



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 09-101

TITLE:

A FRANCHISE ORDINANCE GRANTING PERMISSION TO 141 BRIGHT MONMOUTH, LLC, HIS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN THE PUBLIC RIGHT OF WAY ADJACENT TO THE PROPERTY LOCATED AT 141 BRIGHT STREET, JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAPS OF THE CITY OF JERSEY CITY AS BLOCK 341 LOT P.1.

WHEREAS, 141 Bright Monmouth, LLC, having an address located at 280 Marin Blvd., #21 JK, Jersey City, New Jersey, 07302, is the owner of the property located at 141 Bright Street, Jersey City, and known as Block 341, Lot P.1 on the current tax maps of the City of Jersey City; and

WHEREAS, pursuant to a Resolution for the Preliminary and Final Site Plan Approval approved by the Jersey City Zoning Board of Adjustment, Case # Z08-007, site plan approval was granted with regard to the property to renovate and expand the pre-existing non-conforming bar/restaurant use to the rear lot line of the property at the ground floor level, along with approval for a sidewalk cafe, and approval to construct a new residential unit above the rear of the restaurant at the property; and

WHEREAS, part of the development approval includes the construction of two separate planting beds (see Exhibit B) and basement access doors enclosed by fencing within a portion of the Bright Street public right-of-way, which is more particularly depicted and described in the Franchise Plans with Metes and Bounds Description, Exhibit A, and Site and Utility Plan, Exhibit B, both attached hereto; and

WHEREAS, part of the development also includes the construction of an outdoor sidewalk café seating area and handicap access ramp, both to be enclosed by fencing, within a portion of the Monmouth Street public right-of-way, which is more particularly depicted and described in the Franchise Plans with Metes and Bounds Description, Exhibit A, and Site and Utility Plan, Exhibit B, both attached hereto; and

WHEREAS, the construction of the planting areas, handicap access ramp, outdoor café seating area and fencing is consistent with the recommendation of the Division of Planning staff and the Historic Preservation Commission for aesthetic and preservation purposes to match existing fence lines along Bright Street and Monmouth Street and consistent with the pre-existing fence lines at the property; and

WHEREAS, there will remain sufficient area in the right-of-way for pedestrian use (at least six (6) unobstructed feet), and the proposed private improvements will not impede or have a negative impact on typical pedestrian use; and

WHEREAS, 141 Bright Monmouth, LLC has filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is in the best interests and essential for the completion of the construction of the development; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by 141 Bright Monmouth, LLC to grant permission to construct private improvements within the public right-of-way for the following purposes:

1. The contemplated improvements will include the installation of two (2) separate planting beds and basement access doors, all enclosed by fencing, to be located within the public right-of-way of Bright Street.

2. The contemplated improvements will also the installation of an outdoor sidewalk café seating area and handicap access ramp, both enclosed by fencing, within the public right-of-way of Monmouth Street.
3. All costs associated with these improvements will be incurred by the Petitioner and there being no objections thereto; and

WHEREAS, the Jersey City Zoning Officer and Building Department can approve the construction of the improvements at the subject property conditioned upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City; and

WHEREAS, a franchise ordinance is required to permit the completion of the construction of the private improvements within the public right-of-way; and

WHEREAS, by reason of the character of the development of the area within which this property is situated, the said improvements will enhance the aesthetic and character of the property and greatly benefit Jersey City and the surrounding neighborhood; and

WHEREAS, the public interest will be served by said improvements, which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

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

SECTION I. Permission be, and is hereby granted to 141 Bright Monmouth, LLC, its successors and assigns, to complete private improvements to a portion of lands located within the public right of way adjacent to 141 Bright Street, Jersey City, and known as Block 341, Lot P.1 on the current tax maps of the City of Jersey City, said areas being more particularly described as follows and on the franchise plan with metes and bounds description attached hereto as Exhibit A.

1. The contemplated improvements will include the installation of two (2) separate planting beds and basement access doors, all enclosed by fencing, to be located within the public right-of-way of Bright Street.
2. The contemplated improvements will also the installation of an outdoor sidewalk café seating area and handicap access ramp, both enclosed by fencing, within the public right-of-way of Monmouth Street.
3. There will remain sufficient area in the right-of-way (at least 6 feet) for typical pedestrian use.
4. The contemplated improvements will be constructed consistent with the Plans approved by the Historic Preservation Commission, the Jersey City Zoning Board of Adjustment, the Jersey City Zoning Officer and Building Department.
5. All costs associated with these improvements will be incurred by the Petitioner.
6. The contemplated improvements are necessary to construct the proposed development consistent with the development approvals and will greatly benefit the Petitioner's Property and the surrounding neighborhood.

SECTION II. All the work herein authorized shall be done under the supervision of the proper department or departments of the City of Jersey City. Further, all the work herein authorized shall comply with any State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic and vehicular traffic. 141 Bright Monmouth, LLC, and its successors and assigns, shall maintain all improvements installed by it for the entire term of this Franchise at no cost to the City.

SECTION III. This Ordinance shall remain in full force and effect for a period of ninety-nine (99) years. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioners one year prior to the date of cancellation.

SECTION IV. All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said 141 Bright Monmouth, LLC.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, 141 Bright Monmouth, LLC, its successors and assigns hereby agree to assume full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damage to persons or property by reason of such installation, maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. 141 Bright Monmouth, LLC, its successors and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$1,000,000.00 in a form deemed acceptable by the City's Risk Manager, shall be delivered to the Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance.

SECTION VI. This Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioner with the City Clerk. In the event, that the Petitioner shall not file with the City Clerk its acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

SECTION VII. Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioner have the right to assign or otherwise transfer its rights under this Franchise Ordinance.

SECTION VIII. An easement for the duration of this Ordinance is reserved for the benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the "Cable Television Act", P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

SECTION IX. For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), which payment shall be made annually on the 1st day of July next succeeding the time when this Ordinance shall become effective and on each first day of July thereafter until the termination of this Ordinance.

SECTION X.

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 Clerk shall have this Ordinance certified 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 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 repeals of existing provisions.

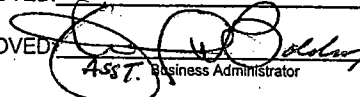
G:\WPDOCS\TOLONDA\Franchise Ordinance Correspondence\141 Bright Street - Connell Foley, LLP\Ordinance.docx

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED:



APPROVED: *Asst. Business Administrator*

Certification Required ☐
Not Required ☐

Ordinance of the City of Jersey City, N.J.

ORDINANCE NO. Ord. 09-101

3.E. SEP 09 2009

4.E. SEP 23 2009

TITLE:



A franchise ordinance granting permission to 141 Bright Monmouth, LLC, his successors and assigns, to make private improvements in the public right of way adjacent to the property located at 141 Bright Street, Jersey City, New Jersey also known as on the tax maps of the City of Jersey City as Block 341, Lot P.1.

RECORD OF COUNCIL VOTE ON INTRODUCTION												SEP 09 2009	9-0
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.		
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓				
KENNY	✓			FULOP	✓			FLOOD	✓				
LOPEZ	✓			RICHARDSON	✓			VEGA, PRES.	✓				

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING												SEP 23 2009	8-0
Councilperson <u>BRENNAN</u>				moved, seconded by Councilperson <u>SOTTOLANO</u>				to close PH.					
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.		
SOTTOLANO	✓			GAUGHAN	ABSENT			BRENNAN	✓				
KENNY	✓			FULOP	✓			FLOOD	✓				
LOPEZ	✓			RICHARDSON	✓			VEGA, PRES.	✓				

✓ Indicates Vote

YVONNE BALZER

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY													
Councilperson				moved to amend* Ordinance, seconded by Councilperson				& adopted					
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.		
SOTTOLANO				GAUGHAN				BRENNAN					
KENNY				FULOP				FLOOD					
LOPEZ				RICHARDSON				VEGA, PRES.					

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE												SEP 23 2009	8-0
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.		
SOTTOLANO	✓			GAUGHAN	ABSENT			BRENNAN	✓				
KENNY	✓			FULOP	✓			FLOOD	✓				
LOPEZ	✓			RICHARDSON	✓			VEGA, PRES.	✓				

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on SEP 09 2009

Adopted on second and final reading after hearing on SEP 23 2009

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on SEP 23 2009

Robert Byrne
Robert Byrne, City Clerk

APPROVED:

Mariano Vega Jr.
Mariano Vega, Jr., Council President

*Amendment(s):

Date: SEP 23 2009

APPROVED:

Jerramiah T. Healy
Jerramiah T. Healy, Mayor

Date: SEP 28 2009

Date to Mayor SEP 24 2009