

City Clerk File No. Ord. 11-154

Agenda No. 3.A 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-154

**TITLE: ORDINANCE AMENDING CHAPTER 157 (ENTERTAINMENT  
AND DANCE LICENSES) OF THE JERSEY CITY CODE**

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY ORDAINS:**

**WHEREAS**, the Municipal Council of the City of Jersey City [Council] recognizes and values the variety of entertainment and entertainment venues that exist in the City, which provide a rich and diverse cultural experience for the residents of the City as well as visitors to the City; and

**WHEREAS**, the City Council hereby finds that entertainment establishments are a key component of a well-rounded and vibrant community, and are an important part of the local economy; and

**WHEREAS**, entertainment establishments have a need to be regulated in order to protect the community from excess noise generation, disorderly conduct by patrons, and the attendant adverse health, safety and welfare of the surrounding business and residential communities; and

**WHEREAS**, it is the purpose of this Ordinance to encourage the development of new entertainment businesses and to regulate entertainment establishments to maintain the public health, safety and welfare of the City; and

**WHEREAS**, the City Council finds that the imposition of conditions tailored to fit particular establishment will allow the business or event to flourish while meeting the City's public health, safety and welfare needs. This approach also would avoid placing unnecessary conditions on existing establishments or organizations with a history of compliance with the City laws and requirements.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that:

A. The following amendments to Chapter 157 (Entertainment and Dance Licenses) are hereby adopted:

## **ENTERTAINMENT ~~[AND DANCE]~~ LICENSES**

**§157-1. Purpose and official comments.**

A. Purpose; official comments.

- (1) The City of Jersey City has repeatedly experienced serious civil disturbances and other occurrences detrimental to the public's safety, health and welfare associated with entertainment and dance venues (these problems include but are not limited to riots, disorderly groups, public consumption of alcohol, and public urination). Consequently, this chapter is enacted to license and regulate these activities except those directly sponsored, co-sponsored and self-regulated by the city itself.

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- (2) Social clubs are expressly regulated by this chapter because recent experience has shown that attempts have been made to circumvent the general regulatory process. (For example, for-profit nightclubs have reorganized as private membership clubs to circumvent the Alcoholic Beverage Law.)
- (3) This chapter also prohibits obscene entertainment and obscene dancing and contains a definition of obscenity and pornography that reflects contemporary community standards as enforceable by relevant judicial decisions. It also explicitly incorporates by reference the prohibitions on pornography and obscenity found in Chapter 251 of the Municipal Code. In enacting this prohibition, the City Council relied on extensive evidence of long-standing community's standards. Testimony was taken from ordinary citizens as well as members of the clergy, teachers, business people and professionals. The Council issued legislative findings that the people of Jersey City are offended by obscenity and pornography:
  - (a) Jersey City seeks to maintain an atmosphere as conducive as possible to families in a densely populated urban setting.
  - (b) Obscenity and pornography have had no place in the public life of Jersey City. Historically, no so-called adult bookstores or adult theaters have operated here. In addition, no erotic dancing venues have ever been allowed to operate here in the city, notwithstanding their presence in adjacent communities. Therefore, these legislative findings support the existence of community standards that allow for the constitutional circumscription of such activity, and the city will continue to enforce these social norms through legal sanctions.
- (4) The Director of the Division of Commerce is given primary jurisdiction over this chapter. However, given the public safety concerns, the Director of Police also shares in its administration: §157-~~7A~~9 authorizes the Director of Police, upon a notice and hearing, to suspend licenses on an emergent basis.

B. This chapter is to be liberally construed in order to effectuate its purpose.

**§157-2. Definitions.**

The following terms shall have the meanings indicated when used in this chapter:

AGGRIEVED PARTY — Any person, persons, or entity, whether corporate or private, aggrieved by the sound of entertainment emanating from a Licensed Establishment.

~~[DANCE—Any dance to which admission can be had either with or without payment of a fee or any other dance in a place which constitutes a public accommodation, including, for instance, social clubs.]~~

DECIBEL LEVEL — A unit for measuring the volume of a sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

DECIBEL MEASUREMENT - a measurement taken as follows:

Indoors - from any point of the room, in the premises of an aggrieved party, most affected by the sound, but not from areas which receive only casual use, e.g., hallways, bathroom and closets. All exterior doors and windows in the premises shall be closed and all sound sources

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within the premises, e.g., television, radio and stereo, shall be shut off at the time of measurement.

Outdoors - from any point within the property boundaries of an aggrieved party (excluding City rights-of way, e.g., streets and sidewalks), or the measurement may be taken from any point outside of the Licensed Establishment at the discretion of the City.

DIRECTOR — The Director of Commerce in the Department of Housing, Economic Development and Commerce.

ENTERTAINMENT — Any live act, including, but not limited to, vocalists, actors, dancers, floor shows, instrumentalists and recorded music played by a D.J.[s, and also the playing of recorded music either by a jukebox or by a similar instrumentality for the purposes of group entertainment.]

ENTERTAINMENT LICENSE — A license issued pursuant to this chapter regulating entertainment [or dance].

ESTABLISHMENT — A premises for which an entertainment license has been issued.

OBSCENITY AND PORNOGRAPHY — Obscenity and pornography exist when under contemporary standards in the community the entertainment taken as a whole, appeals to prurient interests; and the entertainment describes in a patently offensive way sexual conduct; and when the entertainment taken as a whole, lacks serious literary, artistic, political or scientific value. [NOTE: Miller v. California, 413 U.S. 15, 93 S. Ct. 2607, 37 L. Ed. 2d 419 (1973), rehearing denied, 414 U.S. 881, 94 S. Ct. 26, 38 L. Ed. 2d 128 (1973).] This definition incorporates by reference definitions contained in Chapter 251 of the Municipal Code.

OUTDOOR ENTERTAINMENT — Any entertainment taking place beyond the outside perimeter walls of the licensed premises or any entertainment which is intended to be audible or which is actually audible beyond such perimeter walls.

PERSON — Any natural person(s), or a partnership, corporation or legal entity.

VENUE — Any nightclub or restaurant as defined in Chapter 345 of this Code [place], including but not limited to a [restaurant, nightclub, supper club,] social or private club[, lounge, grill or open space used for entertainment or dancing].

**§157-3. {Classes of licenses; license required} License required; types of licenses; restrictions.**

A. A license as described in this chapter is required for any live entertainment [or dance] taking place in any venue, as defined in §157-2, in the City of Jersey City except that no such license will be required for events taking place in or on any City-owned building or property or for any event which is sponsored or co-sponsored by the City. [at the Mary McLeod Bethune Life Center at 134-150 Martin Luther King Drive or any other Community Center. Community Center means a City-owned building used for recreational, social, educational, and cultural activities, open to the public or a designated part to the public, and used by the City or leased by the City to either a nonprofit group or another public entity]. All existing Entertainment License holders must renew in accordance with the regulations herein within 60 days of the enactment of this ordinance. All existing Entertainment License holders, unless qualified for a Nightclub Entertainment License as regulated herein, will be permitted to renew pursuant to the Restaurant Entertainment License. An entertainment license is granted to a specific person to offer entertainment [or dancing] in a specified place. There shall be ~~{three classes of entertainment and dance licenses:}~~ two Entertainment License categories: Nightclub and Restaurant.

{1} — Class A annual license for an entertainment or dance venue with a capacity of one

hundred (100) people or fewer;  
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(2) ~~Class B annual license for an entertainment or dance venue with a capacity greater than one hundred (100) people.~~

(3) ~~Special event license for an entertainment or dance venue of any capacity that offers entertainment or dancing for no more than twelve (12) days in a period of one year.]~~

(1) Nightclub Entertainment License. This license is available only in zoning districts where a nightclub is permitted pursuant to Jersey City Code Chapter 345 or a duly adopted Redevelopment Plan. A Nightclub Entertainment License shall further be categorized as follows:

Class 1 - For establishments with a capacity greater than one hundred (100) people;

Class 2 - For establishments with a capacity of one hundred (100) people or fewer;

All Nightclub Entertainment Licenses shall be subject to the following:

(a) Notwithstanding noise regulation in Chapter 222 of the Jersey City Code to the contrary, any entertainment under this Nightclub Entertainment License shall be restricted to a decibel level of 65 dB from Noon to 10 P.M., and shall be restricted to 50 dB from 10 P.M. to close of entertainment in accordance with § 157-4C(1), seven days per week;

(b) Outdoor entertainment shall be prohibited in all establishments, except where specifically requested in the license application for a certain part of the establishment and approved by the Director and specifically indicated on the actual license. Outdoor entertainment shall not be the norm and shall only be granted where the Director is convinced that it would not unreasonably interfere with the quality of life of the surrounding community. In determining whether or not to grant outdoor entertainment, the Director shall consider, but not be limited to, the following criteria: the nature of the establishment; the location of the establishment including its proximity to residential properties; the input of residents of the surrounding area; and the history (if any) of the establishment. Furthermore, the Director shall not permit outdoor entertainment beyond the hours described in § 157-4C(4).

(c) The Director may, in consultation with the Police Department, establish any reasonable conditions deemed necessary for the health, safety, and welfare of the public prior to granting any license. Any such conditions established shall be listed on the license.

(2) Restaurant Entertainment License. This license is available only in zoning districts where a Category 1 Restaurant is permitted pursuant to Jersey City Code Chapter 345 or a duly adopted Redevelopment Plan, except that in the Restaurant Row Overlay Zone (ROZ), a category 2 Restaurant shall also be eligible for this license and except that no entertainment license shall be permitted within the lower J.F.K. Boulevard NC Zoning District.

Class 1 - For establishments with a capacity greater than one hundred (100) people;

Class 2 - For establishments with a capacity of one hundred (100) people or fewer;

All Restaurant Entertainment Licenses shall be subject to the following:

(a) Notwithstanding noise regulation in Chapter 222 of the Jersey City Code to the contrary, any entertainment under this Restaurant Entertainment License

shall be restricted to a decibel level of 55 dB from Noon to 10 P.M., and shall

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be restricted to 45 dB from 10 P.M. to close of entertainment in accordance with §157-4C(1), seven days per week.

- (b) Outdoor entertainment shall be prohibited in all establishments, except where specifically requested in the license application for a certain part of the establishment and approved by the Director and specifically indicated on the actual license. Outdoor entertainment shall not be the norm and shall only be granted where the Director is convinced that it would not unreasonably interfere with the quality of life of the surrounding community. In determining whether or not to grant outdoor entertainment, the Director shall consider, but not be limited to, the following criteria: the nature of the establishment; the location of the establishment including its proximity to residential properties; the input of residents of the surrounding area; and the history (if any) of the establishment. Furthermore, the Director shall not permit outdoor entertainment beyond the hours described in § 157-4C(4).
- (c) The Director may, in consultation with the Police Department, establish any reasonable conditions deemed necessary for the health, safety, and welfare of the public prior to granting any license. Any such conditions established shall be listed on the license.
- (d) A Restaurant Entertainment Licensee shall not locate or place entertainment within 10 feet of any entrance door or open window existing within the establishment.

**§157-4. Fees; inactive license; surrender; expiration; hours of operations.**

- A. Except as provided in § 157-3, no person shall keep, maintain, or operate any entertainment or dance venue without obtaining a license from the Director. A license shall be issued only if both the venue and the applicant comply with relevant standards. The fee schedule shall be as follows:

<del>Class A</del>	Class B	<del>Special Event License</del>
<del>§300</del>	\$600	<del>§25</del>

Nightclub Entertainment License Class 1: \$1,200 per year or part thereof;

Nightclub Entertainment License Class 2: \$1,000 per year or part thereof;

Restaurant Entertainment License Class 1: \$800 per year or part thereof;

Restaurant Entertainment License Class 2: \$600 per year or part thereof;

- B. If a licensee fails to conduct ~~a dance or~~ entertainment ~~venue~~ at the licensed premises in a period of three months, the Director may revoke the license after a hearing has been held on ten (10) days' notice.
- C. The hours of operation for a licensee under this chapter shall be as follows:

- (1) Permitted hours for entertainment:

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<b>{Sunday-Thursday}</b>	<b>Friday/Saturday</b>	<b>New Year's Eve}</b>
<b>{12:00 p.m.-2:00 a.m.}</b>	<b>12:00-3:00 a.m.</b>	<b>12:00 p.m.-4:00 a.m.}</b>

- Nightclubs: Noon to 2:00 a.m., Sunday - Thursday;  
Noon to 3:00 a.m., Friday - Saturday;  
Noon to 4:00 a.m., New Year's Eve;
- Restaurants: Noon to 1:00 a.m., Sunday - Thursday;  
Noon to 2:00 a.m., Friday - Saturday;  
Noon to 3:00 a.m., New Year's Eve;

- (2) With reference to establishments holding Nightclub Entertainment Licenses, ~~no~~ no person whatsoever, except the licensee and the licensee's employees and agents, may be on the licensed premises after closing time until 12:00 p.m. of that day, Monday through Sunday.
- (3) With reference to establishments holding Nightclub Entertainment Licenses, ~~A~~ a wind-down process must begin thirty (30) minutes prior to closing, and dance music entertainment must be terminated not later than fifteen (15) minutes prior to the establishment's closing time to assure that patrons are out by the actual closing time.
- (4) Notwithstanding any later hour permitted in accordance with Section 157-4(c)(1), in venues where Outdoor Entertainment is permitted, it shall cease promptly at ~~{11:00}~~ 10:00 p.m. on Sunday through ~~{Thursday}~~ Wednesday and ~~{12:00 midnight}~~ 10:00 p.m. on ~~{Friday and}~~ Thursday through Saturday, or such earlier "close of entertainment" hour as mandated by §157-3A(1)(b); §157-3A(1)(c); §157-3A(2)(b); and §157-3A(2)(c).

**§157-5. Applications; qualifications; procedure for review.**

- A. Applicants shall be of good moral character and shall file an application under oath with Director on forms approved by the Director. All applications shall be reviewed by the Division of Commerce and the Department of Police. The premises shall be inspected by the Fire Department, the Division of Health and the Division of Buildings for compliance with relevant laws and regulations.
- B. The application shall be made under oath and shall contain the class of license sought, names, residences and citizenship status of all persons financially interested in the business, and the nature and extent of this interest; and, if a corporation, the names, residences and citizenship of the officers, directors and stockholders, and shall disclose whether the

applicant has been convicted of any criminal or quasi-criminal offense, and if so, the date and place of such conviction and the nature of the offense.

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- C. The application shall also include a sworn statement signed by the applicants agreeing to comply with the relevant laws, rules and regulations of the United States, the State of New Jersey and the City of Jersey City.
- D. The application shall have attached a copy of the plans and specifications of the premises sought to be licensed.
- E. All relevant land use approvals, including approved site plans, together with a valid certificate of occupancy, are conditions precedent for the approval of any application.

**§157-6. Publication of application notice.**

- A. The ~~{Director}~~ applicant shall publish once each week for a period of two weeks in a newspaper of general circulation notice of any new application or application for renewal or transfer of a license. Such notice shall be at the applicant's expense and shall be in a form approved by the Director.
- B. Any objections to the issuance of the proposed license or transfer may be filed with the Director within 20 days from the last date of publication of this notice, and all objections must include the name and address of the person who files the objection and the grounds for the objection.
- C. If one or more objections are filed, the Director shall hold a hearing no later than 30 days after the last date of publication before approving the license or transfer. All objectors shall receive notice of the time, date and place of the hearing, and it shall be published in the local newspaper and placed upon the City web site. The nonreceipt of such notice shall not void the Director's action.

**§157-7. License renewal or transfer; change of ownership.**

- A. No license shall be ~~{transferred or}~~ renewed without the approval of the Director and payment of the appropriate fee. Applications for annual renewal ~~{or transfer}~~ shall comply with all of the relevant provisions of this chapter, including the filing of all forms in §157-~~{4}~~5 and any additional forms required by the Director. ~~{Any unauthorized transfer shall result in the automatic suspension of the license.}~~
- B. The Entertainment License is non-transferable. Upon transfer of a licensed establishment, any existing Entertainment License is automatically voided, and any new Owner/Operator desiring to have entertainment at the venue shall apply for an Entertainment License as required by this Chapter.
- ~~{B}~~C. If the owner of a sole proprietorship, the partners of a partnership or the officers, directors or stockholders of a corporation are changed, their successors shall file an affidavit stating their names, residences, citizenship and the nature and extent of their financial interest in the business. Failure to inform the Director of changes of ownership shall be grounds for suspension or revocation of the license. The Director shall review the validity of an existing

license upon change in ownership.

~~FED~~ The Director may deny an application for a renewal of a license where the licensed premises has been operating in a manner detrimental to the health, safety, and welfare of the people of the City of Jersey City.

**ORDINANCE AMENDING CHAPTER 157 (ENTERTAINMENT AND DANCE LICENSES) OF THE JERSEY CITY CODE**

**§157-8. No Change.**

**§157-9. No Change.**

**§157-10. Interpretative guide.**

A. Severability. If any provision, or portion of a provision, of this chapter, or its application to any person or circumstances, shall be held invalid by a court of competent jurisdiction, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

B. Preemption. Notwithstanding any other provisions of the Code, the conditions and restrictions placed on entertainment and dance in this Chapter supersede any other provisions found in other chapters of the Jersey City Municipal Code.

**§157-10.1. Variance.**

With the exception of variances from the requirements of Chapter 345 (Zoning), an applicant or licensee may request a variance from the strict compliance with a specific requirement of this article by requesting same in writing to the Business Administrator. The application should contain all pertinent details, together with documentation, which the applicant or licensee wishes considered. The approval or denial of the application for variance shall be at the discretion of the Business Administrator and shall not be approved absent a showing that strict compliance with the specific requirement would create a practical hardship for the applicant and that the proposed alternative will in no way jeopardize the health, safety, and welfare of the public. The City Council shall be notified of any variance granted by the Business Administrator hereunder.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

C. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

Note: All new material is underlined; words in [brackets] are omitted. For purposes of advertising only, new matter is **boldface** and repealed matter by *italics*.

VS/jn  
12-6-11

APPROVED AS TO LEGAL FORM

APPROVED: Carl Zeplicar  
APPROVED: \_\_\_\_\_

Corporation Counsel

Business Administrator

Certification Required   
Not Required

**ORDINANCE FACT SHEET**

**1. Full Title of Ordinance:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO CHAPTER 157 ENTERTAINMENT AND DANCE.**

**2. Name and Title of Person Initiating the Ordinance, etc.:**

Carl Czaplicki, Director, Department of Housing, Economic Development, and Commerce

**3. Concise Description of the Plan Proposed in the Ordinance:**

Currently there is one license available that is applicable only to nightclubs where permitted under chapter 345(zoning). The amended ordinance will provide for a license for restaurants and a separate license for nightclubs. The restaurant license will have restrictions in regards to hours of operation, sound levels and positioning with respect to windows and doors.

**4. Reasons (Need) for the Proposed Program, Project, etc.:**

Many restaurants are struggling in this economic downturn. The ability to offer entertainment is one way to improve business and help retain jobs as well as increase revenue for the City.

**5. Anticipated Benefits to the Community:**

Increase of revenue base for small businesses, more choices for the community and better enforcement of loud noise complaints.

**6. Cost of Proposed Plan, etc.:**

\$2,022.32 for 2 decibel meters and \$830.00 for certification training courses for two people at the Rutgers Noise Technical Assistance Center.

**7. Date Proposed Plan will commence:**

Upon Council approval.

**8. Anticipated Completion Date: N/A**

**9. Persons Responsible for Coordinating Proposed Program, Project, etc.:**

Carl Czaplicki, Director, Dept of HEDC

Robert D. Cotter, City Planning Director

Nick Taylor, Acting Director, Division of Zoning,

Paul J Barna, Director of Commerce

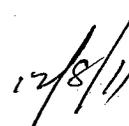
**10. Additional Comments:**

**I Certify that all the Facts Presented Herein are Accurate.**

Division Director



Date



Department Director Signature

Date

# **SUMMARY STATEMENT**

## **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO CITY ORDINANCE 157, ENTERTAINMENT AND DANCE**

The amended Ordinance will allow permitted restaurants to apply for a separate entertainment license from nightclubs which will include certain restrictions that do not apply to nightclubs.



# CITY OF JERSEY CITY

## DEPARTMENT OF HOUSING, ECONOMIC DEVELOPMENT & COMMERCE

Jeremiah Healy

382 MARTIN LUTHER KING DRIVE

CARL S.

**CZAPLICKI**

Mayor

JERSEY CITY, NEW JERSEY 07305

TELEPHONE (201) 547-5139

FAX (201) 547-5585

Department Director

Paul J Barna, Division Director

### INTEROFFICE MEMORANDUM

**DATE:** December 7, 2011

**TO:** Council President Peter Brennan and the Municipal Council

**FROM:** Paul J Barna, Director of Commerce,

**SUBJECT:** NEW ENTERTAINMENT ORDINANCE

Dear Council members:

Jersey City prides itself on its location, ease of mobility and multicultural people, neighborhoods and small businesses, which according to the State make up 90% of all businesses in New Jersey. As the U.S. Small Business Association has indicated "for every \$100.00 spent locally, over two thirds are returned to the community." This Administration recognizes these facts and has looked to create new small businesses while at the same time expanding and/or improving those already in existence. In expanding restaurant row and implementing a more flexible yet practicable sidewalk café ordinance, Jersey City's restaurants and other small businesses stand to benefit and so does our City as new jobs are created and opportunities made. The proposed updated Entertainment Ordinance proposes and function is to do just that: grow new and existing businesses, create jobs and a vibrant and make Jersey City a destination for all to experience.

The Jersey City Department of Housing, Economic Development and Commerce would like to introduce a new Entertainment Ordinance for your consideration. This Ordinance will replace the present Ordinance because of the changing needs of our Community and to help Jersey City Businesses, prosper and grow.

The proposed ordinance separates the entertainment license into two separate licenses, a nightclub license and a restaurant license. A nightclub entertainment license is only available in zoning districts where a nightclub is permitted pursuant to Jersey City Code chapter 345 or a duly adopted redevelopment plan. The restaurant entertainment license will be available only in zoning districts where a category 1 Restaurant is permitted pursuant to Jersey City Code Chapter 345 or a duly adopted Redevelopment Plan. In the Restaurant Row Overlay Zone (ROZ) a category 2 Restaurant shall also be eligible for this license and no entertainment license shall be permitted within the lower J.F.K. Boulevard NC Zone.

Outdoor entertainment will be prohibited in all establishments except where specifically requested in the license application for a certain part of the establishment, this will not be the norm and shall only be granted where the Director is convinced that it would not unreasonably interfere in the quality of life of the surrounding community. Additionally the new ordinance creates maximum decibel levels, increases fees and adjusts the hours where entertainment is permitted.

The nightclub entertainment license shall be restricted to a decibel level of 65dB and will be restricted to 50dB from 10:00 P.M. to close of entertainment seven days per week; restaurant entertainment licenses will be restricted to a decibel level of 55dB from noon to 10:00 P.M. and will be restricted to 45dB from 10:00 P.M. to close of entertainment, seven days a week. Additionally a restaurant entertainment license shall not locate or place entertainment within 10 feet of any entrance door or open window. Both the hours of operation and fee schedule have been changed and two State approved decibel devices have been purchased and three inspectors have been trained and certified by Rutgers Noise Certification course.

The fee changes are as follows:

Nightclub entertainment license class 1 - \$1200.00 per year or part thereof

Nightclub entertainment license class 2 - \$1000.00 per year or part thereof

Restaurant entertainment license class 1 - \$800.00 per year or part thereof

Restaurant entertainment license class 2 - \$600.00 per year or part thereof

The new permitted hours of operation are:

Nightclubs: Noon to 2:00 A.M., Sunday to Thursday

Noon to 3:00 A.M., Friday to Saturday

Noon to 4:00 A.M., New Years Eve

Restaurants: Noon to 1:00 A.M., Sunday to Thursday

Noon to 2:00 A.M., Friday to Saturday

Noon to 3:00 A.M., New Years Eve

Respectfully submitted,



Paul J Barna, Division of Commerce

Department of Housing, Economic Development and Commerce

City Clerk File No. Ord. 11-155

Agenda No. 3.B 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-155

TITLE:

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO ARTICLE V OF THE LAND DEVELOPMENT ORDINANCE (CHAPTER 345) PERTAINING TO ENTERTAINMENT**

**WHEREAS**, the Municipal Council, pursuant to NJSA 40:55D-62, may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

**WHEREAS**, bars are permitted principal uses in the NC zone, and Category One and Category Two restaurants are permitted principal uses in the NC, O/R, CBD, HC, WPD and Restaurant Overlay zoning districts and permitted conditional uses in certain locations within the Historic Districts under the Land Development Ordinance of the City of Jersey City; and

**WHEREAS**, bars and Category One and Two restaurants are separately defined, and Category One restaurants are distinguished from other restaurant uses in the Definition Section of the Jersey City Land Development Ordinance; and

**WHEREAS**, T.V.s, radios, and/or stereo systems are commonly found at and can be considered as incidental and customary accessory uses at bars and restaurants with bars; and

**WHEREAS**, live or D.J. monitored entertainment is currently only allowed, under an existing "Entertainment and Dance License," at uses defined as nightclubs; and

**WHEREAS**, the ability of restaurants to offer live or D.J. monitored entertainment, but under more restrictive conditions than a nightclub, is desirable in order to better serve both the public and the business community; and

**WHEREAS**, the Planning Board of Jersey City, at its meeting of January 13, 2007 did discuss and approve a motion recommending that the Municipal Council adopt the amendments contained herein pertaining to the NC, O/R, CBD, HC, WPD and Historic Districts; and

**WHEREAS**, the Planning Board of Jersey City, at its meeting of April 26, 2011 did discuss and approve a motion recommending that the Municipal Council adopt the amendments contained herein pertaining to the Restaurant Overlay Zoning District (ROZ); and

**WHEREAS**, the amendments to the Land Development Ordinance are incorporated herein and made a part hereof, and are available for public inspection at the Office of the City Clerk, City Hall, 280 Grove Street, Jersey City, NJ;

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey city that the Land Development Ordinance, be and hereby is amended as follows:

(Material indicated by strikethrough ~~like this~~ is existing material that is intended to be deleted. Material indicated by bold italic *like this* is new material that is intended to be enacted).

**345-45. NC- NEIGHBORHOOD COMMERCIAL DISTRICT**

C. Uses incidental and accessory to the principal use, such as:

1. Off-street parking.
2. Fences and walls.
3. Signs.
4. Sidewalk cafes associated with category one and two restaurants.
5. *T.V., radio, and/or stereo systems accessory to bars and restaurants.*
6. *Live entertainment accessory to Category One restaurants only, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154), with the exception of properties on Lower John F. Kennedy Boulevard where no live entertainment shall be permitted.*

**345-47. CBD - CENTRAL BUSINESS DISTRICT/JOURNAL SQUARE**

C. Uses incidental and accessory to the principal uses, such as:

1. Parking garages.
2. Meeting rooms, conference facilities, gymnasiums and exercise rooms and pools.
3. Signs.
4. *T.V., radio, and/or stereo systems accessory to bars and restaurants*
5. *Live entertainment accessory to Category One restaurants only, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154).*

**345-46. O/R- OFFICE/RESIDENTIAL DISTRICT**

C. Uses incidental and accessory to the principal use, such as:

1. Off-street parking garages and lots and off-street loading.
2. Fences and walls.
3. Signs.
4. *T.V., radio, and/or stereo systems accessory to bars and restaurants.*
5. *Live entertainment accessory to Category One restaurants only, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154).*

**345-48. HC- HIGHWAY COMMERCIAL DISTRICT**

C. Uses incidental and accessory to the principal use, such as:

1. Off-street parking, garages and off-street loading.
2. Fences and walls.
3. Signs.
4. Auto service ancillary to retail car dealership.
5. Outdoor garden centers.
6. *T.V., radio, and/or stereo systems accessory to bars and restaurants*
7. *Live entertainment accessory to Category One restaurants only, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154).*

**345-56. WPD- WATERFRONT PLANNED DEVELOPMENT DISTRICT**

C. Uses incidental and accessory to the principal use, such as:

1. Fences and walls.

2. Signs.

3. Parking.

*4. T.V., radio, and/or stereo systems accessory to bars and restaurants.*

*5. Live entertainment accessory to Category One restaurants only, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154).*

#### **345-58. H- HISTORIC DISTRICT**

C. Accessory uses permitted in all Historic Districts:

1. Private garages, for projects of 10 units or more.

2. Screened off-street parking, for projects of 10 units or more.

*3. Live entertainment accessory to Category One restaurants only, where permitted as conditional uses or where O/R use standards apply, subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154).*

#### **345-60 SUPPLEMENTARY ZONING REGULATIONS**

T. Restaurant Overlay

1. Restaurant Overlay Zones (ROZ) shall apply to the areas depicted on the Jersey City Zoning Map. The ROZ is intended to apply as an overlay, which means that it applies an alternative zoning pattern when and if chosen by the property owner. Within a ROZ, existing zoning regulations continue unchanged. The application of ROZ zoning provides for a new, additional permitted principal use- restaurants.

2. Restaurant Overlay Zoning Regulations

a. Permitted Principal uses

(1) Restaurants, *category one and two.*

*b. Permitted Accessory uses*

*(1) Sidewalk Cafes (subject to the provisions of Chapter 296, Article XII, Sidewalk Cafes)*

*(2) Live Entertainment subject to issuance of a "Restaurant Entertainment License" by the Division of Commerce and the restrictions as to decibel level, hours of operation, and location of entertainment providers attached to that license (see Ordinance #11-154)*

~~b. Parking Requirements for restaurants.~~

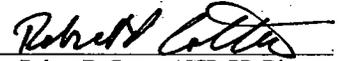
~~(1) One space per 250 square feet of gross floor area. This calculation shall be based upon gross floor area of all spaces dedicated to the restaurant use, including table area, bar, kitchen, storage, office and all other restaurant-related uses.~~

c. Minimum building separation.

(1) No setback from any lot line shall be required for existing structures that are not to be enlarged. However, in the event that a separation of structures exists, or is proposed in the event of new construction, the minimum distance between any rear wall of a building proposed for a ROZ restaurant use and any rear wall of an adjacent building containing any residential uses shall be 15 feet, as measured from building face to building face, except in the case of corner lots, where no minimum or maximum separation shall apply.

**BE IT FURTHER ORDAINED THAT:**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and set forth fully herein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Council be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible repealers of existing provisions.
- E. The City Planning Division is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the Hudson County Planning board and to all other persons entitled thereto pursuant to N.J.S. 40:55D-15 and N.J.S. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the City Clerk is directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Hudson County Planning Board as required by N.J.S. 40:55D-16. The clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Tax Assessor as required by N.J.S. 40:49-2.1.

  
 Robert D. Cotter, AICP, PP, Director  
 Division of City Planning

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED:   
\_\_\_\_\_

APPROVED:   
\_\_\_\_\_ Business Administrator

Certification Required   
 Not Required

**ORDINANCE FACT SHEET**

**1. Full Title of Ordinance:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO ARTICLE V OF THE LAND DEVELOPMENT  
ORDINANCE (CHAPTER 345) PERTAINING TO ENTERTAINMENT**

**2. Name and Title of Person Initiating the Ordinance, etc.:**

Carl Czaplicki, Director, Department of Housing, Economic Development, and Commerce

**3. Concise Description of the Plan Proposed in the Ordinance:**

Amends Article V accessory use standards pertaining to bars to allow accessory T.V.s, radios, and stereo systems; amends accessory use standards for category one (primarily sit-down) restaurants, where permitted as principal or conditional uses; and updates Restaurant Row Overlay Zone standards pertaining to category one and category two restaurants, in order to permit the issuance of a "restaurant entertainment license" in all applicable zones.

**4. Reasons (Need) for the Proposed Program, Project, etc.:**

- a.) T.V.s, radios, and/or stereo systems are commonly found at and can be considered as incidental and customary accessory uses at bars and restaurants with bars;
- b.) Live or D.J. monitored entertainment is currently allowed, under an existing "Entertainment and Dance License," only at uses defined as nightclubs, and the ability of restaurants to offer live or D.J. monitored entertainment, but under more restrictive conditions than a nightclub, is desirable in order to better serve both the public and the business community.

**5. Anticipated Benefits to the Community:**

Enhancement of local restaurant business in a way that better serves the public while protecting the general welfare

**6. Cost of Proposed Plan, etc.:**

None

**7. Date Proposed Plan will commence:**

Upon approval

**8. Anticipated Completion Date: N/A**

**9. Persons Responsible for Coordinating Proposed Program, Project, etc.:**

Carl Czaplicki, Director, Dept of HEDC  
Robert D. Cotter, City Planning Director  
Nick Taylor, Acting Director, Division of Zoning

**10. Additional Comments: None**

I Certify that all the Facts Presented Herein are Accurate.

  
\_\_\_\_\_  
Division Director

Dec 6, 2011  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Department Director Signature

12/8/11  
\_\_\_\_\_  
Date

## **SUMMARY STATEMENT**

### **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING AMENDMENTS TO ARTICLE V OF THE LAND DEVELOPMENT ORDINANCE (CHAPTER 345) PERTAINING TO ENTERTAINMENT**

Amends Article V accessory use standards pertaining to bars to allow accessory T.V.s, radios, and stereo systems; amends accessory use standards for category one (primarily sit-down) restaurants, where permitted as principal or conditional uses; and updates Restaurant Row Overlay Zone standards pertaining to category one and category two restaurants, in order to permit the issuance of a "restaurant entertainment license" in all applicable zones.

City Clerk File No. Ord. 11-156

Agenda No. 3,C 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-156

TITLE:

**ORDINANCE REPEALING ARTICLE II (LIMOUSINES), CHAPTER 307 (TAXICABS AND LIMOUSINES) OF THE JERSEY CITY ADMINISTRATIVE CODE AND REPLACING ARTICLE III (LIMOUSINES)**

**THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY HEREBY DOES ORDAIN:**

**WHEREAS**, it is in the City's interest, to ensure the safety, health and welfare of the residents of the City of Jersey City by updating the City Code to reflect the changing needs of the public and its welfare and to comply with State statutes, as amended and supplemented.

**WHEREAS**, Articles II and III of Chapter 307 of the Code of the City of Jersey City need to be repealed and replaced with a new Ordinance because of recently-amended New Jersey statutes and regulations addressing limousines, licensing of limousines and requirements for the inspection and operation thereof; and

**WHEREAS**, Article II (Autobuses, Livery and Limousine Services) and Article III (Limousines) of the Code of the City of Jersey City is, with this Ordinance, repealed in their entirety and this Ordinance replaces the repealed Article III; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Municipal Council of the City of Jersey City as follows:

## CHAPTER 307 TAXICABS AND LIMOUSINES

A.

Article II, Autobuses, Livery and Limousine Services, (Sections 307-37 through 307-38), and Article III, Limousines, (Sections 307-39 through 307-42) are hereby repealed and replace with the following:

B.

### ARTICLE II General Provisions

§307-37. Definitions

§307-38. Limousine Licenses

- A. Limousine license required; fees.
- B. Obtaining a limousine license; procedure; renewal of license.
- C. Compliance with state law; insurance requirement.
- D. Issuance of limousine license.
- E. Requirements for maintaining limousine license.
- F. Transfer of limousine license.
- G. Suspension and revocation of limousine license; notice and hearing.

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**§307-39. Limousine Operators' Licenses**

- A. Limousine operator's license required; fees for issuance and renewal.
- B. Obtaining a limousine operator's license; procedure.
- C. Issuance of limousine operator's license; form of license.
- D. Suspension and revocation of limousine operator's license.
- E. Compliance with other laws.

**§307-40. Limousine Vehicles' Condition & Appearance; Reports; Operation of Limousine While in City of Jersey City.**

- A. Limousine condition and appearance; checklist.
- B. Reporting of accidents; other reports required.
- C. Passengers - no solicitation; receipt and discharge.
- D. Standing in certain locations prohibited.
- E. Return to base of operation.

**§307-41. Enforceability.**

**§307-42. Violations and Penalties**

**§307-43. Severability**

**ARTICLE I - GENERAL PROVISIONS**

**§307-37. DEFINITIONS.**

The following words and phrases when used in this chapter have the meanings as set forth herein:

**CRUISING** - The driving of limousine vehicles on the streets, alleyways or other public places of the City in search or solicitation of prospective passengers.

**DIRECTOR** - The Director of the Division of Commerce in the City of Jersey City's Department of Housing, Economic Development and Commerce.

**DIVISION** - The Division of Commerce of the City of Jersey City's Department of Housing, Economic Development and Commerce.

**HEARING** - A public hearing at which the licensee shall be given an opportunity to appear personally and be represented by his/her chosen counsel and be heard and to present evidence on his/her behalf or otherwise answer the charges against him/her.

**HEARING OFFICER** - Shall be the Business Administrator or his/her designee.

**HOLDER** - A person or entity to whom a limousine license has been issued.

**LICENSE INSPECTOR** - An inspector acting on behalf of the Division.

**LICENSING YEAR** - April 1 of any given year through March 31 of the following year.

**LIMOUSINE OPERATOR** - Any person holding a valid current New Jersey or New York driver's license with a passenger endorsement or possessing any other such license or class of license as required by the State of New Jersey Motor Vehicle Commission for a limousine driver/operator.

**LIMOUSINE VEHICLE (or LIMOUSINE)** - Any automobile or motor car, issued special registration plates bearing the word "limousine" pursuant to Section 12 of P.L. 1979, c.224 (C.39:3-19.5), which is engaged in the business of carrying passengers on a pre-arranged charter basis, which is not conducted on a regular route or at a regular time, with a seating capacity of no more than fourteen (14) passengers, not including the driver, provided that such a vehicle is certified by the manufacturer of the original vehicle (and the second-stage manufacturer, if applicable) to conform to Federal Motor Vehicle Safety Standards promulgated by the United States Department of

Transportation pursuant to 49 CFR 567.1 et seq. and 49 CFR 567.1 et seq. In addition, a "Vehicle Emission Control Information" label, which contains the name and trademark of the manufacturer and an unconditional statement of compliance with the emission requirements of the Environmental Protection Agency, shall be present on the vehicle. Nothing herein shall be construed to include taxicabs, hotel buses, buses employed solely in transporting school children or teachers, or vehicles operated by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services.

MVC - The New Jersey Motor Vehicle Commission.

TRANSFER - To sell, transfer or in any other manner dispose of, a limousine license. Where the license is in the name of a corporation or other legal entity, any change in ownership or control of the corporate entity holding the license shall constitute a "transfer" of the license held in the name of said corporation or other legal entity. The Division shall determine what constitutes a change in control.

### **§307-38. LIMOUSINE SERVICE LICENSE(S)**

#### **A. Limousine license required; fees.**

- (1) All limousine owners whose principal place of business is within the City of Jersey City shall, prior to operating any limousine service, first obtain a limousine license from the Division in accordance with N.J.S.A. 48:16-13 through -22.7. Licenses shall be for the year beginning on April 1 and ending March 31 of the following year and be renewable every year.
- (2) No limousine license for limousine services with principal places of business within the City of Jersey City, shall be issued or renewed unless the applicant has paid the annual license fee of fifty dollars (\$50.00) for each limousine service business and ten dollars (\$10.00) for each limousine. Limousine license fees shall be in addition to any other fees or charges established by the proper authorities and applicable to the holder of the license(s) for the vehicle or vehicles under his operation and control.
- (3) Limousine services with a place of business within, and licensed by, the City of Jersey City shall be required to pay an annual administrative fee of five hundred dollars (\$500.00) to cover administrative costs including, but not limited to, vehicle inspections, preparation of reports and documents by Division personnel and the enforcement by the Division of the provisions of this chapter.
- (4) Notwithstanding any other provision herein to the contrary, the Director may require a limousine corporate license in accordance with N.J.S.A. 48:16-18.1.

#### **B. Obtaining a limousine license; procedure; renewal of license.**

- (1) All applications for a license shall be filed with the Division, and a duplicate with the MVC, on forms provided by the Division, and shall be notarized, furnishing the following information:
  - (a) The name and address of the applicant and a description of all transportation businesses that the applicant and/or its operators have had an ownership interest in, or employment at, within the past five (5) years.
  - (b) Proof that the applicant is registered to do business in New Jersey.
  - (c) The applicant's Corpcode, which is the 15-digit corporation code issued by the State of New Jersey Motor Vehicle Commission.
  - (d) The year, type, model, color, insurance carried for, and VIN number of, each vehicle for which the license is desired and the number of persons the limousine is capable of carrying.
  - (e) Copies of all of the licenses and passenger endorsements of the operators who drive for the applicant.

- (f) Such further information as the Director shall require to determine the eligibility of the applicant.
- (2) The original limousine license, or a copy thereof, shall be retained within each limousine.
- (3) The holder shall make annual application for renewal of his/her limousine license and limousine operator's licenses not later than thirty (30) days prior to the expiration date, and pay the annual fee of \$50.00 for the limousine license and ten (\$10.00) for each limousine. Late filing of applications shall be subject to an additional fifty dollar (\$50.00) late filing fee.

**C. Power of Attorney; Insurance Requirement.**

- (1) The applicant shall execute and deliver to the MVC a power of attorney whereby the holder shall appoint the MVC as his true and lawful attorney for the purpose of acknowledging service of process of any complaint(s) against the holder in compliance with N.J.S.A. 48:61-16.
- (2) The applicant prior to becoming a holder or renewing his license must purchase, for each limousine in his/her service, an insurance policy from a company duly licensed to transact business under the insurance laws of this State in the sum of one million five hundred thousand dollars (\$1,500,000.00) as required by N.J.S.A. 48:16-14. The City of Jersey City must be named as an additional insured and an insurance card for the applicant must be placed in each limousine.
- (3) In the event that the holder's insurance is canceled, the holder's license shall terminate on the date of the cancellation, unless the insurance is reinstated and proof of the withdrawal of the cancellation or a new insurance policy is submitted to the Division within twenty-four (24) hours. As a condition of obtaining a City of Jersey City limousine license, the limousine license holder agrees to provide the Director of the Division, or his/her designee, with the authority to communicate directly with the limousine license holder's insurance companies.

**D. Issuance of limousine license.**

The Director is responsible for issuing limousine licenses. The license will state the name and address of the applicant, the date of issuance and the year, type and model of the vehicle; otherwise, the application shall be denied. Upon issuance, the license for each limousine shall be retained within the limousine and available for inspection by Division personnel and any law enforcement officer.

**E. Requirements for maintaining limousine license.**

Once a year, each holder of a limousine license shall, as condition for the continuation of the license(s) submit his limousine vehicle(s) for full mechanical and vehicle inspections during the period of validity of the license according to a schedule established by the Division. Such inspection shall be preceded by an inspection at an MVC Commercial Inspection Station and then by the Division. The City of Jersey City requires all limousines licensed by the Division to, at all times, be in a safe and operable condition, including, but not limited to, the following:

- (1) The air-conditioning, heating and defrost systems must work.
- (2) A two-way communications system and a removable first aid kit must be in the limousine.
- (3) An operable fire extinguisher must be in an accessible place within the limousine. The trunk of the vehicle shall not be considered an accessible place.
- (4) When the height of the vehicle floor is 10 inches or more above ground level, there must be sideboards attached to the permanent body of the limousine.
- (7) The horn must function properly so as to produce a sound audible for two hundred (200) feet.

- (8) All doors and door lock poles must be fully operational.
- (9) Each seat must have sufficient leg room to meet any applicable ADA (the "Americans With Disabilities Act") requirement.
- (10) The limousine vehicle must be painted with glossy paint, a fully integrated body and meet such further structural requirements as the Director determines will render the limousine at all times safe, functional and the premium vehicle which the public expects when paying for a limousine.

**F. Transfer of limousine license.**

- (1) No limousine license may be sold, assigned or otherwise transferred without the prior consent of the Division. No limousine license shall be mortgaged, pledged or otherwise rendered to secure a debt, loan, advance or other financial transaction.
- (2) If the holder voluntarily permits any other person other than an operator, licensed under this chapter, to drive or operate a limousine, it shall be considered a transfer and a violation of this chapter.

**G. Suspension and revocation of limousine license; notice and hearing.**

- (1) The Director may suspend a limousine service license for thirty (30) days or less, or after a notice and hearing, revoke the license, if the holder has:
  - (a) Violated any of the provisions of this chapter;
  - (b) Violated any ordinance of the City of Jersey City or the laws of New Jersey, the violation of which reflects unfavorably on the fitness of the holder to offer public transportation.
  - (c) Discontinued operation of a limousine service for more than sixty (60) days.
- (2) Suspension and revocation of a limousine license must be preceded with notice to the holder by means of providing him or her with a written copy of the charges followed by an opportunity to present evidence on his or her behalf to the Director at a hearing, with counsel representation if he or she so elects.
- (3) A ruling adverse to the holder may be appealed to the Business Administrator. The request for an appeal shall be in writing and submitted within twenty (20) days of the adverse ruling. A hearing shall thereupon be scheduled with at least ten (10) days' notice to the holder.

**§307-39. LIMOUSINE OPERATOR'S LICENSE**

**A. Limousine operator's license required; fees for issuance and renewal.**

- (1) Every person who operates a limousine for hire upon the streets of the City of Jersey City and every person who owns or controls a limousine permitting it to be so driven, shall first obtain and have in force, at all times, a limousine operator's license. Every operator shall be a holder or an employee of a holder.
- (2) Each applicant for a limousine operator's license must:
  - (a) Be of the age of twenty-one (21) years or over and be a resident of the State of New Jersey, or the State of New York for one (1) year or more.
  - (b) Present evidence satisfactory to the Division that he/she meets all governmental statutory and regulatory requirements for a limousine operator's license.
  - (c) Be able to read, write and speak the English language, and have a basic knowledge of Hudson County roadways and landmarks.
- (3) No operator's license shall be issued or renewed unless the applicant has paid an initial license fee of seventy-five dollars (\$75.00) and, on or before March 31 of each

year, and fifty dollars (\$50.00) as the annual renewal fee.

**B. Obtaining a limousine operator's license; procedure.**

- (1) An applicant for a limousine operator's license shall file an application for such license with the Division on forms provided by the Division and pay the prescribed fee. All documentation submitted in support of an application shall be original documents or legible certified copies of same. The application shall contain the following information:
  - (a) The full name and address of the applicant.
  - (b) Places of residence for the preceding three (3) years.
  - (c) Age, place of birth, height, color of eyes and hair.
  - (d) The experience of the applicant in the transportation of passengers.
  - (e) A valid driver's license with passenger endorsement.
  - (f) The successful completion of a drug and alcohol test for controlled dangerous substances as defined in N.J.S.A. 2C:35-2. The cost of this test shall be at the applicant's expense.
  - (g) Permission for release of the applicant's criminal background check to the Division.
  - (h) MVC-issued record abstract indicating the applicant's driving history from at least the preceding five (5) years, from all States in which the applicant has lived, which shall be no more than thirty (30) days old.
  - (i) The applicant's citizenship status with evidence of same, such as passport, naturalization papers, alien registration and work authorization from the United States Department of Homeland Security, if not a United States citizen. A United States passport shall satisfy United States' citizenship.
- (2) The applicant shall furnish four (4) passport-type photographs of himself taken within thirty (30) days of the application, front view, two by two (2 x 2) inches in size.
- (3) Each application must be accompanied by a certificate from a licensed and practicing physician of the State of New Jersey, certifying that the applicant has been examined on a certain date and that, in his opinion, the applicant is of sound physique, with good eyesight, not subject to epilepsy, vertigo, heart trouble or any other infirmity or body or mind which might make him unfit for the safe operation of a limousine vehicle. The examination shall be within thirty (30) days prior to the filing of the application.
- (4) Convictions of those crimes set forth in N.J.S.A. 48:16-22.3a (d) shall disqualify an applicant, which includes, but shall not be limited to assault, arson, burglary, escape, extortion, homicide, kidnaping, robbery or endangering the welfare of a child, as shall any conviction for driving under the influence of drugs or alcohol or unlawful use, possession or sale of a controlled dangerous substance (as defined in N.J.S.A. 2C:35-2), within the preceding five (5) years, absent a certificate of rehabilitation as described in N.J.S.A. 48:16-22.3 a (g).
- (5) Prior to issuing a limousine operator's license, the Director shall consider the application, the police investigative report, criminal background check, driving history, any other documentation the Director requires to be attached thereto, and any relevant facts whatsoever and shall approve or reject the application. If the application is rejected, the applicant may request a hearing, in accordance with this chapter, in order to offer evidence as to why his application should be reconsidered.

**C. Issuance of limousine operator's license; form of license.**

Upon the Director's approval of an application for a limousine operator's license, the Division shall issue a license to the applicant which shall bear the name, signature and photograph of the applicant.

The license shall also contain the City license number and a notice that, in case of any complaint, the Division shall be notified of the license number of the operator. The license shall bear the signature of the Director. It must be carried by the operator in the limousine and be available for inspection by any law enforcement officer and Division inspector at any time. The license shall be in effect for the remainder of the licensing year ending the following March 31.

**D. Suspension and revocation of limousine operator's license.**

- (1) The Director may suspend a limousine operator's license for thirty (30) days or less, or after a notice and hearing, revoke the license, if the operator has:
  - (a) Violated any of the provisions of this chapter;
  - (b) Violated any ordinance of the City of Jersey City or the laws of New Jersey, the violation of which reflects unfavorably on the fitness of the operator to offer public transportation.
- (2) Suspension and revocation of an operator's license must be preceded with notice to the operator by means of providing him or her with a written copy of the charges followed by an opportunity to present evidence on his or her behalf to the Director at a hearing, with counsel representation if he or she so elects.
- (3) A ruling adverse to the operator may be appealed to the Business Administrator. The request for an appeal shall be in writing and submitted within twenty (20) days of the adverse ruling. A hearing shall thereupon be scheduled with at least ten (10) days' notice to the operator.

**E. Compliance with other laws.**

Every limousine operator shall comply with all city, state and federal laws. Violation of any laws which reflects unfavorably on the fitness of such operator to engage in public transportation; failure to do so will justify the Division in suspending and/or, after a hearing, revoking the violator's license. If, at any time within the license year, an operator has been found guilty of a crime or misdemeanor or has permitted his vehicle to be used for any illegal purpose, the Division may immediately suspend or, after a hearing, revoke the operator's license.

**§ 307-40. LIMOUSINE VEHICLES' CONDITION & APPEARANCE; CHECKLIST; REPORTS; OPERATION OF LIMOUSINE WHILE IN CITY OF JERSEY CITY.**

**A. Limousine condition and appearance; checklist.**

- (1) No limousine license shall be issued until the limousine vehicle has been thoroughly inspected and found to be in a safe, clean and sanitary condition for the transportation of passengers.
- (2) Every vehicle operating under this chapter shall be inspected in accordance with N.J.S.A. 48:16-22.2, which requires the operator to conduct a general examination of the condition of the vehicle prior to any operation of the limousine on the streets of Jersey City or the highways of this State for the purpose of picking up passengers. The inspection shall be conducted according to a check list maintained in the limousine for the day in which the limousine is driven and then filed with the holder employing the operator. The checklist shall contain, at a minimum, an examination of the tires, windshield wipers, horn, condition of front and rear windshield and side windows, front and rear lights, fluid levels and brakes, as well as the condition of the two-way communications system, as required by N.J.S.A. 48:16-22.2.
- (3) Any limousine vehicle on the streets of the City of Jersey City in violation of this section may be removed from the street by the Jersey City Police Department. If the limousine vehicle is not returned to service in compliance with this section within thirty (30) days, the Division may suspend or, after a hearing, revoke the limousine license.

**B. Reporting of accidents; other reports required.**

- (1) All accidents arising from or in connection with the operation of a limousine which result in death or injury to any person or in damage to any vehicle or to any property in an amount exceeding one hundred dollars (\$100.00) shall be reported to the Division within forty-eight (48) hours of the occurrence. Copies of the police report prepared as a result of the accident must also be provided to the Division within five (5) business days. Failure to report said accidents shall be grounds for suspension and/or revocation of the limousine operator's and/or holder's license.
- (2) Whenever the registration and/or license plates for a limousine licensed by the City of Jersey City shall change, the limousine license holder shall provide the Division with written verification from the MVC, indicating the change of the license plate and/or change of registration prior to use.
- (3) Whenever a holder decommissions a limousine and surrenders the license in accordance with state law, he/she shall report this fact to the Division and provide the Division with a MVC-issued letter of surrender.

**C. Passengers - no solicitation; receipt and discharge.**

- (1) No operator shall solicit passengers on any City street, parking lot, taxi stand or other location where vehicles may enter or stand, nor shall any driver engage in "cruising" as defined in this chapter. Furthermore, no driver shall pick up any passenger in response to a signal, hail or gesture.
- (2) Receipt and discharge of passengers on a sidewalk. Drivers shall not receive or discharge passengers in the roadway but shall pull up to the right-hand side of the roadway as nearly as possible or, in the absence of a sidewalk, to the extreme right-hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged at either the right-or-left-hand sidewalk or side of the roadway, in the absence of a sidewalk.

**D. Standing in certain locations prohibited.**

It shall be unlawful for any limousine to stand in any restricted area, including a taxi stand.

**E. Return to base of operation.**

All limousines must be returned to their regular bases of operation after the discharging of passengers.

**§307-41. Enforceability.**

The provisions of this ordinance may be enforced by State and local Police and by officers and agents of the Division of Commerce.

**§307-42. Violation and penalties.**

Except as set forth in N.J.S.A. 48: 16-22.a, providing a penalty of \$500 against an owner of a limousine service who hires an unqualified driver, and any other penalty which may be adopted by N.J.S.A. 48: 16-13 - 22.7, any person violating any of the provisions of this chapter shall, upon conviction, be punished as provided for in Chapter 1, General Provisions, §1-25.

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
- C. This ordinance shall take effect in the manner as prescribed by law.
- D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the

existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**§307-43 - Severability**

The provisions of this ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof, is for any reason 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 remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**GENERAL REFERENCES**

- N.J.S.A. 48: 16-13 et seq. (Limousines)
- N.J.S.A. 40:52-1 and -2 (Power to license; License fees)
- N.J.S.A. 39:3-3 et seq. (Motor Vehicles - Registration and Licensing)

**NOTE:** Underlining has been omitted because all material is new.

JDDO/jm  
9-30-11

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED: [Signature]  
Business Administrator

- Certification Required
- Not Required

**ORDINANCE FACT SHEET**

**1. Full Title of Ordinance:**

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY  
ADOPTING AMENDMENTS TO THE TAXI AND LIMOUSINE ORDINANCE (CHAPTER  
307) PERTAINING TO LIMOUSINES**

**2. Name and Title of Person Initiating the Ordinance, etc.:**

Carl Czaplicki, Director, Department of Housing, Economic Development, and Commerce

**3. Concise Description of the Plan Proposed in the Ordinance:**

This ordinance replaces the prior ordinance in its entirety because of changes to the New Jersey State Statutes and the needs of our community. All limousine businesses including owner operators operating in Jersey City must have a municipal license, register their business with the State, acquire a corp. code for tax purposes, a letter of zoning approval for business location or vehicle parking, safety equipment (first aid kit, fire extinguisher), commercial vehicle inspection (state mvc), commercial motor vehicle insurance (State approved) and all other State requirements. In addition a \$500.00 administrative fee covering the costs of preparation, inspections, enforcement, clerical, copies, applications and documentation.

**4. Reasons (Need) for the Proposed Program, Project, etc.:**

- a.) Changes to the State Taxi and Limousine Statutes, 48:16.
- b.) Addresses public safety issues in which the United States Department of Homeland Security have expressed concern in respect to major transportation hubs (Journal Square, Exchange place).
- c.) Requires all limousine owner/operators to register their business.
- d.) Requires all applicants to undergo State and Federal fingerprinting requirements (Sago Morph).

**5. Anticipated Benefits to the Community:**

The safety of the General Public would be increased as a result of the Owner/operators and Limousine drivers being compliant with all local, State and Federal requirements.

**6. Cost of Proposed Plan, etc.:**

None

**7. Date Proposed Plan will commence:**

Upon approval

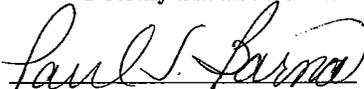
**8. Anticipated Completion Date: N/A**

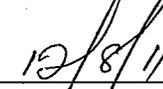
**9. Persons Responsible for Coordinating Proposed Program, Project, etc.:**

Carl Czaplicki, Director, Dept of HEDC  
Paul J Barna, Director, Division of Commerce

**10. Additional Comments: None**

I Certify that all the Facts Presented Herein are Accurate.

  
Division Director

  
Date

\_\_\_\_\_  
Department Director Signature

\_\_\_\_\_  
Date

# **SUMMARY STATEMENT**

## **ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY ADOPTING A NEW AMENDMENT TO THE TAXI AND LIMOUSINE ORDINANCE (CHAPTER 307) PERTAINING TO LIMOUSINES.**

Whereas it is in the City's interest, to ensure the safety, health and welfare of the residents of the City of Jersey City by updating the City Code to reflect the changing needs of the Public and its welfare and to comply with the new State Statutes, amended and supplemented.



# CITY OF JERSEY CITY

## DEPARTMENT OF HOUSING, ECONOMIC DEVELOPMENT & COMMERCE

### DIVISION OF COMMERCE

382 MARTIN LUTHER KING DRIVE  
JERSEY CITY, NEW JERSEY 07305  
TELEPHONE (201) 547-5139  
FAX (201) 547-5585

CARL S. CZAPLICKI  
Department Director

Paul J Barna, Division Director

Jeremiah Healy  
Mayor

Council President Peter Brennan and Members of the City Council      December 7, 2011

City of Jersey City

City Hall

280 Grove Street

Jersey City, New Jersey 07302

RE: Proposed New Limousine Ordinance

Dear Council Members:

The Jersey City Department of Commerce would like to introduce a new limousine ordinance for your consideration. This ordinance would replace the prior ordinance in its entirety because of changes to the New Jersey statutes and the needs of our community.

The draft ordinance addresses public safety issues in which both the New Jersey Motor Vehicles Commission and the U.S. Department of Homeland Security ("Homeland Security") have expressed concern. It closely follows the criteria suggested by Homeland Security regarding transportation at major transportation hubs such as the Holland Tunnel and the Turnpike Extension in Jersey City.

With over 400 limousines already licensed in this City, and more to be registered, I feel it is important that you approve this draft ordinance in order to continue in your efforts to protect the safety, and comfort of the public serviced by this industry.

The State of New Jersey allows a municipality to charge a fee of \$50.00 for a limousine service business, as well as an additional \$10.00 per vehicle (N.J.S.A. 48: 16-18.1). The State also allows a municipality to recoup its costs, these costs can include processing the license, inspecting vehicles, monitoring of vehicles by field inspectors, contacting the State MVC and insurance companies. These fees however, do not cover all of the costs of issuing the limousine license. Practically speaking, we cannot continue to have the public subsidize the limousine business. I am asking that an administrative fee of \$500.00 per limousine be imposed in order to recoup the cost of this license.

I have contacted nearby municipalities and learned that: Hoboken charges an annual fee of \$750.00 (in addition to the \$50/business and \$ 10/vehicle and Newark \$500.00.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul Barna".

Paul Barna Director, Division of Commerce

Department of Housing, Economic Development And Commerce

PB

Encl.

City Clerk File No. Ord. 11-157

Agenda No. 3.D 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-157

**TITLE: ORDINANCE AUTHORIZING A THREE (3) YEAR LEASE OF 174-178 MARTIN LUTHER KING DRIVE TO FRIENDS OF LIFERS, A NON-PROFIT CORPORATION, FOR AN URBAN FARM**

**COUNCIL** offered and moved adoption of the following Ordinance:

**WHEREAS**, the City of Jersey City is the owner of certain property located on 174-178 Martin Luther King Drive, more specifically known as Block 1318, Lots 1A, 2A & B1 [Property]; and

**WHEREAS**, N.J.S.A. 40A:12-14 of the Local Lands and Buildings Law (Law) permits the City of Jersey City to lease property to a non-profit corporation for nominal consideration for one of the public purposes set forth in N.J.S.A. 40A:12-15, subject to certain conditions; and

**WHEREAS**, N.J.S.A. 40A:12-15(l) permits the lease of City owned property of less than 5 acres to a nonprofit corporation for the cultivation and sale of fresh fruits and vegetables; and

**WHEREAS**, Friends of Lifers, is a non-profit organization of the State of New Jersey, and a 501(c)(3) entity whose corporate purpose is to train and employ ex-offenders; and

**WHEREAS**, the Municipal Council finds that such services constitute a public purpose that "promotes the recreational, education and nutritional needs of the community"; and

**WHEREAS**, it is the best interests of the City of Jersey City to enter into a lease with Friends of Lifers, for the nominal consideration of one dollar (\$1.00) per year, for a term of one (1) year with mutually agreeable lease extensions of one (1) year each, for a maximum total term of three (3) years.

**NOW THEREFORE, BE IT ORDAINED**, that the Mayor or Business Administrator is authorized to execute a lease with Friends of Lifers, a non-profit corporation, pursuant to N.J.S.A. 40A:12-14 and N.J.S.A. 40A:12-15(l) in substantially the form attached, subject to such modification as the Corporation Counsel or Business Administrator deems appropriate or necessary, which lease must contain the following terms and conditions set forth as follows:

1. The property will be used solely for the following public purposes:

An urban farm to meet demands for fresh local fruits and vegetables for sale to the community, to beautify the neighborhood; improve the environment; and create jobs for those seeking a second chance.

2. The property shall not be used for any purpose that violates N.J.S.A. 40A:12-15 other than the purpose(s) listed in Paragraph 1 of this Ordinance, except as provided by law and then only with the prior written consent of the City of Jersey City.

3. The lease shall be for an initial term of one (1) year, commencing February 1, 2012 subject to mutually agreeable lease extensions of one (1) year each, for a maximum total term of three (3) years.

**ORDINANCE AUTHORIZING A THREE (3) YEAR LEASE OF 174-178 MARTIN LUTHER KING DRIVE TO FRIENDS OF LIFERS, A NON-PROFIT CORPORATION, FOR AN URBAN FARM**

- 4. The rent shall be \$1.00.
- 5. Friends of Lifers will submit an annual report to the Business Administrator stating:
  - (a) the names and addresses of the principals of the corporation;
  - (b) the use to which the leasehold was put, including the number of persons benefitting from the public purpose and whether they reside within or with the City;
  - (c) the activities undertaken in furtherance of the public purpose;
  - (d) the approximate value or cost of such activities; and
  - (e) an affirmation of the continued tax exempt status of the non-profit corporation pursuant to state and federal law.
- 6. The Business Administrator or his designee shall be responsible for administering and enforcing the conditions of the lease.
  - A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
  - B. This ordinance shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
  - C. This ordinance shall take effect at the time and in the manner as provided by law.
  - D. The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this ordinance reveals a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**Note:** All material is new, therefore, underlining has been omitted. For purposes of advertising only, new matter is indicated by **boldface** and repealed matter by *italic*.

JM/he  
12/02/11

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required

Not Required

# **LEASE AGREEMENT**

(Rev. 12-02-11)

THIS LEASE [Lease] made this \_\_\_\_ day of \_\_\_\_\_, 2011, between the **CITY OF JERSEY CITY, [CITY]**, a municipal corporation of the State of New Jersey, with offices at 280 Grove Street, Jersey City, New Jersey 07302; and **FRIENDS OF THE LIFERS [FOL]**, a non-profit 501(c)(3) entity with offices at 152-154 Martin Luther King Drive, Jersey City, New Jersey 07305.

## **ONE PROPERTY**

The City hereby permits the FOL to use certain property located on the East side of Martin Luther King Drive between Stegman Street and Wegman Parkway, more specifically depicted on the Tax Assessor's Map as Block 1318, Lots 1A, 2A & B1, and more commonly known by the street address of 174-178 Martin Luther King Drive [Property]. The Property is presently a vacant tract of land consisting of less than five (5) acres.

## **TWO USE OF THE PROPERTY**

The Property is to be used solely and exclusively as an urban Farm, including a green house which may be constructed at FOL's expense, but subject to all land use and construction code regulations. The public purposes of the Farm is to produce fresh fruits and vegetables for sale to the community, beautify the neighborhood, improve the health and environment of City residents; and create jobs and meaningful work for those seeking a second chance, all of which constitutes a public purpose permitted under N.J.S.A. 40A:12-15. With regard to the sale of produce, it includes sale on site or to any authorized food sale establishment including at the City's designated farmers markets. This public purpose includes but is not limited to the operation, maintenance and security of the Property. These services shall be delivered in accord with all federal, state and local rules and regulations.

## **THREE HOURS AND DAYS OF OPERATION**

The FOL is required to use the Property for the above stated public purposes, for no less than 20 hours per month which hours shall be posted. The hours or days may be reduced by 20%, or expanded, with the prior written consent of the City's Business Administrator, whose

consent may be rescinded at any time for any reason.

If the FOL ceases to provide all of the services during the above hours and days, the City shall have the right to terminate the agreement in accordance with the provisions set forth below.

#### **FOUR** **TERM**

The term shall be for a period of one (1) year with up to two (2) one year extension if approved by the City's Business Administrator. The term shall commence on or about February 1, 2012. The term cannot be extended beyond three (3) years, without a new resolution and approval of the Municipal Council. In addition, the FOL agrees that in the event the City receives an offer from an investor or developer to redevelop the property in accordance with the redevelopment plan, then FOL must vacate the property upon 60 days prior written notice.

#### **FIVE** **FEE**

The fee shall be for an annual fee of \$1.00 and other good and valuable consideration. However, if the FOL should receive any revenue from any 3<sup>rd</sup> party use of the Improvements then the FOL agrees to pay such funds to the City, less the FOL's reasonable administrative fee.

#### **SIX** **ACCOUNTING SYSTEM/ANNUAL REPORTS**

##### **A. Financial Reports.**

The FOL agrees to maintain a system of accounting and internal controls established and administered in accordance with generally accepted accounting principles (GAAP).

The FOL shall submit its auditor's report within ninety (90) days after the close of the fiscal or calendar year to the City Clerk, who shall advise those municipal officials required to be advised, of its Auditor's Report for the preceding fiscal or calendar year relating to the operations of the Farm. The Auditor's Report shall include, but not be limited to such details as may relate to its operation and performance hereunder, pursuant to the Law and this Lease and such additional information as the City may request from time to time.

##### **B. Business Reports Every Six Months.**

FOL shall submit a Report to the Business Administrator stating: (1) the current names and addresses of the principals and board members of FOL; (2) the use to which the property was put meaning the activities taken in the prior six (6) months and the number of persons benefitting, including whether or not they were residents; the value of the activity; and (3) proof

that FOL remains tax exempt under federal and state law.

**SEVEN**  
**ACCEPTANCE OF THE PROPERTY "AS IS"**

The FOL has made a full and complete examination of the Property, as well as its present uses and non-uses. FOL accepts the Property without any representation or warranty, express or implied, in fact or by law, by City and without recourse to City as to the nature, condition or suitability thereof or the use or uses to which the Property or any part thereof may be put. FOL acknowledges the Property is being Leased in strictly in its "as is" condition. If the property becomes non usable for any reason, the City shall have no obligation to improve or restore the property.

**EIGHT**  
**PROHIBITED USES AND RESTRICTIONS ON USE**

During the term of this Lease, the Property shall be used, maintained and operated in accordance with the provisions of the Law and this Lease.

The FOL shall not do or permit any act or thing upon the Property which will subject the City to any liability by reason of any illegal business or conduct upon the Property, or by reason of any violation of law or of any legal requirement of public authority, but shall exercise such control over the Property as to fully protect the City.

The property shall not be used for any commercial business, trade, manufacturing, retailing or other profit making enterprise or for any political, partisan, sectarian, denominational or religious purposes or in any other manner that would give use to a rotation of N.J.S.A. 40A:12-1, et seq.

More specifically, but without limitation, FOL agrees to the following specific restrictions:

A. The FOL's failure to comply shall constitute a Default under this Agreement and the City shall, among its other remedies, have the right to terminate this Lease.

**NINE**  
**SUB-LET/ASSIGNMENT**

The FOL may not sub-let the Property or any portion thereof for any time during the term of this agreement. The assignment of this agreement in whole or in part is strictly prohibited.

**TEN**  
**QUIET ENJOYMENT**

City represents that it is the owner of the Property and as such, agrees that the FOL shall have quiet and peaceful possession of the Property and shall enjoy all of the rights herein granted without interference.

**ELEVEN**  
**UTILITIES**

All utilities and services (including, but not limited to, water, heat, gas and electricity) shall be furnished to the Property for the benefit of the FOL, and shall be paid for by the FOL. The City shall provide water at no cost to FOL. If the utilities must be provided by the City, then the FOL shall pay or reimburse the City no later than thirty (30) days after the receipt of a bill from the City. The City shall not be liable for any interruption or delay in any of the utilities or services. However, any such interruption or delay caused by the City shall not cause the FOL to be in Default hereunder.

**TWELVE**  
**REPAIR AND MAINTENANCE**

FOL, for and during the term of this Lease, at FOL's sole cost and expense, assumes all responsibility and obligation for the physical condition of the Property. FOL shall take good care of the Property and appurtenances therein, and at its own cost and expense make all repairs thereto, as and when needed to preserve them in good working order.

Any damage or injury to the Property caused only by the gross negligence or improper conduct of the FOL, or its employees, invitees, leasees or agents, shall be repaired promptly by FOL at its sole cost and expense.

If FOL refuses or fails to make such repairs within thirty (30) days after written notice from the City to the FOL of the need therefor, the City may make such repairs at the expense of the FOL, and such expense shall be collectible as additional rent.

**THIRTEEN**  
**DESTRUCTION OF THE PROPERTY**

If the Property during the term of this Lease, shall be destroyed or damaged in whole or in part by fire, act of God or by any other cause whatsoever, FOL shall give prompt notice thereof to the City. If the damage to the Property makes the Property unfit to use in accordance with this lease or should the Property be so badly damaged that it cannot be repaired within a reasonable period of time after the damage, the term shall, at the option of the City, terminate from the date of the damage or destruction; the FOL shall immediately surrender access to the

Property.

**FOURTEEN**  
**COMPLIANCE WITH LAWS**

The FOL shall comply with all laws, ordinances, regulations of the Federal, State, County and municipal authorities applicable to the business conducted by the FOL in the Property. The FOL shall not do or permit anything to be done in the Property, or keep anything therein, which will conflict with the regulations of the Fire Department or with any policy of the City emanating from the City's Risk Management.

**FIFTEEN**  
**SIGNAGE**

No sign, advertisement or notice shall be affixed to or placed upon any part of the exterior of the Property by the FOL, except in such manner, and of such size, design and color as shall be permitted under the City's land use regulations and as approved in advance and in writing by the Business Administrator, who shall first consult with the City's Zoning Office.

**SIXTEEN**  
**NOTICES**

All notices and demand, incidental to this Lease, or the occupation of the Property, shall be in writing.

If the City desires to serve upon the FOL any notice or demand, it shall be sufficient to send a copy by certified mail, return receipt requested, or delivered to:

Friends of the Lifers  
152-154 Martin Drive  
Jersey City, NJ 07305

Notices from the FOL to the City shall be sent by certified mail, return receipt requested or delivered to:

City of Jersey City  
Office of Real Estate  
City Hall  
280 Grove Street  
Jersey City, NJ 07302

A separate copy of any notice to the City should also be addressed to the attention of the Jersey

City Business Administrator.

**SEVENTEEN**  
**CONDEMNATION**

If the Property or any part thereof shall be taken by a public or quasi-public authority under any power of eminent domain or condemnation, this Lease shall terminate and the FOL shall not be entitled to any proceeds payable to the City arising from the taking. However, FOL shall be given at least 90 days to remove any personal property, including the dismantling and carrying away of the Greenhouse, if one is constructed by FOL.

**EIGHTEEN**  
**INSURANCE**

Prior to the commencement of the FOL shall deliver to City a policy of public liability insurance in the minimum amount of \$2,000,000 for personal injuries or death to any one person arising from the preparation, handling or sale of any food. FOL agrees to deliver any other type of insurance policies and in such amounts as shall be determined by the City's Risk Manager.

All required insurance shall name the City as an additional insured and provide that the insurer will not cancel same without at least thirty (30) days prior written notice to City.

The FOL shall procure policies for such insurance for periods as hereinafter provided, and shall deliver to the City copies of the original policy or policies, and shall also deliver to City evidence of the payment of the annual premiums and shall procure renewals thereof from time to time at least thirty (30) days before the expiration of any similar policy then existing. In default of such delivery, the City may procure any such insurance, and the FOL shall, on demand, reimburse the City for the costs of such insurance.

All insurance required by this Lease shall be written by insurer(s) authorized to do business in New Jersey. For the purposes of this Paragraph any policy of insurance required to be carried by FOL pursuant hereto shall have been approved by City as to its form, amount and insurer.

**NINETEEN**  
**INDEMNIFICATION**

Notwithstanding the imposition of joint or concurrent liability upon the City by law, ordinance, rule, regulation or order, the FOL, shall indemnify, defend and hold harmless the City, (except for negligence or the willful acts of City's employees) its contractors or agents, against and from any and all liability, fines, suits, claims, demands and action, and costs and

expenses of any kind or nature during the time of the Lease due to or arising out of:

(a) any breach, violation or non-performance of any covenant, condition or agreement of this Lease to be fulfilled, kept, observed or performed by FOL and/or

(b) any damage to person or Property occasioned by FOL's use and occupancy of the Property or by any use or occupancy which FOL may permit or suffer to be made of the Property, and/or

(c) any injury to person or persons, including death resulting at any time therefrom, occurring within or on the Property and/or on the public sidewalks or curbs abutting the same.

If the FOL shall be required to defend any action or proceeding pursuant to this paragraph to which action or proceeding which the City is made a party, the City shall be entitled to appeal, defend, or otherwise take part in the matter involved, at its election, by counsel of its own choosing, providing such action by the City does not limit or make void any liability of any insurer of the City or FOL hereunder in respect to the claim or matter in question; and further providing that such action by City is at City's sole cost and expense if such action or proceeding involves a claim which is less than the insurance coverage provided by FOL therefor. Notwithstanding anything to the contrary herein, FOL shall have no obligation to indemnify, defend or hold City harmless pursuant to this Section for any liability (including any hazardous or contaminated materials), property damage or personal injury that occurred prior to the commencement of the term of the Lease.

**TWENTY**  
**INSPECTION OF PROPERTY**  
**AND RECORDS**

The FOL shall permit the inspection of its property, equipment, and other facilities of the Property. It shall also permit, no more than twice a year, upon request, the City's examination and audit of its books, contracts, records, documents and papers relating to the operations of the Farm. Such examination or audit shall be made during the reasonable hours of the business day, in the presence of an officer or agent designated by the FOL.

**TWENTY-ONE**  
**COOPERATION BY CITY**

City agrees, promptly upon request of FOL, to assist FOL in obtaining all applications, authorizations or other instruments prepared by FOL or its agents or contractor which may be required by any governmental authority in connection with its use and occupancy of the

Property by FOL including filing of plans with any governmental authority; for the issuance of permits and authorizations to FOL or its agent or contractor to construct the agreed upon improvements upon the Property, including, without limitation, sewer connections, utility hook-ups, land use approvals, site plan approvals and certificates of occupancy for any such improvements. FOL agrees that City shall not become obligated for or be required to pay or incur any costs or expenses by reason of the execution of any such application, authorization or other documents, nor to waive or amend any governmental requirement.

**TWENTY-TWO**  
**NO MECHANICS LIENS**

FOL agrees that in any contract or subcontract pertaining to any City approved repairs or alterations to the Property, it shall use its best efforts to insert a clause pursuant to which the contractor, the subcontractors for themselves and for all parties acting through or under them each of them will:

(a) covenant and agree that no mechanic's liens shall be filed by any of them against the Property for, or on account of any work done or material furnished by the contractor or subcontractors by any and all parties acting through or under them for each of them for, toward in or about the construction on the property; and

(b) waive and relinquish the right to have, file and maintain any mechanic's lien or claim against the Property. The contract shall also provide that all subcontracts with subcontractors and material men must contain waiver of lien provisions similar to that required to be contained in any contract to be executed by FOL with a contractor.

Notice is hereby given that the City shall not be liable for any labor or materials furnished or to be furnished to the FOL upon credit, and that no mechanic's or other lien for any such labor or materials shall attach or affect the reversion or other estate or interest of the City in and to the Property, and specifically shall not affect the terms and conditions of this Lease. FOL shall cause this notice to be contained in any memorandum of Lease recorded with respect to this Lease.

FOL covenants that if any mechanic's lien shall have been filed against the Property, or if any conditional bill of sale, chattel mortgage, security agreement or title retention documents shall have been filed for or affecting any materials, machinery or fixtures used in the construction, repair or operation thereof, or annexed to the Property by the FOL, or its

successors in interest, the FOL shall, within thirty (30) days of the receipt of notice from City of the filings thereof, remove, bond, or satisfy the lien, conditional bill of sale, chattel mortgage, security agreement or title retention documents. If FOL fails to remove or satisfy any of the foregoing within the thirty (30) day period, City may pay the amount of such mechanic's lien, conditional bill of sale, chattel mortgage, security agreement or title retention documents, or discharge the same by deposit, and the amount so paid or deposited shall be deemed additional rent reserved under this Lease, and shall be payable forthwith, on demand by City.

**TWENTY-THREE**  
**EVENT OF DEFAULT/NOTICE OF DEFAULT**

Default shall mean the failure of the FOL to conform with any term of this Lease or failure of the FOL to perform any obligation imposed by the Law, beyond any applicable notice, cure or grace period.

In the event that this Lease be terminated for any uncured Default, as provided hereunder City shall be entitled to recover from the FOL, and the FOL shall pay the following to the City at such time or times as such expenses shall have been incurred by the City.

- (a) an amount equal to all reasonable expenses, if any, including attorney's fees, incurred by the City in recovering possession of the Property, and
- (b) all reasonable costs and charges for the care of the Property while vacant.

In the event of an uncured Default by FOL in the performance of any of the covenants hereof, City shall have the right of injunction, and the right to invoke any remedy allowed at law or in equity under any present or future law, in addition to any other specific remedies, indemnity or reimbursement permitted by law.

Should the FOL be in Default, the City shall send written notice to the FOL of the Default [Default Notice]. The Default Notice shall set forth with particularity the basis of the alleged Default.

**TWENTY-FOUR**  
**CURE UPON DEFAULT**

The FOL shall have thirty (30) days, from receipt of the Default Notice, to cure any Default unless the default is for any dangerous or illegal activity, in which case, the termination shall be effective immediately without notice or a cure period. Delays occasioned by "force majeure" shall not be included in calculating the thirty (30) day period. If, in the sole opinion of the City, the Default cannot be cured within thirty (30) days using reasonable diligence, the City

may extend the time to cure, if the FOL can demonstrate to the City's satisfaction that FOL is proceeding with reasonable diligence and will be able to prosecute the cure of the Default to completion.

Subsequent to such thirty (30) days, or any approved extension, the City shall have the right to terminate this Agreement.

**TWENTY-FIVE**  
**NOTICE OF TERMINATION IN EVENT OF DEFAULT**

In the event the FOL fails to cure or remedy the Default within the time period provided above, the City may terminate this Agreement upon thirty (30) days written notice to the FOL [Notice of Termination].

**TWENTY-SIX**  
**TERMINATION**

The City may terminate the agreement for any reasons whatsoever, with or without cause upon ninety (90) days prior written notice to the FOL. In addition, the FOL agrees that in the event the City receives an offer from an investor or developer to redevelop the property in accordance with the redevelopment plan, then FOL must vacate the property upon 60 days prior written notice.

**TWENTY-SEVEN**  
**SURRENDER**

FOL shall, at the expiration of the Lease or any extension thereof, or on the sooner termination thereof, peacefully and quietly leave, surrender and yield to City the Property, together with all alterations, additions and improvements which may have been made upon the Property. The Property shall be surrendered in broom clean condition.

When furnished by or at the expense of FOL, furniture, fixtures, equipment and personal property, whether or not affixed to such building, may be removed by FOL at any time prior to the termination of this Lease, provided such removal can be done without material injury to the Property or building. All property not removed prior to the date of the termination of this Lease shall be deemed abandoned by FOL.

No failure on the part of the City or of FOL to enforce any covenant or provision herein contained, nor any waiver of any right thereunder by City or FOL, unless in writing, shall discharge or invalidate such covenant or provision or affect the right of City or FOL to enforce the same in the event of any subsequent breach of default.

**TWENTY-EIGHT**

**ENTIRE AGREEMENT**

This Lease contains the entire agreement between the City and FOL.

This Lease shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest.

**TWENTY-NINE  
FORCE MAJEURE**

Neither City or FOL shall be deemed to be in default of any of its obligations hereunder if and so long as non-performance shall be caused by strikes, lockouts, non-availability of labor or materials, war or national defense preemptions, governmental restrictions, acts of God, national or State declared emergencies or other causes beyond the control of the City or FOL.

**TWENTY-THIRTY  
MISCELLANEOUS**

A. All the terms and conditions of this Lease shall inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors, and assigns of the parties.

B. This instrument may not be changed orally.

C. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, and without regard to or aid of any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the FOL and the City have combined in their review and approval of same.

D. In the event of conflict between the Agreement and the Law, the Law shall govern and prevail.

E. There shall be no modifications thereto other than by a written instrument approved and executed by both parties and delivered to each party.

F. In their dealings with each other, reasonableness and good faith is required from both the FOL and the City.

G. Nothing contained in this Agreement or otherwise shall constitute a waiver or relinquishment by the City of any rights and remedies, including, without limitation, the right to terminate the Agreement for violation of any of the conditions provided herein. Nothing herein shall be deemed to limit any right of recovery of any amount which the City has under law, in equity, or under any provision of this Agreement.

H. A copy of the FOL Certificate of Incorporation and proof of its non-profit status

under federal and state laws.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed by their respective officers, thereunto duly authorized, all as the day and year first above mentioned.

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
**ROBERT BYRNE**  
**CITY CLERK**

**JOHN KELLY**  
**BUSINESS ADMINISTRATOR**

**ATTEST:**

**FRIENDS OF LIFERS**

\_\_\_\_\_  
**Stacey Blake, Secretary**

**Harvey George, President**



# CITY OF JERSEY CITY

JERRAMIAH T. HEATY, MAYOR

December 3, 2011

TO: MEMBERS OF THE CITY COUNCIL

FROM: ROSEMARY T. MCFADDEN, CHIEF OF STAFF  
KABILI TAYARI, DEPUTY MAYOR

RE: FRIENDS OF LIFERS – URBAN FARM

The Council may recall that several meetings ago, we were informed that the Friends of the Lifers would have to relocate their urban farm from JCRA property.

Since that time, we have identified a City owned property – 174/178 ~~M~~ Drive that could accommodate the program. We have had multiple meetings with Annette Joyner and Harvey George and our Law Department to discuss the lease and the ordinance. All parties are satisfied with the provisions.

The Friends of Lifers will employ and train 10 individuals and 5 volunteers on how to grow hydroponic and organic vegetables including but not limited to: eggplants, squash, collard greens, tomatoes, peppers, scallions, cherry bomb tomatoes, cucumbers, chili peppers, cabbage, green beans, thyme, oregano, basil, salad greens, bok chow, various types of lettuces – butterhead, romaine, purple mizuna, arugula, five star, red oak, pachoi, and totsoi, and cotton in a hydroponic green house. The Friends will also be trained in marketing, customer service and landscaping. An added feature will be an educational component –teaching children ages 5-13 how to grow vegetables.

The farm will be open to the public, Monday – Saturday 9am-6pm. Schools will be brought on field trips and church elders will volunteer their time for storytelling. The produce will be sold to the public as well as donated to churches and food pantries. The funds that are raised will be used to pay for salaries and supplies.

The Friends have received training from C-Line and Community Solutions. They are partnering with the Board of Education, and Prodigal Sons and Daughters. They are in discussions with the County Freeholders, the Department of Family Services, the NJ Department of Labor, the USDA, and the Dodge Foundation to obtain startup capital to cover the purchase of the green house.

## OFFICE OF THE MAYOR

CITY HALL ♦ 280 GROVE STREET ♦ JERSEY CITY, NJ 07302 ♦ TEL: (201)547-5200 ♦ FAX: (201)547-4288  
WWW.JERSEYCITYNJ.GOV ♦ JCITY... CHANNEL ONE - JERSEY CITY'S OFFICIAL CHANNEL

This urban farm program will accomplish several goals:

1/It will provide employment for Friends of Lifers and teach sustainable skills thereby assisting prisoner reentry in the City.

2/It will educate and encourage children about the benefits of healthy eating by having them become involved in the growing process.

3/It will provide the community a source of fresh produce at reasonable prices.

4/It will build a community through collaboration among – Friends of Lifers, Churches, the School District and other community groups for a positive experience

4/It mirrors a growing national trend of urban farming – starting with the White House.

For all of the above reasons, Mayor Healy and the Administration respectfully request your approval.

City Clerk File No. Ord. 11-158

Agenda No. 3.E 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-158

TITLE:

**AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT EXTENSION OF  
CITY-OWNED PROPERTY FROM JUNE 15<sup>TH</sup> 2012 TO JUNE 15<sup>TH</sup> 2014 WITHIN THE  
MORRIS CANAL REDEVELOPMENT AREA TO THE JERSEY CITY  
REDEVELOPMENT AGENCY**

**WHEREAS**, the City of Jersey City is the owner of a certain parcel of real property known and designated as:

<u>BLOCK</u>	<u>LOT</u>	<u>STREET ADDRESS</u>
2084	61	627 Grand Street

situated in the City of Jersey City, Hudson County, New Jersey; and as more particularly shown on the Official Assessment Map and referenced in the designation assigned to individual tax lot in the records of the Tax Assessor (hereinafter "Property"); and

**WHEREAS**, the Municipal Council of the City of Jersey City has declared, that the Property contained within the Morris Canal Study Area is an area deemed "in need of redevelopment" pursuant to N.J.S.A. 40A:55-12 et. seq.; and

**WHEREAS**, the Municipal Council adopted, by Ordinance No.99-035 at its meeting of March 22, 1999, the Morris Canal Redevelopment Plan; and

**WHEREAS**, the Property lies within the legally established boundaries of the Morris Canal Redevelopment Plan Area; and

**WHEREAS**, the Municipal Council adopted by Resolution No.11-356 at its meeting on June 15, 2011 to grant a one (1) year License Agreement to the Jersey City Redevelopment Agency; and

**WHEREAS**, the Jersey City Redevelopment Agency has development responsibilities within the Morris Canal Redevelopment Area to effectuate the rehabilitation, redevelopment and revitalization of the Morris Canal Redevelopment Area; and

**WHEREAS**, the Jersey City Redevelopment Agency has deemed it necessary to request an extension of the current license Agreement of Property from the City of Jersey City June 15<sup>th</sup> 2012 to June 15<sup>th</sup> 2014 for continued activities in support of redevelopment within the Morris Canal Redevelopment Plan; and

**WHEREAS**, the City of Jersey City may extend the License Agreement of the Property to the Jersey City Redevelopment Agency pursuant to N.J.S.A. 40A:12A-39(a) & (f).

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that:

- 1. Pursuant to N.J.S.A. 40A:12A-39(a) & (f) a License Agreement of Property known as

<u>BLOCK</u>	<u>LOT</u>	<u>STREET ADDRESS</u>
2084	61	627 Grand Street

to the Jersey City Redevelopment Agency is hereby authorized.

- 2. That the Mayor, Business Administrator and appropriate Division of the municipality hereby authorize a License Agreement of the aforesaid Property to the Jersey City Redevelopment Agency.
  - A. All Resolutions and part of Resolutions inconsistent herewith are hereby repealed.
  - B. This Resolution shall be part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Resolution codified and incorporated in the official copies of the Jersey City Code.
  - C. This Resolution shall take effect at the time and in the manner as provided by law.
  - D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of the Resolution reveals that there is a conflict between those numbers and the existing code in order to avoid confusion and possible accidental repealers of existing provisions.

APPROVED AS TO LEGAL FORM

\_\_\_\_\_

Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

*Carl J. Spilka*

Business Administrator

Certification Required

Not Required

**ORDINANCE/RESOLUTION FACT SHEET**

This summary sheet is to be attached to the front of any ordinance, resolution, license agreement or contract that is submitted for Council consideration. Incomplete or sketchy summary sheets will be returned with the resolution or ordinance. The department, division or agency responsible for the overall implementation of the proposed project or program should provide a concise and accurate statement of facts.

**1. Full Title of Ordinance/Resolution/Cooperation Agreement:**

**AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT EXTENSION OF CITY-OWNED PROPERTY FROM JUNE 15<sup>TH</sup> 2012 TO JUNE 15<sup>TH</sup> 2014 WITHIN THE MORRIS CANAL REDEVELOPMENT AREA TO THE JERSEY CITY REDEVELOPMENT AGENCY**

**2. Name and Title of Person Initiating the Ordinance/Resolution, etc.:**

Franklyn Ore, Project Manager, Jersey City Redevelopment Agency, 201-547-4560

**3. Concise Description of the Program, Project or Plan Proposed in the Ordinance/Resolution:**

This Ordinance will authorize the Jersey City Redevelopment Agency, its agents or assigns to perform development activities related to redevelopment of the Morris Canal Redevelopment Plan.

**4. Reasons (Need) for the Proposed Program, Project, etc:**

The Jersey City Redevelopment Agency has been charged with development responsibilities in the Morris Canal Redevelopment Area to effectuate the rehabilitation, redevelopment and revitalization initiatives of the Morris Canal Redevelopment Plan.

**5. Anticipated Benefits to the Community:**

Revitalization of an area determined to be an area in need of redevelopment with the construction of an office building in the Morris Canal Redevelopment Area

**6. Cost of Proposed Program, Project, etc. (Indicate the dollar amount of City, State and Federal Funds to be used, as well as match and in-kind contributions.):**

N/A

**7. Date Proposed Program or Project will Commence:**

Upon adoption of this Ordinance

**8. Anticipated Completion Date:**

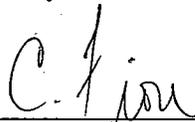
Approximately 2 years from commencement.

**9. Person Responsible for Coordinating Proposed Program, Project, etc.:**

Robert P. Antonicello, Executive Director, JCRA

**10. Additional Comments:**

I certify that all the Facts Presented Herein are Accurate.

  
\_\_\_\_\_  
Signature of **CHRISTOPHER FIORE**  
Assistant Executive Director  
Jersey City Redevelopment Agency

10/26/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of **CARL CZAPLICKI**  
Director, Department of Housing, Economic  
Development and Commerce

10/26/11  
\_\_\_\_\_  
Date

### LICENSE AGREEMENT

This **AGREEMENT** is made this \_\_\_\_ day of November, 2011, between the **CITY OF JERSEY CITY**, a Municipal Corporation of the State of New Jersey, with offices at City Hall, 280 Grove Street, Jersey City, New Jersey 07302, [City or Licensor] and **JERSEY CITY REDEVELOPMENT AGENCY**, with offices at 30 Montgomery Street, Jersey City, NJ [Licensee.]

**WITNESSETH** that:

1. The City is the owner of certain property located within Block 2084 , Lot 61 more commonly known by the street address of 627 Grand Street particularly described by the metes and bounds and depicted on the map, both of which is attached hereto as Exhibit A.
2. Licensee has a temporary need for use of the City Property for the following purposes and no other purpose whatsoever: activities in support of redevelopment.
3. This License shall commence on June 24<sup>th</sup>, 2012 and shall expire no later than one (2) years thereafter. In order to obtain access to the Property, Licensee must first notify the City's Division of Real Estate.
4. The City agrees to permit Licensee or its duly designated agents, servants, employees, contractors or invitees, to enter onto the City Property for the purposes set forth above of and for no other purpose whatsoever.
5. No permanent improvements or equipment shall be used or permitted to be placed on the property, without the prior written approval of the City's Engineer.
6. Licensee shall pay the City a user fee equal to the sum of \$1.00 payable on June 24<sup>th</sup> 2012 for this License commencing on the date this agreement is executed. This is a user fee only and does not constitute rent or fair market value.
7. Licensee shall defend, indemnify, save and hold harmless the City from any and all accidents, losses, damages, claims, demands, suits, judgments, liens, expenses or damages whatsoever including but not limited to any environmental damage or claims caused or exacerbated by the use of the Property, arising by reason of this Agreement or the use of the Property by Licensee or any of its agents, servants, employees, contractors or invitees, in, on or about the Property during the term of this agreement, whether the use of the Property is within or outside the scope of the above permitted use. Licensee's obligations hereunder shall survive any termination of this Agreement.

8. Licensee agrees to carry Property Damage and Comprehensive General Liability Insurance for an amount not less than \$1,000,000 or such other type and amount as is deemed necessary or appropriate by the City's Risk Manager. Licensee shall furnish to the City a Certificate of Insurance for the benefit of Licensee, naming the City, its employees or agents as additional named insured and covering the Property herein described. Delivery of Certificates of Insurance evidencing policies of insurance and proof of payment of premium shall be delivered to the City prior to exercising any rights under this Agreement but in no event later than five (5) days prior to the commencement of any activities conducted pursuant to this Agreement.

9. All accidents or injuries to person, or any damages, etc., occurring as a result of or in connection with Licensee's use of the City Property, shall be reported immediately to the City of Jersey City, Division of Risk Management, the Office of Real Estate and the City Engineer, as authorized representatives of the City together with all information required by the City on prescribed forms to be provided by the City.

10. Licensee shall accept sole responsibility for any or all security, if necessary, for its personnel, equipment and supplies or the equipment and supplies of its agents, servants, employees, contractors and invitees on the property, at no cost to the City of Jersey City.

11. The Licensee acknowledges and agrees that it shall be permitted to place only that machinery and materials as is permitted with the prior written approval of the City Engineer.

12. Any improvements or equipment installed or used by Licensee in connection with its use of the City Property that may be removed without damage to Licensee's property shall be deemed to be the property of Licensee and shall be removed by it at the termination of the License, or not later than two (2) days thereafter. In the event that the same is not removed, it shall be deemed abandoned and the City shall have the right to dispose of the same and charge Licensee for any cost of disposing thereof.

13. Licensee shall provide in writing to the City the names of two (2) authorized representatives of Licensee who shall be responsible for adherence to the terms and conditions of the License before, during and after the effective date of this License. No other persons are to speak or act for Licensee.

14. All Notices and payments between the parties hereto shall be addressed and delivered to the following:

City: City of Jersey City  
Business Administrator  
City Hall  
280 Grove Street  
Jersey City, NJ 07302

Licensee: Jersey City Redevelopment Agency  
30 Montgomery Street  
Jersey City, N.J. 0702

15. The City reserves unto itself for any and all purposes, all rights of entry and possession, including but not limited to the inspection, repair and maintenance of any City utilities and for any public purpose.

16. Licensee shall at its own cost and expense restore the area to the same condition it was in prior to the commencement date of this license to the reasonable satisfaction of the City Engineer.

17. The parties intend only to create a temporary license and not to convey a lease, easement or any other interest or estate in or running with the land. It is specifically agreed and understood that Licensee will not acquire any prescriptive interest or rights whatsoever to the City Property under this License.

18. Licensee shall not assign this Agreement, or any part thereof, or occupy the Property for any other reason or reasons then herein stipulated in this Agreement, under penalty of damages and forfeiture.

19. The City reserves the right to terminate the agreement at will upon ten (10) days prior written notice to Licensee.

20. All of the above terms and conditions shall be binding on Licensee, the City and all other parties for which the Property is herein licensed. The City reserves the right to terminate the License at any time during the term hereof for good cause, including but not limited to any violation of any applicable land use or construction code regulations, or to advance or effectuate any public purpose or policy, upon thirty (30) days prior written notice to Licensee.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals as of the date above written.

**ATTEST:**

**CITY OF JERSEY CITY**

\_\_\_\_\_  
Robert Byrne  
City Clerk

\_\_\_\_\_  
Jack Kelly,  
Business Administrator

**WITNESS:**

\_\_\_\_\_  
Bob Antonicello,  
Executive Director

City Clerk File No. Ord. 11-159

Agenda No. 3.F 1st Reading

Agenda No. \_\_\_\_\_ 2nd Reading & Final Passage



# ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE  
offered and moved adoption of the following ordinance:

CITY ORDINANCE 11-159

**TITLE: ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE VIII (PERMIT PARKING) OF THE JERSEY CITY CODE RESTRICTING RESIDENTIAL PARKING PERMITS TO RESIDENTS OF PROPERTIES WHICH HAVE NO AVAILABLE OFF-STREET PARKING AND REQUIRING LANDLORDS AND SELLERS TO NOTIFY PROSPECTIVE TENANTS AND PURCHASERS**

**MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY DOES ORDAIN:**

**WHEREAS**, the City of Jersey City has established residential parking zones throughout many areas the City; and

**WHEREAS**, parking for more than two hours within these zones is restricted to residents and operators of businesses within the permit-parking zone; and

**WHEREAS**, because of residential development throughout the City, the number of residents seeking such permits has substantially increased and will likely exceed the available on-street parking; and

**WHEREAS**, many new residential properties offer off-street parking to residents either free of charge or for an additional fee; and

**WHEREAS**, to assure that parking space will be available to all residents within a permit-parking zone, permits shall hereafter be issued only to residents who have no available alternative means of off-street parking.

**WHEREAS**, landlords and sellers shall be required to notify prospective tenants and purchasers of the requirement.

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of the City of Jersey City that:

A. The following amendments to Chapter 332 (Vehicles and Traffic) Article VIII (Permit Parking) are hereby adopted:

## ARTICLE VIII Permit Parking

**§332-58. Parking Restrictions in Residential Zones.**

A. Through D. No Change.

E. Parking permits shall be issued to motor vehicles only upon application by the following persons:

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE VIII (PERMIT PARKING) OF THE JERSEY CITY CODE RESTRICTING RESIDENTIAL PARKING PERMITS TO RESIDENTS OF PROPERTIES WHICH HAVE NO AVAILABLE OFF-STREET PARKING**

- (1) A legal resident of the residential permit parking zone who (a) has a motor vehicle registered in his/her name or [who has a motor vehicle] available for his/her exclusive use and under his/her control; and (b) resides in a property in which no off-street parking is available to residents, whether the off-street parking is provided free of charge or is only offered for a separate fee or rent.
  - (2) A person who owns or leases commercial property and actively engages in business activity within a residential permit parking area or employee thereof (pay stubs shall be submitted for proof of employment). However, no more than one (1) parking permit may be issued for each employee for a motor vehicle registered to or under the control of such a person.
  - (3) A person who is a current student of an educational institution proof of current registration required located in the residential parking permit zone.
- F. Subsection (E)(1)(b) shall not apply to any resident (a) who is 65 years of age or older, or (b) who held a permit before the effective date of the ordinance imposing the (E)(1) (b) restriction; or (c) of property that is restricted to occupancy by low or moderate income persons within the meaning of the New Jersey Fair Housing Act, N.J.S.A. 55:27D-301 et seq.
- G. To assure that both prospective residential tenants and purchasers of property, including condominiums, are aware of the residential parking permit conditions imposed hereunder, every landlord and every seller shall, on or before the date a lease is executed or a deed is conveyed, provide the prospective tenant or buyer with a copy of Section 332-58.
- ~~F~~ H. Proof of residency, ownership, employment or student status shall be demonstrated in a manner determined by the CEO.
- ~~G~~ I. Proof of motor vehicle ownership or vehicle use and control shall be demonstrated in a manner determined by the CEO.
- ~~H~~ J. Temporary residential parking permits may be issued for vehicles which are owned, rented or under the operational control of any person who owns, leases property or attends school in the residential permit zone or used in providing services to persons or property in the residential permit zone. Temporary residential parking permits may also be issued to vehicles owned by temporary visitors who are residing in the residential permit parking zones. Such temporary residential parking permits shall have all of the rights and privileges of a regular permit. A temporary parking permit shall be valid for no more than ninety (90) days from the date of issuance. No resident of a residential permit parking zone shall be issued more than two (2) temporary parking permits at any one (1) time. A temporary residential parking permit issued to a vehicle providing services or to a vehicle owned by temporary visitors shall be considered to be a temporary permit issued to the resident of the property where the services are provided or the temporary visitors are residing.
- K. The Parking Authority shall maintain a current record of all properties with 30 or more dwelling units which make off-street parking available to residents whether as part of the rental or service charge or for an optional fee. The Tax Assessor and all departments of the City which maintain relevant records shall cooperate with the Parking Authority to assure that the record of available off-street parking maintained by the Parking Authority remains current.
- L. Any person who obtains a parking permit in violation of Section 332-58 shall, in addition to cancellation of the permit, be liable for the penalties prescribed by Section 1-25.
- M. Any owner, landlord or seller of real property who fails to comply with Section 332-58G shall be liable for the penalties prescribed by Section 1-25.

**ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 332 (VEHICLES AND TRAFFIC) ARTICLE VIII (PERMIT PARKING) OF THE JERSEY CITY CODE RESTRICTING RESIDENTIAL PARKING PERMITS TO RESIDENTS OF PROPERTIES WHICH HAVE NO AVAILABLE OFF-STREET PARKING**

~~¶~~ N. No permit shall be issued to any person who has failed to pay any City of Jersey City municipal parking fines until such fines, including any penalties thereon, are paid in full, under arrangement with the city or Parking Authority, to be paid in full or stayed or overturned by a court of competent jurisdiction.

B. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

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

D. This ordinance shall take effect at the time and in the manner as provided by law.

E. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

**NOTE:** New matter is underlined; deleted matter in ~~brackets~~ For purposes of advertising only, new matter is indicated by **bold face** and repealed matter by *italic*.

12/08/11

APPROVED AS TO LEGAL FORM

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
Corporation Counsel

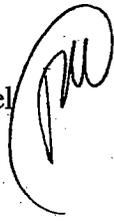
APPROVED: \_\_\_\_\_  
Business Administrator

Certification Required

Not Required

# Jersey City Law Department Memorandum

**To:** Council President Peter Brennan  
**From:** Joanne Monahan, First Asst. Corporation Counsel  
**Subject:** Ordinance to Amend Residential Parking Zone  
**Date:** December 7, 2011



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The above ordinance was prepared at the request of Councilman Steve Fulop.

On street parking is at a premium throughout the City, especially in those areas zoned for residential parking permits. The purpose of the amendment is to disqualify residents or owners of property who are within residential parking zones from obtaining on street parking permits if they are eligible for onsite parking, whether paid or unpaid. If the Planning Board deemed it appropriate to impose minimum onsite parking requirements on a developer as a condition of site plan approval, the City should act to encourage occupants to use that parking instead of parking on already crowded streets.

Under the ordinance, senior citizens, occupants of low and moderate income housing and those who have already obtained a parking permit, will remain eligible for the permits. Landlords and sellers are obligated to notify prospective tenants and purchasers within the zone of the non-availability of parking permits. The Parking Authority is required to create maps that accurately identify those buildings which provide onsite parking and whose occupants are thus, disqualified from obtaining a parking permit.

Presumably, the City will circulate copies of this ordinance to community and tenant groups, brokers, realtors and other "need to know" persons so that the public is appropriately educated about these new permit restrictions.

cc: Robert Byrne, City Clerk  
Jack Kelly, Business Administrator  
Rosemary McFadden, Chief of Staff  
Director of Traffic Engineering  
Director of Jersey City Parking Authority  
Council Members