

## MINUTES

### VILLAGE OF CHESTER PLANNING BOARD

MARCH 26, 2019

### REGULAR MEETING

**PRESENT:** Richard RAMSDELL, Chairman  
Robert JANKELUNAS, Member  
Anthony LASPINA, Member  
Vincent RAPPA, Co-Chairman  
Gene WINTERS, Member

**ALSO, PRESENT:** John ORR, Code Enforcement Officer  
Shawn ARNOTT, Planning Board Engineer  
Harold PRESSBERG, Planning Board Attorney

### **\*\*\*\* REGULAR MEETING \*\*\*\***

Chairman Ramsdell opened the Regular Meeting at 7:00 PM.

### **MINUTES**

Review Draft February 2019 Planning Board Meeting Minutes. \***MOTION** made by Member LaSpina, second by Member Jankelunas, to **ACCEPT THE MINUTES AS DRAFTED**. Motion passed 5-0

### **CORRESPONDENCE**

None

### **CODE ENFORCEMENT OFFICER REPORT**

Presented by John Orr (copy attached)

### **PROJECTS FOR REVIEW**

#### **1. Project # 19-01 Project Name: LGW Properties, LLC Site Plan Amendment**

Applicant/Owner: LGW Properties, LLC / Leslie Wenger

Location: 35 Kings Highway (114-1-14 / M2 Zone)

Re: Use for collection / warehousing of bottles, cans & other deposit container

Benjamin Ostrer, Esq., Applicant's Attorney provided an overview of the project:

- The Village Board agreed to re-write the parking agreement;
- The applicant will make changes based on Mark Edsall's comments;
- As they do not want to lose the potential occupant, the applicant is requesting approval subject to the submission of updated plans;

General discussion was held regarding:

- Chairman Ramsdell inquired about customer parking on the lot;
  - Benjamin Ostrer, Esq advised the applicant has been using the property currently owned by Stephen and Ann Zoutman at 33 Kings Highway for parking for years, but the applicant cannot confirm to the existing Village parking requirements as the parking spots will not fit on the property. They will create parking by easement of necessity / use;
- Member Winters asked if they have notified the surrounding property owners:
  - Planning Board Attorney Harold Pressberg advised if there is an issue with the neighbors, that's not a Planning Board issue

- Member Winters also asked if someone falls, gets injured, etc. on the property, is the Village or Planning Board liable:
  - Planning Board Attorney Harold Pressberg advised the Planning Board is not creating the situation, so they are not liable.
- CEO John Orr noted that the applicant didn't depict on the plans, is how the parking would fit on the property the applicant will have an agreement with the Village to utilize;
- Member Rappa asked if the neighbors could take action against the Planning Board for approving parking on the neighbor's property.
  - Planning Board Attorney Harold Pressberg advised that is an issue between property owners.
  - Benjamin Ostrer, Esq advised the applicant plans to stripe the handicap parking space and loading area. He noted there was no parking striping when the building was used as a tile store.

Mark Edsall's comments were reviewed (copy attached) and general discussion held regarding:

- CEO John Orr asked the applicant to:
  - Show the parking area of the license agreement with the Village. The applicant agreed to shade the area involved with the license agreement;
  - Move the 3 parking spaces in front of the garage doors;

**\*MOTION** was made by Member Rappa, second by Member LaSpina, to **GRANT CONDITIONAL SITE PLAN APPROVAL WITH THE FOLLOWING CONDITIONS:**

1. REFERRAL RESPONSE FROM ORANGE COUNTY DEPARTMENT OF PLANNING;
2. REFERRAL RESPONSE FROM THE TOWN OF CHESTER;
3. SUBMISSION OF THE SIGNED PARKING LICENSE AGREEMENT;
4. REVISIONS TO THE SITE PLAN ACCORDING TO MARK EDSALL'S COMMENTS;
5. APPROVAL BY MARK EDSALL OF THE FINAL SITE PLAN;
6. PAYMENT OF ALL FEES. Motion passed 5 – 0

**\*MOTION** was made by Member Rappa, second by Member LaSpina, to **DECLARE THIS A TYPE II ACTION UNDER SEQRA AS PROVIDED IN 6 NYCRR 617.5(c)(7), AND, THEREFORE, REQUIRES NO FURTHER ACTION UNDER SEQRA.** Motion passed 5-0.

## 2. Project # 19-02 Project Name: BYK USA, Inc Site Plan Amendment

Applicant/Owner: BYK USA, Inc

Location: 48 Leone Lane (113-1-8 / M1 Zone)

Re: Proposed amendment to previous approval for phasing of additions/modifications

Lawrence Torro, P.E., Engineer, provided an overview of the project:

- Plans were updated based on Mark Edsall's comments at the February meeting.

Mark Edsall's comments were reviewed (copy attached).

It was noted the SEQRA determination was made at the February Planning Board meeting.

**\*MOTION** was made by Member Jankelunas, second by Member Winters, to **GRANT CONDITIONAL SITE PLAN APPROVAL WITH THE FOLLOWING CONDITIONS:**

1. REFERRAL RESPONSE FROM ORANGE COUNTY DEPARTMENT OF PLANNING;
2. REVISIONS TO THE SITE PLAN ACCORDING TO MARK EDSALL'S COMMENTS;
3. APPROVAL BY MARK EDSALL OF THE FINAL SITE PLAN;
4. PAYMENT OF ALL FEES. Motion passed 5 – 0

## 3. Village Board Referral of Proposed Local Law # 6 of 2018

Village Board referral of proposed Local Law #6 of 2018, which proposes amending Zoning §84, Subdivision of Lands, as it relates to notice to interested parties of applications for subdivision of lands.

General discussion held:

- Documents updated to reflect 300 feet from each property line for mailings;
- Planning Board Attorney Harold Pressberg to update and forward the documents;

As the Board had no additional comments, **\*MOTION** was made by Member LaSpina, second by Member Rappa, to **DECLARE THE REVIEW OF PROPOSED LOCAL LAW #6 OF 2018 IS APPROVED AND TO SEND THE LETTER AS DRAFTED TO THE VILLAGE BOARD.** Motion passed 5-0.

### **General Discussion**

David Stevenson, 16 Elm Street: Asked is the fire in Whispering Hills started from the garage being illegally used as a bedroom.

Per CEO John Orr, it was found that the garage was being illegally used, but the firewalls worked as designed. The garage conversion is more of a safety hazard than a fire hazard. He also noted that there are no routine residential inspections to detect situations like this, however, inspections are done when the properties are sold for the title search.

Chairman Ramsdell asked if anyone had anything else to discuss and as there were no other comments, **\*MOTION** was made by Member Jankelunas, second by Member Winters, to **ADJOURN THE MEETING.** Motion passed 5-0. Meeting adjourned at 7:48 PM.

**Respectfully Submitted,**



**Sandra VanRiper  
Planning Board Secretary**

Village of Chester  
Building and Codes Department  
Monthly Report to the Planning Board

March 26, 2019

**Current projects that were inspected during the last month:**

Whispering Hills

- 1- No deck work has been done.

Whispering Hills

- 1- No roofs have been worked on.

7 Kerner Drive

- 1- Issued permit for roof mounted solar system.

14 June Road

- 1- Issued permit for roof mounted solar system.

78 Brookside Ave

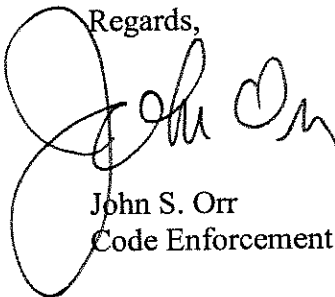
- 1- Issued permit for renovation of store front to ATT store.

15 Meadow Ave Festinger

- 1- Issued permit for rebuilding of farm labor housing.

I was approached by an individual that is looking to open a Pizzeria on Main Street downtown. While we have it in our code that all changes of use require site plan amendment, I would like to know what procedurally we would like to do with such projects.

Regards,



John S. Orr  
Code Enforcement Officer



**McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS D.P.C.**

MARK J. EDSALL, P.E., P.P. (NY, NJ & PA)  
MICHAEL W. WEEKS, P.E. (NY, NJ & PA)  
MICHAEL J. LAMOREAUX, P.E. (NY, NJ, PA, VT & VA)  
PATRICK J. HINES  
LYLE R. SHUTE, P.E. (NY, NJ, PA)

Main Office  
33 Airport Center Drive  
Suite 202  
New Windsor, New York 12553

(845) 567-3100  
fax: (845) 567-3232

Writer's Email:  
[mje@mhepc.com](mailto:mje@mhepc.com)

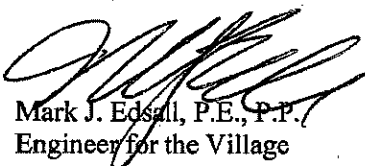
Principal Emeritus:  
RICHARD D. McGOEY, P.E. (NY & PA)  
WILLIAM J. HAUSER, P.E. (NY, NJ & PA)

**VILLAGE OF CHESTER**  
**PLANNING BOARD**  
**REVIEW COMMENTS**

**PROJECT NAME:** LGW PROPERTIES SITE PLAN AMENDMENT  
**PROJECT LOCATION:** 35 KINGS HIGHWAY  
SECTION 114 – BLOCK 1 – LOT 14  
**PROJECT NUMBER:** 19-01  
**DATE:** 26 MARCH 2019  
**CONSULTANT:** JAMES A. DILLIN, PLS  
**PLAN DATE:** Site Plan dated March 6, 2019  
**DESCRIPTION:** THE APPLICATION PROPOSES USE OF THE SITE AS A BOTTLE AND CAN RECYCLING FACILITY. THE APPLICATION WAS PREVIOUSLY REVIEWED AT THE 26 FEBRUARY 2019 PLANNING BOARD MEETING.

1. The property is located in the M-2 Zoning District of the Village. The use classification which appears to be most applicable is “processing operations”, which would be Principal Permitted Use #4.
2. We have received a site plan rather than a survey. The plan provides the some additional information requested in our previous comments. We have the following coments:
  - We requested a bulk table with both required and provided values. Proposed values are not included.
  - We requested a parking calculation and depiction of parking on plan. A calculation is not provided.
  - Please add project number to project approval box (19-01)
  - Some corrections are needed to the handicapped striping to meet Village standard.
    - When a standard space adjoins a handicapped space, a double line should be installed, one blue, one white.
    - The handicapped symbol painted on the ground and the sign symbol should be updated to the new standard.
3. We will continue our review as additional information is provided and to review any concerns of the Board.

Respectfully Submitted,



Mark J. Edsall, P.E., P.P.  
Engineer for the Village

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**McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS D.P.C.**

MARK J. EDSALL, P.E., P.P. (NY, NJ & PA)  
MICHAEL W. WEEKS, P.E. (NY, NJ & PA)  
MICHAEL J. LAMOREAUX, P.E. (NY, NJ, PA, VT & VA)  
PATRICK J. HINES  
LYLE R. SHUTE, P.E. (NY, NJ, PA)

Main Office  
33 Airport Center Drive  
Suite 202  
New Windsor, New York 12553

(845) 567-3100  
fax: (845) 567-3232

Writer's Email:  
[mje@mhepc.com](mailto:mje@mhepc.com)

Principal Emeritus:  
RICHARD D. McGOEY, P.E. (NY & PA)  
WILLIAM J. HAUSER, P.E. (NY, NJ & PA)

**VILLAGE OF CHESTER**  
**PLANNING BOARD**  
**REVIEW COMMENTS**

**PROJECT NAME:** BYK USA SITE PLAN AMENDMENT  
(OTHER)  
**PROJECT LOCATION:** 48 LEONE LANE  
SECTION 113 – BLOCK 1 – LOT 8  
**PROJECT NUMBER:** 19-02  
**DATE:** 26 MARCH 2019  
**CONSULTANT:** CIVIL-TEC / LARRY TORRO, P.E.  
**PLAN DATE:** Rev. 2 dated March 12, 2019  
**DESCRIPTION:** THE APPLICATION PROPOSES A MULTI-PHASE IMPROVEMENT TO  
THE FACILITY AS NOTED BELOW. THE APPLICATION WAS  
PREVIOUSLY REVIEWED AT THE 26 FEBRUARY 2019 MEETING.

1. The property is located in the M-1 Zoning District of the Village. The property was the subject of recent site plan amendments (Apps. 15-02 & 17-04). The application proposes no change in use, rather modifications to the existing facility, as were discussed in detail in the February meeting, and are outlined on the plans.
2. We are aware of no outstanding items on this application. The board should insure that the necessary GML 239 referrals have been made and that SEQRA has been addressed.

Respectfully Submitted,

Mark J. Edsall, P.E., P.P.  
Engineer for the Village

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VILLAGE OF CHESTER PLANNING BOARD'S REPORT  
REGARDING INTRODUCTORY LOCAL LAW # 6 OF 2018  
"A LOCAL LAW AMENDING CHAPTER 84 OF THE VILLAGE OF CHESTER CODE WITH RESPECT  
TO NOTICE OF APPLICATIONS FOR SUBDIVISION OF LAND"

To the Mayor and Board of Trustees of the Village of Chester:

Pursuant to the Board of Trustees referral, the Village of Chester Planning Board submits the following report regarding Introductory Local Law No. 6 of 2018, the proposed amendment to §84-8.C.(1) and §84-9.B.(2) pertaining to notice of applications for subdivision of land. (In Section 3(A), Introductory Local Law No. 6 references §84-8.C.(2), while the subsection of the existing Code section pertaining to hearings is §84-8.C.(1) .)

With some modifications, the Planning Board is in favor of the proposed amendment. The Planning Board also recommends that notice, in the form, suggested below, be also required in §84-9.C.(2), another Code provision requiring a public hearing in connection with final plats where no preliminary plat was required.

While the Village Board is considering revisions to the notice requirements for Planning Board hearings in connection with subdivisions, we recommend that Zoning Code §98-28.C., pertaining to Planning Board hearings in connection with site plan and special permit approvals, which would also pertain to applications for site plans where the Planning Board decides a hearing is required (see §98-2.B), be similarly amended. Since the considerations involved in §98-40.A are not pertinent to these procedural amendments, this report should be deemed the Planning Board's report in connection with a Zoning Code amendment and another referral to the Planning Board should not be required.

With respect to the specific language of the proposed amendments providing notice to owners of nearby properties, we believe provisions identical to the notice provision pertaining to hearings before the Zoning Board of Appeals, as provided in §98-38.C, should be adopted. Under §98-38.C, the Zoning Board Secretary provides the applicants with a list of property owners within 300 feet of the applicant's property, which list is derived from the Village's assessment roll. The applicant is required to make the certified mails and provide proof of the mailing at the hearing.

The Code's notice provision pertaining to ZBA hearings is:

"In addition to such published notice, the Board of Appeals shall cause notice to be given of the substance of every appeal, special permit or variance, together with notice of the hearing thereon, by causing notices thereof to be mailed at least five days prior to the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area (whether or not involved in such appeal or application) and all other owners within 300 feet or such additional distance as the Board of Appeals may deem advisable, as measured from the exterior boundaries of the land involved in such appeal or application, as the names of said owners appear on the last completed assessment roll of the Village. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish the Board of Appeals proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Board of Appeals on order of the Board of Appeals or upon order of the Chairman of said Board if the appeal or application is received when the Board is not in session and the Chairman deems it necessary or desirable to expedite the public hearing of such appeal or application. Provided that due notice shall have been published as provided herein and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with the granting of any appeal, permit or variance."

Requiring the Planning Board Secretary to make the mailings is an unnecessary burden and expense on that office. Other than the owners listed in the Village's assessment role, there is no way for the Village to determine who resides within a specific distance from the applicant's property. We believe notifying owners of property within 300 feet of the affected property is adequate. This is the distance used in the present ZBA hearings Code provisions, and in certain areas of the Village, requiring mailings to owners within 500 feet may be burdensome. If the Village Board is concerned regarding additional notice, the Planning Board recommends that the Village Board consider requiring a small placard giving notice of a hearing be placed in the front of the property.

The Planning Board also recommends that §84-6 "Minor subdivisions" be amended to require a hearing except in the case of lot line changes, which are treated by the Planning Board as minor subdivisions.

Accordingly, the Village Planning Board reports that the Village Code be amend by a local law in the form attached.

Dated: March 19, 2019

Respectfully submitted:

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Richard Ramsdell, Chairman  
Village of Chester Planning Board



# VILLAGE OF CHESTER'S PLANNING BOARD'S SUGGESTED REVISIONS TO INTRODUCTORY LOCAL LAW NO. 6 OF 2018

## A LOCAL LAW AMENDING CHAPTERS 84 AND 98 OF THE VILLAGE OF CHESTER CODE WITH RESPECT TO NOTICE OF APPLICATIONS FOR SUBDIVISION OF LAND AND SITE PLAN REVIEW

Be it enacted by the Board of Trustees of the Village of Chester in the County of Orange, as follows:

### SECTION 1. Title

This Local Law shall be referred to as "A Local Law Amending Chapter 84, entitled 'Subdivision of Lands' and Chapter 98, entitled "Zoning" of the Village Code of the Village of Chester with respect to notice of public hearings.

### SECTION 2: Purpose and Intent

It is the purpose of this Local Law to amend and amend Chapter 84, entitled "Subdivision of Lands", and Chapter 98, entitled "Zoning", of the Village Code of Chester, as it relates to giving notice to interested parties of applications for subdivision of lands and site plan review.

### SECTION 3: Amendments to notice provisions.

A. Section 84-8.C.(1 2) is amended by inserting the language underlined below:

(1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete preliminary plat by the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing. ~~A copy of such notice shall be mailed by the Planning Board Clerk, at the expense of the applicant, to the owner of real property within five hundred (500) feet of lands proposed to be subdivided, and to each person known to reside within five hundred (500) feet of lands proposed to be subdivided.~~ In addition to such published notice, the Planning Board shall cause notice to be given of the subdivision application, together with notice of the hearing thereon, by causing notices thereof to be mailed at least five days prior to the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 500 feet or such additional distance as the Planning Board may deem advisable, as measured from the exterior boundaries of the land involved in such appeal or application, as the names of said owners appear on the last completed assessment roll of the Village. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish the Planning Board proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Planning Board on order of the Planning Board. Provided that due notice shall have been published as provided herein and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with the approval of any subdivision. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.

B. Section 84-9.B.(2) is amended by inserting the language underlined below:

(1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete final plat by the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing. ~~A copy of such notice shall be mailed by the Planning Board Clerk, at the expense of the applicant, to the owner of real property within five hundred (500) feet of lands proposed to be subdivided, and to each person known to reside within five hundred (500) feet of lands proposed to be subdivided.~~ In addition to such published notice, the

Planning Board shall cause notice to be given of the subdivision application, together with notice of the hearing thereon, by causing notices thereof to be mailed at least five days prior to the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 500 feet or such additional distance as the Planning Board may deem advisable, as measured from the exterior boundaries of the land involved in such appeal or application, as the names of said owners appear on the last completed assessment roll of the Village. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish the Planning Board proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Planning Board on order of the Planning Board. Provided that due notice shall have been published as provided herein and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with the approval of any subdivision. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.

C. Section 84-9.C.(2) is amended by inserting the language underlined below:

(1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete final plat by the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing. ~~A copy of such notice shall be mailed by the Planning Board Clerk, at the expense of the applicant, to the owner of real property within five hundred (500) feet of lands proposed to be subdivided, and to each person known to reside within five hundred (500) feet of lands proposed to be subdivided.~~ In addition to such published notice, the Planning Board shall cause notice to be given of the subdivision application, together with notice of the hearing thereon, by causing notices thereof to be mailed at least five days prior to the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 500 feet or such additional distance as the Planning Board may deem advisable, as measured from the exterior boundaries of the land involved in such appeal or application, as the names of said owners appear on the last completed assessment roll of the Village. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish the Planning Board proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Planning Board on order of the Planning Board. Provided that due notice shall have been published as provided herein and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with the approval of any subdivision. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.

C. Section 84-9.C.(2) is amended by inserting the language underlined below:

Where a tract of land is to be subdivided into not more than four lots in any one year, the Board may, at its own discretion, after holding a public hearing in accordance with § 84-9.C.(2), grant final approval according to § 84-9 of these regulations, provided that the preapplication procedure has been completed and, further, that the application for final approval shall conform to the requirements of Article IV of these regulations for minor subdivisions. A public hearing shall not be required in connection with a lot line change application.

D. Section 98-28.C is amended by inserting the language underlined below:

Site plans for special permitted uses shall be submitted to the Planning Board concurrently with applications for special permitted use permits and shall be considered to be a part of the application for a special permitted use. A public hearing on the application for a special permitted use and concurrent

site plan approval shall be held by the Planning Board within 62 days from the day an application is made. Public notice of such hearing shall be published in the official newspaper of the Village at least five days prior to the date thereof. In addition to such published notice, the Planning Board shall cause notice to be given of the application, together with notice of the hearing thereon, by causing notices thereof to be mailed at least five days prior to the date of said hearing, to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 500 feet or such additional distance as the Planning Board may deem advisable, as measured from the exterior boundaries of the land involved in such appeal or application, as the names of said owners appear on the last completed assessment roll of the Village. Such notice shall be by certified mail, return receipt requested, and the applicant shall furnish the Planning Board proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Planning Board on order of the Planning Board. Provided that due notice shall have been published as provided herein and that there shall have been substantial compliance with the remaining provisions of this subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with the approval of a site plan or special permit. The Planning Board shall act upon said application within 62 days after such public hearing.

**SECTION 4: Severability**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**SECTION 5: Effective Date**

This local law shall take effect immediately upon filing with the Secretary of State.