

Revised 2  
Final

Local Law No. Intro. 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.

Introduced \_\_\_\_\_

Seconded \_\_\_\_\_

Approved \_\_\_\_\_

By \_\_\_\_\_

**Tiffany Martin Hamilton, Mayor**