

City Clerk File No. Ord. 15.095

Agenda No. 3.H 1st Reading

Agenda No. 4.H 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 15.095

TITLE: AN ORDINANCE IMPLEMENTING CHAPTER 6 (BUSINESS LICENSES OR PERMITS), ARTICLE 1 (WAGE THEFT PREVENTION) OF THE JERSEY CITY MUNICIPAL CODE TO PREVENT THE ISSUANCE OR ENABLE SUSPENSION OF BUSINESS LICENSES TO ENTITIES LIABLE FOR WAGE THEFT WITHIN THE CITY OF JERSEY CITY

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

WHEREAS, the City of Jersey City has found that certain employees working in business establishments throughout the City have experienced various degrees of misuse and abuse by their employers in the workplace, and on many occasions, are either substantially underpaid or go unpaid by their employers; and

WHEREAS, many employees have limited or no resources for proper recourse to obtain unpaid wages from their employers; and

WHEREAS, as a consequence, the financial losses incurred by employees working throughout the City due to underpaid or unpaid wages have a negative economic impact on the City and its local economy; and

WHEREAS, the Municipal Council is desirous of enhancing certain provision of the General Ordinances of the City of Jersey City to increase greater accountability among business establishments by imposing stiffer penalties for those establishments that engage in such unfair practices.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY, NEW JERSEY, THAT:

A. The following implementation to Chapter 6 (Business Licenses or Permits), Article 1 (Wage Theft Prevention) is hereby adopted:

BUSINESS LICENSES OR PERMITS ARTICLE 1 Wage Theft Prevention

§1-1. Definitions.

In this Chapter, the following words and phrases shall have the meanings stated in this Section unless the context otherwise requires:

A. "License" shall mean any business license or permit issued by the municipality as authorized by N.J.S.A. 40:52-1.

B. "Wage Theft" shall mean having been found guilty, liable or responsible in any judicial or administrative proceeding for unpaid wages in violation of the New Jersey State Wage and Hour Law (N.J.S.A. 34:11-56a *et seq.*), the New Jersey State Wage Payment Law (N.J.S.A. 34:11-4.1 *et seq.*), the

AN ORDINANCE IMPLEMENTING CHAPTER 6 (BUSINESS LICENSES OR PERMITS), ARTICLE 1 (WAGE THEFT PREVENTION) OF THE JERSEY CITY MUNICIPAL CODE TO PREVENT THE ISSUANCE OR ENABLE SUSPENSION OF BUSINESS LICENSES TO ENTITIES LIABLE FOR WAGE THEFT WITHIN THE CITY OF JERSEY CITY

Hudson County Living Wage Ordinance (No. 363-6-2014, 364-6-2014, 365-6-2014 and P.L. 1977, C. 33.), N.J.S.A. 2C:40A-2, the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, Section 3-76c of the Jersey City Municipal Code, or any other federal or state law related to the payment of wages or the collection of debt owed due to unpaid wages.

§1-2. Grounds for denial of license renewal.

Notwithstanding any provision to the contrary, wage theft is understood to have such an effect on the public morals and welfare that no license shall be issued or renewed to an applicant, licensee, or business entity that has been found liable of a wage theft violation which has not been cured by compliance with the order or decision of the judicial, governmental, or administrative entity determining the same, within ninety (90) days of any final judgment, inclusive of any appeal.

§1-3. Grounds for denial of license transfer.

No license shall be transferred to or from an applicant, licensee, or business entity that has been found liable of violation which has not been cured by compliance with the order or decision of the judicial, governmental, or administrative entity determining the same.

§1-4. Application for license and renewal; investigation of applicants and licensees.

A. At the time of its initial application and application for renewal of its license, each applicant shall certify under penalty of perjury whether applicant has been found guilty or liable of wage theft during the prior twenty-four (24) months; the dates, location, and nature of such wage theft; efforts by the applicant to cure such wage theft violation; and the ultimate disposition of any wage theft violations. The City shall maintain copies of the applications and certifications for the purpose of complying with this ordinance.

B. If the City is made aware of adjudications of wage theft against applicants or existing licensees, whether at the time of an initial application for a license, an application for renewal of its license, or after the issuance of the license, the City Department or Division responsible for issuing the subject license shall (1) obtain a copy of any order or decision of the judicial, governmental, or administrative entity finding that a wage theft violation has occurred; (2) determine whether ninety (90) days of any final judgment, inclusive of any appeal, have elapsed; and (3) request that the licensee or applicant provide documentation of its having cured the wage theft violation or appealed from any final judgment. If the City Department or Division determines that the licensee or applicant has not cured the wage theft violation within thirty (30) days of the Department or Division's request for documentation, then its license shall be suspended or application denied until the licensee or applicant cures the wage theft violation and provides documentation of its having cured same.

C. Any information or reports of wage theft violation occurring in the City of Jersey City shall be routed by the Resident Response Center to the appropriate City Department or Division responsible for issuing the subject license.

§1-5. False Statements.

If an applicant makes false statements, fails to report information as required in 8:32-4, or falsely certifies whether it has been found guilty or liable of wage theft in accordance with Section 4 herein, the City may seek revocation of any previously issued license or deny the application for a license or renewal.

AN ORDINANCE IMPLEMENTING CHAPTER 6 (BUSINESS LICENSES OR PERMITS), ARTICLE 1 (WAGE THEFT PREVENTION) OF THE JERSEY CITY MUNICIPAL CODE TO PREVENT THE ISSUANCE OR ENABLE SUSPENSION OF BUSINESS LICENSES TO ENTITIES LIABLE FOR WAGE THEFT WITHIN THE CITY OF JERSEY CITY

§1-6. Annual Review.

Each year as a matter of due diligence, the Resident Response Center shall submit an Open Public Records Request to the New Jersey Department of Labor and Workforce Development Wage and Hour Division requesting for each licensee any wage claim forms filed against the licensee during the prior twenty-four (24) months, as well as any accompanying case files, judgments, or determinations.

The Resident Response Center shall (1) obtain a copy of any Order or decision of the judicial, governmental, or administrative entity finding that a wage theft violation has occurred; (2) determine whether ninety (90) days of any final judgment, inclusive of any appeal, have elapsed. If so, the name of each such licensee shall be forwarded to the appropriate City Department or Division responsible for issuing its license for disposition in accordance with Section 4 herein.

§1-7. Repealer.

All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance shall be repealed to the extent of such conflict or inconsistency.

§1-8. Severability.

If any paragraph or provision of this ordinance shall be adjudicated invalid or unenforceable, such determination shall not, to the extent severable, affect any other paragraph or provision of this ordinance, which shall otherwise remain in full force and effect.

§1-9. Effective Date.

This chapter shall take effect on October 1, 2015.

- 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 material is new so underlining has been omitted.

APPROVED AS TO LEGAL FORM

Joanne Monahan
for Corporation Counsel

APPROVED: _____

APPROVED: _____

[Signature]
Business Administrator

Certification Required
Not Required

RESOLUTION FACT SHEET – NON-CONTRACTUAL

This summary sheet is to be attached to the front of any resolution that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the resolution.

Full Title of Ordinance/Resolution

AN ORDINANCE IMPLEMENTING CHAPTER 6 (BUSINESS LICENSES OR PERMITS), ARTICLE 1 (WAGE THEFT PREVENTION) OF THE JERSEY CITY MUNICIPAL CODE

Initiator

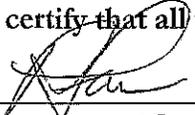
Department/Division	Municipal Council	
Name/Title	Rolando R. Lavarro, Jr. Council Pres.	
Phone/email	X5268	rlavarro@jcnj.org

Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Resolution Purpose

Under this ordinance, the City of Jersey City, pursuant to its municipal licensing authority under N.J.S.A. 40:52-1, shall have the power to deny or suspend business licenses to any business entity doing business in the City, where the business entity has been found liable of wage theft and failed to cure same within ninety (90) of any final judgment, inclusive of any appeal. The license application may proceed or suspension lifted once the business entity certified that it has cured the wage theft violation. The term "wage theft" is defined in the proposed ordinance as having been found guilty, liable or responsible in any judicial or administrative proceeding for unpaid wages in violation of federal, state, or local wage and hour laws.

I certify that all the facts presented herein are accurate.



Signature of Department Director

6/18/2015

Date

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



ORDINANCE NO. Ord. 15.095
 TITLE: 3.H JUN 24 2015 4.H JUL 15 2015

An ordinance implementing Chapter 6 (Business Licenses or Permits), Article 1 (Wage Theft Prevention) of the Jersey City Municipal Code to prevent the issuance or enable suspension of business licenses to entities liable for Wage Theft within the City of Jersey City.

RECORD OF COUNCIL VOTE ON INTRODUCTION											
JUN 24 2015 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMAN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
JUL 15 2015 9-0											
Councilperson <u>WATTERMAN</u> moved, seconded by Councilperson <u>LAVARRO</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMAN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

CRAIG GARCIA
 YVES NIBUNGCO
 JOHANNA CALLE
 JASON ROWE
 KADILI TAYARI
 WILLIAM DORRITY

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.
GAJEWSKI				YUN				RIVERA			
RAMCHAL				OSBORNE				WATTERMAN			
BOGGIANO				COLEMAN				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE											
JUL 15 2015 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMAN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on JUN 24 2015

Adopted on second and final reading after hearing on JUL 15 2015

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JUL 15 2015

Robert Byrne, City Clerk

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date JUL 15 2015

*Amendment(s):

APPROVED:

Steven M. Fulop, Mayor

Date JUL 20 2015

JUL 15 2015

Date to Mayor: