

City Clerk File No. Ord. 16.041

Agenda No. 3.C. 1st Reading

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



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 16.041

TITLE:

ORDINANCE SUPPLEMENTING CHAPTER 99 (BARBERSHOPS AND BEAUTY PARLORS) ADDING ARTICLE III (MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS) OF THE JERSEY CITY CODE

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

A. The following supplements to Chapter 99 (Barbershops and Beauty Parlors) are adopted:

CHAPTER 99

BARBERSHOPS AND BEAUTY PARLORS

ARTICLE III

Massage, Bodywork and Somatic Therapy Establishments

Sec. 99-20. Purpose

The City of Jersey City acknowledges that massage, bodywork and somatic therapy is a legitimate professional field that provides health benefits and that the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11- 53 et seq. requires licenses for all those who engage in the practice of massage, bodywork and somatic therapy. The City nevertheless finds that the practice of such therapy by untrained and unlicensed practitioners can both cause injury and illness to clients and can encourage and foster prostitution. The purpose of this ordinance is to provide standards to help assure that the practice of massage, bodywork and somatic therapy does not cause injury or disease to clients and does not degenerate into prostitution.

Sec. 99-21. Definitions

As used in this ordinance, the terms **MASSAGE, BODYWORK AND SOMATIC THERAPIES, MASSAGE, BODYWORK AND SOMATIC THERAPIST and MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENT** shall be defined in accordance with their definitions in the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11- 53 et seq.

Sec. 99-22. Employment of unlicensed message, bodywork and somatic therapists prohibited; display of license

- A. No person shall practice massage or related therapies as a massage, bodywork, or somatic therapist employee or otherwise in the City of Jersey City unless he or she has a valid and subsisting massage, bodywork and somatic therapist's license pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11- 53 et seq.
- B. No person shall employ anyone as a massage, bodywork, or somatic therapist in the City of Jersey City unless he or she has a valid and subsisting massage, bodywork and somatic therapist's license pursuant to the Massage and Bodywork Therapist Licensing Act, N.J.S.A. 45:11- 53 et seq.

- C. The massage, bodywork or somatic therapy establishment shall display the licenses of each and every massage, bodywork and somatic therapist employed in the establishment in an open and conspicuous place on the premises of the establishment.

Sec. 99-23. Massage and Somatic Therapy Establishments to comply with health codes of the City of Jersey City; prices and standards for establishments to be posted; sanitary requirements for establishments.

- A. Every massage, bodywork and somatic therapy establishment shall comply with the following:
1. Every portion of the massage, bodywork and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition;
 2. Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers;
 3. All employees, including massage, bodywork and somatic therapists, shall be clean and wear clean, non-transparent outer garments. Dressing rooms must be available on the premises. Doors to such dressing rooms shall open inward and shall be self-closing.
 4. All massage, bodywork and somatic therapy establishments shall be provided with clean laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner;
 5. All massage tables shall be disinfected after each use;
 6. All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities and surfaces shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry, clean and sanitary;
 7. All tables, tubs, shower stalls and floors, except reception and administrative areas shall be made of nonporous materials, which may be readily disinfected. Closed containers shall be provided for used towels and waste materials;
 8. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean closed containers or cabinets;
 9. Animals, except for seeing eye dogs, shall not be permitted in the massage work area;
 10. Each massage, bodywork and somatic therapist shall wash his or her hands in hot running water, using property soap or disinfectant before administering a massage, bodywork or somatic therapy to a patron; and
 11. A copy of this section shall be posted in every massage or somatic therapy establishment in a conspicuous location visible to clients of the establishment.

Sec. 99-24. Conduct of massage, bodywork and somatic therapy

- A. It shall be unlawful for an person knowingly, in a massage, bodywork and somatic therapy establishment to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage the buttocks, genital area or female

breasts of any other person, unless such massage has been ordered by a prescription signed by a licensed medical doctor, chiropractor or doctor of osteopathic medicine. No massage, bodywork and somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of the patron's buttocks, genital area or female breasts;

- B. The buttocks, genital area and female breasts of patrons must be covered by towels, cloths or undergarment when in the presence of an employee or massage, bodywork or somatic therapist;
- C. No massage, bodywork or somatic therapist shall engage in any activity which would lead a reasonable person to conclude that the activity serves the prurient interests of the client or therapist or which is for the sexual arousal or sexual gratification of the therapist or client.

Sec. 99-25. Minor patrons

Any patron under the age of 18 years of age must be accompanied by a parent or guardian or adult with written permission of the parent or guardian.

Sec. 99-26. Alcoholic beverages or controlled dangerous substances prohibited

- A. Alcoholic beverages shall not be distributed or consumed on the premises of any massage, bodywork and somatic therapy establishment certified under this Chapter.
- B. Controlled dangerous substances, as defined by the laws of the State of New Jersey shall not be distributed or consumed on the premises of any massage, bodywork and somatic therapy establishment certified pursuant to this Chapter.

Sec. 99-27. Sleeping quarters

No part of the quarters of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage, bodywork and somatic therapy establishment except for limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment or bath. This provision shall not preclude the location of massage, bodywork and somatic therapy establishments in separately demised quarters of a building housing a hotel or other separate businesses or clubs.

Sec. 99-28. Exceptions

The provisions of this Chapter shall not apply to massage, bodywork or somatic therapies given:

- A. In the office of a licensed physician, chiropractor or physical therapist; or
- B. By a regularly established medical center, hospital or sanatorium having a staff which includes licensed physicians, chiropractors and/or physical therapists;
- C. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
- D. By a licensed barber or cosmetologist/hairstylist limited to the areas of the face, neck, scalp or upper part of the body as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.

Sec. 99-29. Violations and penalties

In addition to the revocation or suspension of the certificate granted under this Chapter, any person who violates any provision of this Chapter shall, upon conviction, be punished by a fine of not less than \$100 no more than \$2,000 or by imprisonment in the county jail for a term not exceeding 90 days, or by a period of community service not exceeding 90 day, or any combination thereof, at the discretion of the court. Each day a particular violation occurs shall constitute a separate offense.

- C. 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.
- 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: All material is new, therefore underling has been omitted. For purposes of advertising only, new matter is indicated by **boldface**.

TF/kk

APPROVED AS TO LEGAL FORM

Certification Required ☐
Not Required ☐

APPROVED: _____

APPROVED: _____

Corporation Counsel

Business Administrator

ORDINANCE FACT SHEET – NON-CONTRACTUAL

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

Full Title of Ordinance/Resolution

**ORDINANCE SUPPLEMENTING CHAPTER 99 (BARBERSHOPS AND BEAUTY PARLORS)
ADDING ARTICLE III (MASSAGE, BODYWORK AND SOMATIC THERAPY
ESTABLISHMENTS) OF THE JERSEY CITY CODE**

Initiator

Department/Division	Health & Human Services	Director's Office
Name/Title	Stacey Flanagan	Director
Phone/email	201-547-6560	Sflanagan@jcnj.org

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

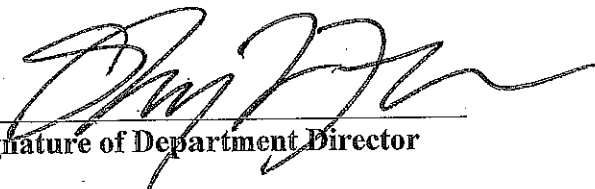
Ordinance Purpose

The Mayor's Quality of Life Task Force recently has dealt with a number of complaints concerning questionable businesses offering massage therapy. Residents and neighboring merchants suspect a number of these establishments are engaging in illicit activities.

The Task Force has engaged the NJ Attorney General's Office of Consumer Affairs to assist us, but the office's authority only allows it to refer cases of individuals practicing massage without a license to the state massage therapy governing board. Due to the structure of the illicit massage business, this is not enough.

The City has no reliable tools to regulate these establishments therefore the purpose of this ordinance is to establish standards for the operation of massage and bodywork therapy establishments to assure that the practice does not cause injury or disease to clients and does not become a guise for, nor degenerate into unhealthy activities.

I certify that all the facts presented herein are accurate.


Signature of Department Director

2/9/16
Date

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



ORDINANCE NO. Ord. 16.041
TITLE: 3.C FEB 24 2016 4.A

MAR 09 2016

Ordinance supplementing Chapter 99 (Barbershops and Beauty Parlors) adding Article III (Massage, Bodywork and Somatic Therapy Establishments) of the Jersey City Code.

RECORD OF COUNCIL VOTE ON INTRODUCTION FEB 24 2016 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING MAR 09 2016											
Councilperson <u>WATTERMANN</u> moved, seconded by Councilperson <u>OSBORNE</u> to close P.H. 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	ABSENT		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

SPEAKERS:

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				WATTERMANN			
BOGGIANO				COLEMAN				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE MAR 09 2016 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote

N.V.--Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on **FEB 24 2016**

Adopted on second and final reading after hearing on **MAR 09 2016**

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on **MAR 09 2016**

Robert Byrne, City Clerk
Robert Byrne, City Clerk

*Amendments:

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date **MAR 09 2016**

APPROVED:

Steven M. Fulop, Mayor

Date **MAR 11 2016**

Date to Mayor **MAR 10 2016**