Official Sidewalk Improvement District Map of the City of Hudson, New York" (hereinafter "SID Map"), and which accompanies in printed format and is hereby made part of this section.

(2) The Superintendent of Public Works or his or her designee shall prepare, maintain, and keep current the SID Map in accordance with amendments made thereon pursuant to action of the Common Council.

(3) Where uncertainty exists with respect to the boundaries of the aforesaid districts as shown on the SID Map, the rules established for interpreting the Official Zoning Map as set forth in § [325-6](#) of the City Code shall be used to interpret the SID Map.

B. Construction or repair of sidewalks in districts.

(1) The Public Works Committee shall recommend, subject to amendment and approval by the Common Council, a budget and a schedule of sidewalk construction or repair to be performed in the SID as part of the City's budget for each fiscal year; provided, however, that the budget for the first fiscal year following the year of enactment of this section shall be recommended and approved on such schedule as deemed practicable by the Public Works Committee and Common Council. The Common Council shall have the authority to include in such budget all or any portion of the cost for past sidewalk construction or repair performed by the City on a property located in and subject to assessments as part of the SID, so long as said cost has not been assessed upon the abutting property owner prior to the effective date of this section. Along with such budget and schedule of work, the Public Works Committee shall recommend to the Common Council any adjustments it deems desirable to the assessment formula set forth in Subsection **C** hereof. Such budget may include the issuing of, and payment of the maturing principal of and interest on, any obligation issued pursuant to the Local Finance Law for the purpose of financing the construction or repair of sidewalks pursuant to this section.

(2) Before the budget and schedule of work required by Subsection **B** hereof are given final approval by the Common Council, the City Clerk shall give notice by publication three times in a local newspaper of a public hearing thereon on a date

specified, which date shall not be less than 10 days from the first publication. Before the date of public hearing, any person may file with the City Clerk written objections to such budget or schedule of work or any part thereof, which objections shall be presented to the Common Council before action shall be taken on such budget and schedule of work. At the time so appointed or at such other time to which it may adjourn for that purpose, the Common Council may hear the allegations of any person interested who shall have filed such objections and may take proof in relation thereto. Such allegations and proofs shall be confined to the matters stated in such written objections. The Common Council may thereupon alter or correct any assessment as justice may require, finally approve the same and file a schedule thereof with the City Treasurer, the amount of each assessment as derived from the assessment formula shall be a lien upon the real property so assessed. Such assessments and, if required, any reassessments, shall be collected in the manner provided in this Charter and the City Code for the enforcement, levy, and collection of City taxes.

(3) The Public Works Committee or Common Council may include construction or repair of sidewalk curb cuts and curb accessibility ramps in the local improvements to be made in a SID. The Public Works Committee or Common Council shall not include construction or repair of driveway cuts or aprons, which shall remain the financial responsibility of the abutting property owner.

(4) Work performed in the SID pursuant to this section shall be deemed a local improvement, and Common Council declares and finds that the assessment formula in Subsection C assesses each property in each district in proportion to the benefit received by that property from the construction and repair of sidewalks in the SID, and that such assessments are necessary to defray the cost of construction and repair of sidewalk in the SID.

(5) Nothing herein shall be construed to modify or alter any power of the Common Council, Commissioner or Public Works, or Planning Board to require a property owner to bear the full cost of sidewalk construction or repair as part of the site plan review process pursuant to Article VIII of the City Code, regardless of whether said property is located within a SID.

C. Assessment formula.

(1) Definitions. As used in this section, the following terms shall have the meanings indicated:

ANNUAL MAINTENANCE FEE

The annual maintenance fee for non-developable lots and sliver lots is \$0; for low-foot-traffic lots, it is \$70; and for all other lots, it is \$140.

BUILDING SQUARE FOOTAGE

The total square footage of all buildings on a lot as recorded by the City Assessor.

COST OF PAST WORK

The total sum, including labor and materials, actually paid for past work; provided, however, that none of the following shall be included:

- (a) Costs exceeding \$15 per square foot of past work completed; or
- (b) Any overhead fee, interests or penalties imposed for failure to perform sidewalk construction or repair pursuant to the Charter or City Code, including but not limited to § C-22-18.1 of the Charter.

DOUBLE-LOW-FOOT-TRAFFIC LOTS

Those lots with a Property Class Code of 280 or 281, or substantially identical successor designations, and with two residences that each have a Site Class Code of 210, 215, 240, 250, or 270.

FRONT FEET

The length of perimeter, measured in feet, by which a lot abuts the line of the public street or streets, provided that, if a lot's perimeter along the line of the public street or streets is bisected such that a portion of the perimeter is within the SID and a portion of the perimeter is not located within the SID, only that portion of the perimeter within the SID shall be included, and provided further that a sliver lot's front feet shall be deemed to be the lesser of the lot's actual front feet or 110 feet.

LOT

Lot or parcel of land, as set forth by the current City of Hudson Tax Maps on file with the Columbia County Department of Real Property Services.

LOT SQUARE FOOTAGE

The total area of a lot measured in square feet, as recorded by the City Assessor and set forth on the City of Hudson Tax Maps on file with the Columbia County Department of Real Property Services, or as otherwise calculated by that department.

LOW-FOOT-TRAFFIC LOTS

Those lots, qualifying neither as sliver lots nor as non-developable lots, with a Property Class Code of 210, 215, 220, 240, 250, 270, 311, or 312, or substantially identical successor designations.

NONDEVELOPABLE LOTS

Those vacant lots not qualifying as sliver lots with a lot square footage less than the lowest minimum lot size requirements for any development under the City of Hudson Zoning Code for the zoning district in which the lot is located, as certified by the Code Enforcement Officer or his or her designee pursuant to Subsection C(3)

hereof; provided, however, that if a zoning district has more than one minimum lot size, the relevant minimum lot size for this purpose shall be the smallest minimum lot size for that zoning district that is not subject to adjustments for residency or number of units.

PAST WORK

Sidewalk construction or repair performed on a lot located in and subject to assessments as part of the sidewalk improvement district, and permitted by and performed in accordance with the general drawings and specifications established by the Superintendent of Public Works, provided that such work is performed at the cost of the property owner of the lot upon which the work is performed for the sole purpose of performing sidewalk construction and repair, and provided further that work completed as required by a site plan review pursuant to Article VIII of the City Code is excluded.

PROPERTY CLASS CODE

The property type classification code, as defined by the New York State Office of Real Property Services in the Assessors' Manual, or such other substantially similar documentation later produced by that office, assigned to a lot by the Columbia County Department of Real Property Services, as may be updated by that Department from time to time.

SIDEWALK CONSTRUCTION OR REPAIR

Construction or repair of any public sidewalk or footpath intended for the use of pedestrians in a City park or approximately following along the line of the public street or streets upon which the lot fronts, including but not limited to sidewalk curb cuts and curb accessibility ramps, and other actions determined by the Public Works Committee or Common Council to be necessary to the construction or repair of said sidewalk or footpath, including, but not limited to, any paving, earth work, drainage, and appurtenances; provided, however, that the construction or repair of driveway cuts, or aprons is excluded.

SITE CLASS CODE

The property type classification code, as defined by the New York State Office of Real Property Services in the Assessors' Manual, or such other substantially similar documentation later produced by that office, assigned to each residence on a lot with more than one residence by the Columbia County Department of Real Property Services, as may be updated by that department from time to time.

SLIVER LOTS

Those vacant lots with a lot square footage equal to 2,000 square feet or less.

VACANT LOTS

Those lots with a Property Class Code between 300 and 399, or substantially identical successor designations.

(2) Each lot in the SID shall be annually assessed for work to be performed in the district as follows: annual maintenance fee plus square footage fee plus frontage fee less past work reduction.

(a) Square footage fee. The square footage fee for all low-foot-traffic lots and double-low-foot-traffic lots shall be \$0. For all other lots, the lot's square footage fee shall be equal to the lot's building square footage times \$0.015.

(b) Frontage fee. The frontage fee for all low-foot-traffic lots and double-low-foot-traffic lots shall be \$0. For all other lots, the frontage fee shall be \$30 for each 55 feet of front feet or portion thereof.

(c) Past work reduction. A lot's assessment under this section shall be reduced as set forth herein.

[1] A lot is eligible for a reduction for the cost of past work for 20 years from the date the past work was substantially completed ("reduction period"). In each year of the reduction period for which an assessment, if any, is made pursuant to this section, the lot's past work reduction shall be an amount equal to 1/20 of the cost of past work. Should the allowable reduction for the cost of past work be greater than a lot's assessment under this section in any given year, the lot owner shall not be entitled to the difference, and the difference shall not apply to the assessment for any other year.

[2] The lot owner must provide sufficient evidence to the Superintendent of Public Works or his or her designee of the nature and location of the past work performed, the cost of the past work, and the date the past work was substantially completed. Such evidence must be provided no later than May 1 of the year preceding the fiscal year for which the owner seeks a past work reduction; provided, however, that in the first fiscal year following the year of enactment of this section, such proof must be provided no later than the deadline, if any, established by the Public Works Committee, and if no such deadline is established, such proof must be provided no later than February 1 of that fiscal year. If the request is approved by the Superintendent of Public Works or his or her designee, the past work reduction shall automatically recur in each remaining year of the reduction period. The lot owner may appeal the determination of the Superintendent of Public Works or Public Works Committee at an open meeting thereafter.

(3) Certification of non-developable lots. The owner of a lot may file an application with the Code Enforcement Officer or his or her designee to have the lot certified as a non-developable lot. Such applications must be filed no later than the deadline for providing evidence for a past work reduction pursuant to Subsection **C(2)(c)[2]** above. Such certification shall be granted only to those lots not qualifying as sliver lots with a lot square footage less than the minimum lot size required for development by the City of Hudson Zoning Code for the zoning district

in which the lot is located at the time of application. Once granted, the certification shall continue to be in effect for the lot, regardless of subsequent changes in ownership, until the end of the fiscal year during which the lot square footage increases for any reason to an amount in excess of the minimum lot size required for development; or the minimum lot size for development, as may be revised or amended from time to time, in the zoning district in which the lot is located, is reduced to an amount equal to or lesser than the lot square footage. The owner of a lot that has received a certification pursuant to this provision shall notify the Code Enforcement Officer or his or her designee of any change in the lot square footage.

D. Appeals and reassessments.

(1) No action or proceeding to set aside, vacate, cancel, or annul any assessment for a local improvement shall be maintained, except for total want of jurisdiction to levy and assess the same on the part of the officer, officers, board, or body authorized by law to make such levy or assessment or to order the improvement on account of which the levy or assessment was made. In the event that a court of competent jurisdiction finds such total want of jurisdiction, this section shall be deemed repealed, and the sidewalk assessment policy in § C22-18.1 of the Charter shall automatically take effect.

(2) No action or proceedings shall be maintained to modify or reduce any assessment for a local improvement, except for fraud or substantial error by reason of which the amount of such assessment is in substantial excess of the amount which should have been lawfully levied or assessed.

(3) Any person or persons, jointly or severally, aggrieved by any determination of assessment for a local improvement pursuant to this section may have the decision reviewed by the Supreme Court of New York in the manner provided by Article 78 of the Civil Practice Law and Rules.

(4) Whenever any assessments made under the provisions of this section shall be set aside or shall be decided by any court having jurisdiction thereof to have been improperly or illegally made or whenever it shall be ascertained that the proceedings under which said assessment has been made shall have been so far irregular and erroneous as to make the collection of such assessment illegal, then a reassessment shall be made with the same force and effect as if it had been an original assessment; provided, however, that in the event that no assessment is thereafter successfully levied, those properties affected shall be subject to § C22-18.1 of the Charter.

E. Duties of owner. Nothing herein shall modify or abolish the duty of the owner of lands abutting any street, highway, alley or other public place in the City to keep the sidewalks, approaches or street driveways adjoining such lands free and clear of and from snow, ice and all other obstructions, nor shall anything herein modify or abolish the liability of such owner for any injury or damage caused by reason of

omission, failure or negligence to keep such sidewalk free from snow, ice or other obstructions as set forth in § C34-3 of the Charter.

Section 5. Severability.

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 6. Effective Date.

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

Introduced _____

Seconded _____

Approved _____

Rick Rector, Mayor