

PUBLIC HEARING NOTICE  
PROPOSED AMENDMENT TO CHAPTER 331, ZONING  
RE: CABARET OVERLAY ZONE

NOTICE is hereby given that the Council of the City of New Rochelle, New York, will hold a Public Hearing pursuant to Chapter 331 of the Code of the City of New Rochelle, Section 237-m of the General Municipal Law of the State of New York, and Sections 277.61 and 277.71 of the County Administrative Code, on Tuesday, July 8, 2014, at 7:30 P. M., in the Council Chamber, City Hall, 515 North Avenue, New Rochelle, New York, on a proposed amendment to the City's Zoning Code, Chapter 331, as follows:

ORDINANCE AMENDING CHAPTER 331, ZONING, OF THE CODE OF THE CITY OF NEW ROCHELLE (CABARETS).

WHEREAS, staff has identified the need to regulate the expansion and growth of cabarets as both primary and accessory uses throughout the City; and

WHEREAS, in an effort to encourage this use in a positive way in the City and further mitigate any potential negative impacts this use may have on neighboring residential areas, staff has proposed an overlay zone, the borders of which would cover the more commercialized and urban portions of the City; and

WHEREAS, it is staff's recommendation that cabarets only be permitted as accessory to a restaurant use within a defined overlay zone in the downtown and does not apply to pre-existing non-conforming primary cabarets; now, therefore,

BE IT ORDAINED by the City of New Rochelle:

Section 1. Chapter 331-4, Specific Terms Defined, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-4 Specific Terms Defined

**CABARET**

Any room, [space or premises operated as a commercial establishment in which eating and/or drinking may take place and in which entertainment is provided as a primary or accessory function of the establishment. Such entertainment may include music performed either by a live musician or musicians, or any mechanical, electronic, or other means, such as records, laser discs, audio or video tapes or other audio or audio visual means; this does not include the operation of a theater. Also included as entertainment is any act, play, revue, pantomime, scene, dance act or song and dance act participated in by one or more employees, guests, customers or any other person or persons.] place or space in which any musical entertainment and/or dancing by performers and/or by patrons is permitted in connection with a restaurant business or in connection with the business of directly or indirectly selling food or drink to the public, except eating or drinking places not designed, built or used for dancing which provide musical entertainment either by mechanical devices or by not more than four persons. Cabarets shall be classified and licensed as "Primary Cabarets" and "Accessory Cabarets" as defined herein.

**CABARET, ACCESSORY**

A cabaret in which the musical entertainment and/or dancing do not, in the aggregate, occupy more than 40% of the Net Floor Area of the principal business of a restaurant and/or restaurant/bar.

## CABARET, PRIMARY

A cabaret in which the musical entertainment and/or dancing, in the aggregate, occupy more than 40% of the Net Floor Area of the premises.

## EXTENDED HOURS

The hours of 11:00 p.m.-6:00 a.m. In the North Avenue College District the hours for restaurants shall be permitted to be extended until 1:00 a.m. on Thursday, Friday and Saturday nights only when the establishment does not serve alcohol and the occupancy is 49 persons or less.

## NORTH AVENUE COLLEGE DISTRICT

This shall be the geographic area within 1,500 feet of the main college entrance along North Avenue and which is located in the NA zoned district. To qualify for extended hours in the North Avenue College District the parcel shall front on North Avenue. Any (restaurant) use applying for extended hours in the North Avenue College District shall submit a special permit application for review and approval by the Planning Board.

Section 2. Chapter 331-47, DMU Downtown Mixed Use District, of the Code of the City of New Rochelle, is hereby amended as follows:

### § 331-47 DMU Downtown Mixed Use District.

#### C. Uses allowed by special permit

- (1) Day care centers located on through streets, above or below the main floor as regulated by § 331-113.6
- (2) Day care centers located on dead end streets, as regulated by § 331-113.6
- (3) Schools located on the second floor and above only
- (4) Outdoor dining as regulated by § 331-95
- (5) Public utility uses as regulated by § 331-10.
- (6) Cellular antennas and associated facilities as regulated by § 331-99 of this chapter.
- (7) Business which store, package and ship products to wholesale or catalog retail establishments which use the internet.
- (8) Billiard halls as regulated by § 331-113
- (9) Funeral parlors
- (10) Public utility uses as regulated by § 331-106
- (11) Motor vehicle rental agency as regulated by § 331-103
- (12) Cabarets, as accessory to a restaurant, with a public assembly occupancy limit not to exceed 250 persons as regulated by § 331-113.2, when located within the cabaret overlay zone.
- (13) Bars as regulated by § 331-113.3
- (14) Clinical laboratory as regulated by § 331-113.4
- (15) Tattoo studios, as regulated by § 331-110

Section 3. Chapter 331-51 PWD-3 Planned Waterfront Development – 3 Story District, of the Code of the City of New Rochelle, is hereby amended as follows:

### § 331-51 PWD-3 Planned Waterfront Development – 3 Story District.

#### C. Uses allowed by Special permit by the City Council

- (1) 0.40 Maximum FAR for the following non-residential uses
  - (a) Aquarium, maritime museum, marine sciences institute
  - (b) Inn, bed-and-breakfast, hotel
  - (c) Enclosed sports/amusement/recreation complex
  - (d) Dry boat storage for vessels under 16 feet in length
  - (e) Retail sales and service establishments
  - (f) Studios, theater, auditorium (up to a capacity of 200 people)
  - (g) Enclosed restaurant with outdoor dining
  - (h) Greenhouse, nursery arboretum
  - (i) Municipal uses
  - (j) Yacht, boat, rowing, beach and other water-dependent membership clubs subject to the criteria in 331-115
  - (k) Public utility uses as regulated by 331-106
  - (l) Cabarets accessory to a restaurant use

Section 4. Chapter 331-52 PWD-5 Planned Waterfront Development – 5 Story District, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-52 PWD-5 Planned Waterfront Development – 5 Story District.

C. Uses allowed by Special Permit by the City Council\*.

- (1) 0.75 maximum FAR for the following non-residential uses
  - (a) Aquarium, maritime museum, marine sciences institute
  - (b) Inn, bed-and-breakfast, hotel
  - (c) Conference center, exhibition halls, theater
  - (d) Enclosed sports/amusement/recreation complex
  - (e) Dry boat storage for vessels under 16 feet in length
  - (f) Retail sales and service establishments
  - (g) Business, professional or government offices
  - (h) Studios, theater, auditorium (up to a capacity of 200 people)
  - (i) Enclosed restaurant with outdoor dining
  - (j) Greenhouse, nursery arboretum
  - (k) Municipal uses
  - (l) Yacht, boat, rowing, beach and other water-dependent membership clubs subject to the criteria in § 331-115
  - (m) Public utility uses as regulated by § 331-106
  - (n) Cabarets accessory to a restaurant use

Section 5. Chapter 331-54 MUFU Mixed Use Family Entertainment District, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-54 MUFU Mixed Use Family Entertainment District.

C. Uses allowed by special permit (See Article XII for body having jurisdiction to issue special permit).

- (1) Outdoor dining as regulated by § 331-95.

- (2) Public utility uses as regulated by § 331-106.
- (3) Family entertainment center.
- (4) Bars[and Cabarets].
- (5) Cellular antennas and associated facilities as regulated by § 331-99 of this chapter.
- (6) Motor vehicle rental agency as regulated by § 331-103.
- (7) Cabarets accessory to a restaurant use as regulated by § [331-113.2] 331-54.1

Section 6. Chapter 331-54.1 North Avenue Zone, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-54.1 North Avenue Zone.

C. Uses allowed by special permit (See Article XII for body having jurisdiction to issue special permit).

- (1) Day care centers
- (2) Schools
- (3) Catering establishments
- (4) Outdoor dining as regulated by § 331-95
- (5) Billiard halls as regulated by § 331-113
- (6) Wireless communications facilities as per § 331-99
- (7) Off-street parking facilities
- (8) Medical care facilities
- (9) Cabarets accessory to a restaurant use but not within the North Avenue College District and not within 1,500 feet from a main college entrance as regulated by § 331-113.2
- (10) College-related uses within 1,500 feet from the main college entrance of the college and/or university to which use is accessory, provided the standards and conditions as regulated by and in accordance with § 331-113.7 are met.
- (11) Lounge as accessory to a restaurant use

Section 7. Chapter 331-51 C1-M General Commercial Modified District, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-55 C1-M General Commercial Modified District.

C. Uses allowed by special permit.

- (1) Billiard halls as regulated by 331-113
- (2) Public Utility uses as regulated by 331-106
- (3) Cellular antennas and associated facilities as per 331-99 of this chapter.
- (4) Car washes as regulated by 331-105
- (5) Motor vehicle dealerships as regulated by 331-102
- (6) Motor vehicle rental agency as regulated by 331-103
- (7) Motor vehicle filling station and service stations as regulated by 331-100
- (8) Tattoo studios as regulated by 331-110
- (9) Cabarets accessory to a restaurant shall be permitted when the C1-M district is located in the Cabaret Overlay Zone only as regulated by § 331-113.2

Section 8. Chapter 331-56 NB Neighborhood Business District, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-56 NB Neighborhood Business District.

- C. Uses allowed by Special Permit (See Article XII for body having jurisdiction to issue special permit).
- (1) Day care centers, as regulated by § 331-113.6
  - (2) Schools
  - (3) Catering Establishments
  - (4) Motor Vehicle filling and service stations as regulated by § 331-100
  - (5) Outdoor dining as regulated by § 331-95
  - (6) Public utility uses and structures as regulated by § 331-106
  - (7) Billiard halls as regulated by § 331-113
  - (8) Membership clubs as regulated by § 331-94
  - (9) Storage facilities
  - (10) Cellular antennas and associated facilities as per § 331-99
  - (11) Car washes as regulated by § 331-105
  - (12) Cabarets as accessory to a restaurant use shall be permitted when the NB district is located in the Cabaret Overlay Zone only as regulated by § 331-113.2

Section 9. Chapter 331-57 DB Downtown Business District, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-57 DB Downtown Business District

- C. Uses allowed by special permit (See Article XII for body having jurisdiction to issue special permit).
- (1) Day care centers located on through streets, above or below the main floor as regulated by 331-113.6
  - (2) Day care centers located on dead end streets, as regulated by § 331-113.6
  - (3) (Reserved)
  - (4) Outdoor dining as regulated by § 331-95
  - (5) Public utility uses as regulated by § 331-106
  - (6) Cellular antennas and associated facilities as regulated by § 331-99 of this chapter.
  - (7) Business which store, package and ship products to wholesale or catalog retail establishments which use the internet.
  - (8) Micro-brewery with sit-down restaurant.
  - (9) Billiard halls as regulated by § 331-113
  - (10) Clubs as regulated by § 331-94
  - (11) Funeral parlors
  - (12) Cabarets, as accessory to a restaurant, with a public assembly occupancy limit not to exceed 250 persons as regulated by § 331-113.2, when located within the cabaret overlay zone.
  - (13) Tattoo studios, as regulated by § 331-110

Section 10. Chapter 331-61 Additional regulations for nonresidential districts, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-61 Additional regulations for nonresidential districts.

Extended hours. Any self-service or retail establishment, convenience store, carry-out restaurant, restaurant, motor vehicle filling station or motor vehicle service station shall be prohibited to operate during extended hours when such facility is located on a lot which is adjacent to a lot which is partially or totally located in a residentially zoned district.

Section 11. Chapter 331-83 Cabaret Overlay Zone, of the Code of the City of New Rochelle, is hereby amended as follows:

§ 331-83 Cabaret Overlay Zone.

A. Purpose: The Cabaret Overlay zone is hereby established to improve the function, aesthetics and manageability of this particular land use and to provide the City of New Rochelle with a better method of control and enforcement. The Cabaret Overlay Zone encourages accessory cabarets uses in specific designated areas of the city that are more urban and commercialized and are more appropriate locations for this use while limiting the expansions of such uses to more residential neighborhoods. This overlay zone will limit cabarets to the major commercialized areas and the arterial routes through the City.

B. Applicability: The boundaries of the Cabaret Overlay Zone shall include the main arterial roadways including almost the entire length of Main Street, commencing at the City's border with Pelham and ending at the intersection of Main Street and Stephenson Boulevard, and Huguenot Street and the portion of North Avenue zoned DB. The Cabaret Overlay Zone shall be as indicated in the attached map.

C. Standards:

- (1) Any new cabaret use in the overlay zone shall be required to apply for a cabaret special permit from the City Council as stipulated in § 331-113.2.
- (2) Any cabaret use in the overlay zone that abuts a residential district shall have to provide a thirty (30) foot setback from the property line that abuts such use.
- (3) Any cabaret use, in the overlay zone shall show a viable valet parking plan in accordance with 331-128 D and all applicable sub-sections at the time of site plan approval.
- (4) A security guard shall be required for cabarets as per the Municipal Code, Chapter 120-4,E Issuance and renewal of license.

Items [bracketed] deleted.

Items underlined added.

All persons interested are invited to attend said Public Hearing or submit written communications to the City Clerk at or before the Public Hearing.

By order of the City Council dated June 10, 2014, pursuant to Resolution No. 88.

Bennie F. Giles, III, City Clerk