



ORDINANCE OF JERSEY CITY, N.J.

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

CITY ORDINANCE 09-103

TITLE: A FRANCHISE ORDINANCE GRANTING PERMISSION TO THE AMBRIOLA COMPANY, INC., ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS IN AND USE OF THE PUBLIC RIGHT OF WAY ADJACENT TO THE PROPERTY LOCATED AT 2 BURMA ROAD (A/K/A 95 BURMA ROAD), JERSEY CITY, NEW JERSEY, ALSO KNOWN ON THE TAX MAP OF THE CITY OF JERSEY CITY AS BLOCK 2154 LOT 13.C.

WHEREAS, The Ambriola Company, Inc., having an address located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, New Jersey, 07305, is the owner of the property located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, and known as Block 2154, Lot 13.C on the current tax maps of the City of Jersey City (the "Property"); and

WHEREAS, pursuant to a Resolution for the Preliminary and Final Site Plan with deviations, by the Jersey City Planning Board, Case # P05-033, site plan approval was granted with regard to the Property to renovate and expand the pre-existing warehouse/distribution center, with related parking and site improvements; and

WHEREAS, pursuant to a Resolution for Minor Subdivision Approval by the Jersey City Planning Board, Case # P05-032, minor subdivision was granted. Said Minor Subdivision was re-affirmed by the Jersey City Planning Board on September 9, 2008, and May 26, 2009.

WHEREAS, part of the development approval includes the construction of landscaping improvements to comply with the provisions of the Liberty Harbor Redevelopment Plan. The northeastern portion of the subject Property along with the required landscaping encroaches on a portion of the Burma Road public right-of-way, which is more particularly depicted and described in the Subdivision Plat/Franchise Plans with Metes and Bounds Description, Exhibit A, attached hereto; and

WHEREAS, the encroachment of the northeastern portion of the subject Property is a pre-existing condition dating prior to Applicant's acquisition of the subject Property in 1979, and the construction of the additional landscaping is consistent with the recommendation of the Division of Planning staff for aesthetic purposes in accordance with the Liberty Harbor Redevelopment Plan; and

WHEREAS, there will remain sufficient area in the right-of-way for vehicular use, and the proposed private improvements will not impede or have a negative impact on vehicular traffic; and

WHEREAS, The Ambriola Company, Inc. 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 of the City of Jersey City; and

WHEREAS, after due notice was given in accordance with law, a public hearing was held on the Petition filed by The Ambriola Company, Inc. 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 a mountable curb from the middle of the Property north to the northern Property line; and
2. 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 remedy the pre-existing condition of the Property, and 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 The Ambriola Company, Inc., its successors and assigns, to complete private improvements to a portion of lands located within the public right of way adjacent to 2 Burma Road (a/k/a 95 Burma Road), Jersey City, and known as Block 2154, Lot 13.C 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 a mountable curb from the middle of the Property north to the northern Property line.
2. The contemplated improvements will be constructed consistent with the Plans previously approved by the Jersey City Planning Board, the Jersey City Zoning Officer and Building Department.
3. All costs associated with these improvements will be incurred by the Petitioner.
4. The contemplated improvements 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 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 vehicular traffic. The Ambriola Company, Inc., 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 The Ambriola Company, Inc. All

rights and obligations of the Ambriola Company, Inc. set forth herein shall run with the Property, and, upon transfer of the Property shall be the responsibility of said transferee and not the Ambriola Company, Inc.

SECTION V. In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, The Ambriola Company, Inc., and its successors in interest in the Property 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. The Ambriola Company, Inc., and its successors in interest in the Property, 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. 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 VIII. For the rights and privileges herein granted, said beneficiaries hereunder, and their successors in title, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), for the entire term of the Franchise shall be made within thirty (30) days of final adoption of this Ordinance.

SECTION IX. 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.

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required ☐

Not Required ☐

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

ORDINANCE NO. Ord. 09-103

TITLE: 3.A. SEP 2 3 2009 4.A. OCT 1 4 2009



A franchise ordinance granting permission to the Ambriola Company, Inc. its successors and assigns, to make private improvements in and use of the public right of way adjacent to the property located at 2 Burma Road (a/k/a 95 Burma Road), Jersey City, New Jersey, also known on the tax map of the City of Jersey City as Block 2154 Lot 13 C

RECORD OF COUNCIL VOTE ON INTRODUCTION SEP 2 3 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)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING OCT 1 4 2009											
Councilperson BRENNAN				moved, seconded by Councilperson GAUGHAN				to close P.H. 8-0			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
				FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA	✓		

✓ Indicates Vote

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			
				FULOP				FLOOD			
LOPEZ				RICHARDSON				VEGA			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE OCT 1 4 2009 8-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
				FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on SEP 2 3 2009

Adopted on second and final reading after hearing on OCT 1 4 2009

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on OCT 1 4 2009

Robert Byrne, City Clerk

APPROVED:

Council President

*Amendment(s):

Date: OCT 1 4 2009

APPROVED:

Jeramiah T. Healy, Mayor

Date OCT 1 6 2009

Date to Mayor OCT 1 5 2009