

Sponsored by: Mello  
Seconded by: Shah

CITY OF HOBOKEN  
ORDINANCE NO. 2-227

AN ORDINANCE TO AMEND CHAPTER 179A ENTITLED  
"TAXICABS" TO FURTHER CLARIFY THE MUNICIPALITY'S  
INSURANCE REQUIREMENTS FOR TAXICAB LICENSES

WHEREAS, the City has determined that inclusion of a code section providing for Combined Single Limit (CSL) insurance of taxicab licensees is in the best interest of the license holders for purposes of obtaining economically feasible insurance, and would not have a negative effect on the City's insurance and liability requirements, so long as the CSL amounts meet the City's minimum requirements.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby ordain as follows (additions noted in double underline, deletions noted in strikethrough):

SECTION ONE: AMENDMENTS TO THE SUBSTANCE OF HOBOKEN CODE § :

**§ 179A-4 Indemnity bond or liability insurance required amount.**

A.

No license shall be issued or continue in operation unless there is in force and effect for each vehicle authorized an insurance policy issued by a company duly licensed to transact business under the insurance laws of this state conditioned for the payment of a sum:

EITHER

(1)

Separate Liability Limit Policies of at least:

- (a.) Not less than \$50,000 to satisfy all claims for damages by reason of bodily injury to, or to the death of, any one person, resulting from an accident;
- (b.) Not less than \$100,000 to satisfy all claims for damages, by reason of the bodily injuries to, or the death of, all persons on account of any such accident, by reason of the ownership, operation, maintenance, or use of such taxicab upon any public street;
- (c.) Not less than \$15,000 to satisfy any claim for damages to property of any one person, resulting from an accident; and
- (d.) Not less than \$30,000 to satisfy all claims for damages to property of all persons, on account of any such accident, by reason of the ownership, operation, maintenance, or use of such taxicab on any public street.

OR,

notwithstanding the invalidity of any part.

**SECTION FOUR: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage and publication as provided by law.

**SECTION FIVE: CODIFICATION**

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Date of Introduction: February 6, 2013**

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	/			
Theresa Castellano	/			
Jen Giattino	/			
Elizabeth Mason	/			
David Mello	/			
Tim Occhipinti	/			
Michael Russo	/			
President Peter Cunningham	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

Approved as to Legal Form:

Vetoed by the Mayor for the following reasons: \_\_\_\_\_

Sponsored by: Melbo  
Seconded by: Shelton

CITY OF HOBOKEN  
ORDINANCE No.: 2-230

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOBOKEN GRANTING A NON-EXCLUSIVE TEMPORARY REVOCABLE EASEMENT FOR CERTAIN ENCROACHMENTS WITHIN THE PUBLIC RIGHT-OF-WAY ALONG OBSERVER HIGHWAY, BETWEEN PATERSON AVENUE AND JACKSON STREET, MORE PARTICULARLY KNOWN AS BLOCK 14, LOT 1 ON THE TAX MAPS OF THE CITY OF HOBOKEN, AND COMMONLY REFERED TO AS 61 JACKSON STREET**

**WHEREAS**, Stephen R. Spector, attorney for the applicant, 118 Clinton Street LLC (hereinafter called "Grantee"), has petitioned the City of Hoboken (hereinafter call "Grantor"), on behalf of his client, who desires the use of municipal land, identified on the attached property survey as certain portions of the right-of-way along Observer Highway between Paterson Avenue and Jackson Streets, as an easement including the right to construct, operate and maintain structural columns, walls, a roof over-hang, and walkway errantly constructed outside of the property line; and

**WHEREAS**, the Zoning Board of Adjustment has conditioned development approval of the property at 61 Jackson Street, more particularly described as Block 14, Lot 1, on the Tax Map of the City of Hoboken, upon obtaining an encroachment agreement ("Easement") from the governing body of the City of Hoboken; and

**WHEREAS**, in consideration of \$16,758.84 per annum for the term of the easement, as determined in the sole discretion of the City, which amount shall be subject to the CPI terms herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, Grantor is willing to enter into a non-exclusive temporary revocable easement for the use of the property as described herein, subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

- A. Grantor hereby grants Grantee a Non-Exclusive Temporary Revocable Easement to use the following described property (the site plan shall be attached to this agreement as Schedule A, and shall be incorporated by reference):

BEGINNING at a point in the northerly line of Observer Highway, a distance of 4.83 feet easterly from the intersection formed by the easterly line of Jackson Street and the northerly line of Observer Highway and running thence:

1. S-12°-39'-21.6"-W and onto the R.O.W of Observer Highway, a distance of 7.83 feet to a point; thence
2. S-77°-20'-38.4"-E and continuing along the R.O.W. of Observer Highway, a distance of 48.47 feet to a point; thence
3. N-12°-39'-21.6"-E and continuing along the R.O.W. of Observer Highway, a distance of 6.15 feet to a point in the northerly line of Observer Highway; thence
4. S-77°-20'-38.4"-W and continuing along the R.O.W. of Observer Highway, a distance of 12.90 feet to a point; thence

5. N-12°-39'-21.6"-E and continuing along the R.O.W. of Observer Highway, a distance of 1.33 feet onto the northerly line of Observer Highway;

6. N-77°-20'-38.4"-W and continuing along the northerly line of Observer Highway, a distance of 64.90 feet to a point, said point or place of beginning.

The above being known as a portion of the public right-of-way of Observer Highway fronting Lot 1 in Block 14, as shown on the official Tax Map of the City of Hoboken, and commonly known as 61 Jackson Street; the encroachment includes columns, a roof overhang, walkway, and concrete platform elevated above sidewalk grade along Observer Highway, said encroachment area is 399.02 square feet.

- B. This Easement grants the right to construct, operate and maintain structural columns, walls, and a roof over-hang making up the southerly wall of the bar/restaurant to be known as *The Downtown Pub*, and an elevated walkway adjacent thereto (hereinafter "Improvements") within the above described property. Grantee agrees to assume sole responsibility for the construction, operation and maintenance of said Improvements within the property. Grantee agrees to, upon Grantor's request, timely repair any damage to Grantor's property or improvements occurring from Grantee's construction, operation or maintenance of said Improvement.
- C. Only such rights are granted hereby as are necessary for construction, operation and maintenance of the Improvements. Grantor reserves the right to use the property in any manner and for any purpose not inconsistent with the aforesaid purpose. Grantee agrees to relocate said improvements, at its sole cost and expense upon termination of this agreement.
- D. Grantee agrees to defend, indemnify and hold harmless Grantor, its officers, agents and employees, from and against all claims, demands, judgments, costs and expenses (including reasonable attorney's fees) which may arise by reason of injury to any person or damage to any property attributable to the negligence of Grantee, Grantee's officers, agents and employees, in connection with Grantee's construction, operation and maintenance of said Improvements and its use of or presence on the property.
- E. Grantee agrees to provide for general liability insurance in an amount of at least \$1,000,000.00/\$2,000,000.00, which shall include the City of Hoboken and its officers and employees as additional insured. Said insurance shall have a thirty day notice of policy cancellation upon the City of Hoboken. A copy of said insurance coverage shall be provided to the Office of Corporation Counsel prior to this easement becoming effective. If at any point the insurance lapses or is otherwise terminated, for any reason, this easement shall terminate effective immediately without notice or opportunity to cure.
- F. This Easement shall automatically cease upon non-use for any six (6) consecutive months, and all interests granted herein shall revert to Grantor, or its successors in interest.
- G. This Easement shall automatically cease upon destruction, or partial destruction, of the Improvements, by or for any reason, whereby reconstruction of the Improvements would be necessary to continue use of the building.
- H. This Easement shall be for a term up to Ninety-Nine (99) years after the date of adoption by the governing body. The termination date may be extended only by mutual written consent of both parties and subsequent adoption of an ordinance extending the term, which shall be in the sole discretion of the City; provided, however, that no amendment to the Easement, whether to the term or otherwise, shall be effective unless in writing, adopted by ordinance of the governing body, and signed by both parties. This easement shall terminate immediately if at any point the annual fee lapses for greater than a thirty day period past the payment due date, for any reason,

without the need for notice or opportunity to cure. The annual fee shall be paid on the date the Ordinance approving the within Easement becomes effective according to applicable law, and annually on the same date thereafter.

- I. In addition to the rights of termination as described herein, the City shall have the right, in its sole discretion, to terminate this Easement for cause, which shall include but not be limited to concerns of public safety, health and welfare, upon Ninety (90) days written notice to grantee.
- J. All notices referred to in the Easement shall be sent to the respective parties at the address stated in § K, *infra*.
- K. The rights granted to and duties assumed by Grantee under this Easement are personal, and shall not run with the land, and may not be assigned or delegated by Grantee without the prior written consent of Grantor. Any attempted assignment or delegation by Grantee without the prior written consent of the Grantor shall be void ab initio.
- L. This Easement may be amended from time to time, as may be necessary, by mutual written consent of both parties; provided, however, that no amendment to the Easement shall be effective unless in writing, adopted by ordinance of the governing body, and signed by both parties.
- M. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed. Both parties were represented by competent legal counsel of their own choosing during the drafting of this agreement, and this agreement shall not be construed in favor of or against either party. This agreement shall be subject to and interpreted in accordance with the laws of the State of New Jersey.
- N. The annual fee for Grantee's rights under this Agreement shall be Sixteen Thousand Seven Hundred Fifty Eight Dollars and Eighty Four Cents (\$16,758.84) per annum, which represents \$3.50/s.f./month at 399.02 s.f. of encroachment. This fee shall be subject to all the terms herein, including but not limited to Section O.
- O. CPI Adjustments During Fifth and Every Subsequent Fifth Year of Term. Effective as of the first day of each five-year anniversary of the Commencement Date, the annual fee payable hereunder shall escalate on a five-year basis as follows:

#### CONSUMER PRICE INDEX ESCALATION

(a) Definitions. For purposes of this clause, the following definitions shall apply:

(1) the term "Base Month" shall mean the month in which the Commencement Date shall occur.

(2) the term "Consumer Price Index" or "CPI" shall mean the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers, New York, N.Y. - Northeastern N.J. (1982-84 equals 100). All items, or any renamed local index covering the metropolitan New York, Northeastern New Jersey area or any other successor or substitute index appropriately adjusted.

(3) the term "Base Index" shall mean the Consumer Price Index that shall be in effect in the Base Month.

(4) the term "Change Date" shall mean the first day of every five-year anniversary of the Commencement Date, and on that same date every five (5) years thereafter.

(b) Adjustment. Effective on the Change Date, the annual fee payable hereunder shall escalate as follows:

The escalation of annual fees shall be based on one-half of the percentage increase of the Consumer Price Index for the month prior to the Change Date (the "Percentage Increase"). In the event that the Consumer Price Index for the month prior to the Change Date exceeds the Base Index, **then the annual fee shall be increased by the Percentage Increase**: the annual fee shall be multiplied by the Percentage Increase, and the resulting product shall be added to the annual fee; such sum shall be the escalated annual fee effective as of the Change Date. Grantee covenants and agrees that said escalated fee shall thereafter be payable until the next Change Date pursuant to the terms of this Agreement.

(c) Formula and Example. The following illustrates the intentions of the parties hereto as to the computation of the aforesaid escalation of annual fee:

(1) Formula. The formula used to calculate the escalation of annual fee pursuant to this clause shall be:

$$\frac{(\text{Current CPI} - \text{Base Index}) \times 1/2 \times \text{Fee} + \text{Fee}}{\text{Base Index}} = \text{Escalated Fee}$$

(2) Example. **Assume** that the monthly fee is \$156,250, the Base Index (February, 2018) is 178.6, and the CPI for the month preceding the Change Date is 200.0:

$$\begin{aligned} 200.0 - 178.6 &= 21.4 \\ 21.4/178.6 &= 0.12 \\ 1/2 \text{ of } .12 &= 0.06 \\ 0.06 \times \$156,250 &= \$9,375 \\ \$156,250 + \$9,375 &= \$165,625 \end{aligned}$$

(d) Figures Unavailable. In the event that the Consumer Price Index is unavailable as of the Change Date, Grantee shall continue to make annual fee payments based on the fee the Grantee had been paying immediately prior to the Change Date Until such Consumer Price Index is Made available; at that time the annual fee shall escalate in accordance with this clause and Grantee shall make a retroactive payment to Grantor equal to the difference between (i) the fee due from the date the first increase in the fee became effective until the increase was finally computed; and (ii) the fee actually paid by Grantee from the date the increase became effective until the date such increase was finally computed.

(e) No Recomputations. No subsequent adjustments or recomputations, retroactive or otherwise, shall be made to the Consumer Price Index due to any revision that may later be made to the first published figure of the Consumer Price Index for any month.

(f) No Fee Decrease. In no event shall the annual fee in a given year be less than the annual fee for the immediately preceding year.

(g) No Waiver. Any delay or failure of Grantor in computing, billing or requesting payment by Grantee of the escalation of annual fee as provided herein shall not

constitute a waiver of or in any way impair the continuing obligation of Grantee to pay such escalation of annual fees.

(h) Survival. Grantee's obligation to pay escalated annual fees pursuant to this clause shall continue and shall cover all periods up to the date that this Agreement is scheduled to expire, and shall survive any expiration, earlier termination, or extension of this Agreement.

(i) Right to Use Old Index. In the event that the Consumer Price Index ceases to use 1982/84=100 as the basis of calculation, or if, in Grantor's sole judgment, a substantial change is made in the method used by the federal government to determine the Consumer Price Index or the items used to calculate the Consumer Price Index, then the Consumer Price Index shall be converted ("Conversion") to the figure that would have been calculated at (or as close to such figure as shall be practical) had the manner of calculating the Consumer Price Index in effect as of the date of this Agreement not been altered. As used herein, it shall be deemed a "substantial change" in the manner in which the Consumer Price Index is calculated if the federal government adjusts the method in which the Consumer Price Index is determined in an attempt to more accurately reflect changes in the cost-of-living.

(j) Option to Use Now CPI. If, in Grantor's sole judgment, the Conversion is impossible or impractical, then the revised Consumer Price Index shall be deemed to replace the original Consumer Price Index for purposes of this clause.

P. Both parties represent and warrant that they have the authority to execute this Easement agreement.

GRANTEE:  
118 Clinton Street LLC  
Danny Tattoli, Agent of Record  
401 Jefferson Street  
Hoboken, New Jersey 07030

GRANTOR:  
City of Hoboken  
Dawn Zimmer, Mayor  
94 Washington Street  
Hoboken, New Jersey 07030

Q. If the construction as contemplated herein is not complete, and a certificate of occupancy obtained on or before September 1, 2013, then this easement shall terminate automatically, without refund of the fees paid and consideration obtained.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

THIS EASEMENT AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Hoboken (Grantor), and 118 Clinton Street LLC (Grantee), whose agent is Danny Tattoli.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement to be effective on the day and year first above written.

GRANTEE:

GRANTOR:

\_\_\_\_\_  
Agent of Record - Danny Tattoli

\_\_\_\_\_  
Mayor - Dawn Zimmer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SS: On this \_\_\_\_ day of \_\_\_\_, 2013  
\_\_\_\_\_ came before me as Agent of  
Record of Grantee, and swore of affirmed  
Under Oath to be the authorized agent to  
Bind the Grantor to the herein agreement.  
Notary:

SS: On this \_\_\_\_ day of \_\_\_\_, 2013  
\_\_\_\_\_ came before me as Mayor of  
the City Grantor, and swore or affirmed,  
under oath to be the authorized agent to  
bind the Grantor to the herein agreement.  
Notary:

**Date of Introduction:** February 20, 2013

Approved:

Approved as to Form:

\_\_\_\_\_  
Quentin Wiest, Business Administrator

\_\_\_\_\_  
Mellissa Longo, Corporation Counsel

RECORD OF COUNCIL VOTE ON 1 <sup>ST</sup> READING			
Council Person	Aye/	Nay	N.V.
Bhalla	/		
Castellano	/		
Giattino	/		
	/		
Mason	/		
Mello	/		
Occhipinti	/		
Russo	/		
Pres. Cunningham	/		

RECORD OF COUNCIL VOTE ON 2 <sup>ND</sup> READING			
Council Person	Aye	Nay	N.V.
Bhalla			
Castellano			
Giattino			
Mason			
Mello			
Occhipinti			
Russo			
Pres. Cunningham			

I hereby certify the above vote on this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
James Farina, City Clerk

Approved by the Mayor of the City of Hoboken on the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Dawn Zimmer, Mayor

-or-

Vetoed by the Mayor for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sponsored by: Mello  
Seconded by: Bhalla

CITY OF HOBOKEN  
ORDINANCE NO. 7-231

**AN ORDINANCE TO AMEND CHAPTER 190 ENTITLED "VEHICLES AND TRAFFIC" TO UPDATE AND ADD TO THE SNOW EMERGENCY ROUTES LISTED IN § 190-36**

WHEREAS, the City has determined that inclusion of the length of roadway between Jackson and Harrison Streets as a snow emergency route is necessary to effectuate the proper purpose of the snow routes in the Southwestern portion of the City.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby ordain as follows (additions noted in double underline, ~~deletions noted in strikethrough~~):

**SECTION ONE: AMENDMENTS TO THE SUBSTANCE OF HOBOKEN CODE §190-36 :**

**§ 190-36 SNOW EMERGENCIES.**

A. Whenever snow has fallen and the accumulation is such that it covers the street or highway, or whenever a snow emergency has been declared by the municipality, an emergency shall exist and no vehicle shall be parked on the following street or highways or portion thereof.

Name of Street	Side	Location
Fifth Street	South	Clinton Street to River Street
Fourth Street	South	River Street to <u>Harrison</u> Jackson Street
Ninth Street	North	Jackson Street to River Street
Seventeenth Street	Both	Willow Avenue to Jefferson Street
Third Street	North	Jackson Street to River Street
Thirteenth Street	North	Washington Street to Willow Avenue
Washington Street	Both	Observer Highway to northern boundary
Willow Avenue (H.C. Rd. No. 675)	West	Observer Highway to Eleventh Street

B. The above parking prohibitions shall remain in effect after the snow has ceased, until the streets have been plowed sufficiently and to the extent that parking will not interfere with the

normal flow of traffic.

**SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**SECTION THREE: SEVERABILITY**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION FOUR: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage and publication as provided by law.

**SECTION FIVE: CODIFICATION**

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Date of Introduction: February 20, 2013**

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	✓			
Theresa Castellano	✓			
Jen Giattino	✓			
	/			
Elizabeth Mason	/			
David Mello	/			
Tim Occhipinti	/			
Michael Russo	/			
President Peter Cunningham	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Peter Cunningham				

Approved as to Legal Form:

\_\_\_\_\_  
Mellissa Longo, Interim Corporation Counsel

Adopted by the Hoboken City Council  
By a Vote of \_\_\_\_ Yeas to \_\_\_\_ Nays  
On the \_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
James Farina, City Clerk

Vetoed by the Mayor for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**-or-**

Approved by the Mayor  
On the \_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Dawn Zimmer, Mayor