

AGENDA

CITY COUNCIL MEETING

MONDAY, MARCH 19, 2012

7:00 P.M.

CITY COUNCIL CHAMBERS, CITY HALL - 45 LYON TERRACE
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

MINUTES FOR APPROVAL:

Approval of City Council Minutes: February 21, 2012

COMMUNICATIONS TO BE REFERRED TO COMMITTEES:

- 64-11** Communication from Mayor re: Proposed Five-Year Capital Plan (CP) for Fiscal Years 2013-2017, referred to Budget and Appropriations Committee.
- 65-11** Communication from City Attorney re: Twenty day notice to Settle Litigation pursuant to Municipal Code Section 2.10.130: Elizabeth Newby, **ACCEPTED AND MADE PART OF THE RECORD.**

RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:

- 66-11** Resolution presented by Council Members dePara, Silva, and Austin re: Installation of appropriate Signage identifying Gurdon Street (between Salem Street and Hawley Avenue) "Compact Car" Parking Only Area, referred to Board of Police Commissioners.

MATTERS TO BE ACTED UPON (CONSENT CALENDAR):

- *56-11** Public Safety and Transportation Committee Report re: Grant Submission: 2011 Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program.

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, MARCH 19, 2012, AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

NAME

SUBJECT

Cecil C. Young
99 Carroll Avenue
Bridgeport, CT 06607

Update on Lawsuit against the City of
Bridgeport and P.T. Barnum Sewage
Problem.

Ethan Book Jr.
131 Vine Street
Bridgeport, CT 06604

Public discussion of matters pertaining to
the late Sister Adelaida Coriano and
Luis A. Rivera.

**CITY of BRIDGEPORT
CITY COUNCIL
PUBLIC SPEAKING SESSION
MONDAY, MARCH 19, 2012
6:30 PM**

ATTENDANCE: Council members: Brannelly, M. McCarthy, Colon, Olson, Brantley, Austin, Lyons, Vizzo-Paniccia, Bonney, Blunt, dePara, Silva, Ayala, Martinez, Paoletto, Curwen

ABSENT: Council members: Taylor-Moye, T. McCarthy, Baker, Holloway

President Pro Tempore Council member Bonney called the public speaking session to order at 6:35 pm.

ROLL CALL: the city clerk took the roll call and she announced there was a quorum.

The following speakers signed up prior to the public speaking session:

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, MARCH 19, 2012, AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

RECEIVED
CITY ATTORNEY'S OFFICE
2012 MAR 26 AM 11:05
ATTORNEY

NAME

SUBJECT

Cecil C. Young
99 Carroll Avenue
Bridgeport, CT 06607

Update on Lawsuit against the City of Bridgeport and P.T. Barnum Sewage Problem.

Mr. Young mentioned the sewage problem in P.T. Barnum. He asked if someone would check it out to make sure the problem is still being controlled. He also mentioned the problem with contaminants at Columbus School that he noted was related to a health hazard.

He went on to speak about a pre-trial scheduled for March 28, 2012 related to his wrongful termination. He emphasized that he will continue to seek justice to get the matter cleared up. He stated that he was upset that that his attorney and the city attorney didn't show up

for two separate court dates on February 16, 2012 and March 12, 2012. He stressed that since he was unjustly terminated, he should have his day in court. He said that he has come before the council as a taxpayer and he deserves justice. He stated that the matter is about right and wrong and what happened to him shouldn't happen to anyone else.

Ethan Book Jr.
131 Vine Street
Bridgeport, CT 06604

Public discussion of matters pertaining to
the late Sister Adelaida Coriano and
Luis A. Rivera.

See the contents of Mr. Book's statement below:

**PUBLIC COMMENTS OF ETHAN BOOK
BEFORE THE CITY COUNCIL OF THE CITY OF BRIDGEPORT
MARCH 19, 2012**

Mr. Council Speaker, Members of the City Council and public:

I am Ethan Book, residing at 131 Vine Street in Bridgeport (temporarily residing there for six years). I operate a small limousine service business and in part for matters related to some long-term unaddressed matters in state public works, I am a candidate for the U.S. Senate 2010. As brief explanation, the primary focus of my active candidacy is an active federal court challenge of portions of the recent statewide election process.

On June 6, 2005, Ofcr. Stanley Wuchek responded to a complaint of suspicious activity on the East Side, that regarding several youths who were changing a tire on a parked Jeep Cherokee. Ofcr. Wuchek reviewed the matter and observed that the vehicle marker plates were on record with the Conn. Department of Motor Vehicles as corresponding to a Pontiac owned by Adelaida Coriano, a resident of Sherman Street. He spoke with the youths and was given the telephone number of Ms. Coriano. He called her to discuss the matter. She explained that she had properly had the vehicle plates transferred from the Pontiac to the Jeep Cherokee. Without any further review, Ofcr. Wuchek issued a motor vehicle citation and he ordered the vehicle towed. Anthony's Auto Body responded to the call. The operator used a type of tow truck which wasn't recommended for that vehicle. During the tow, the transmission was damaged.

Ms. Coriano had the vehicle repaired at her expense. [The motor vehicle citation was dismissed when she demonstrated to the court the proper papers that the transfer of registration had been done.] As one who is a personal friend and colleague through the Hispanic prison ministry El Alfarero which she founded over 40 years ago and has served as Director, in 2006 Ms. Coriano contacted me to ask for assistance. I helped her in preparing an administrative claim presented to the City Clerk. That was denied. I then assisted her in preparing and presenting a small claims action. After some extreme arguments made by Associate City Attorney Gregory Conte, that lawsuit was dismissed.

- 2 -

For reasons of justice, on May 21, 2011, I assisted Ms. Coriano in presenting a renewed administrative claim with the City Clerk, that by which she seeks \$1,940.25 in compensation for this matter. She advised me that she never received a response from the City.

After a failure by physicians at Bridgeport Hospital in August of 2011 to observe early signs of cancer on x-rays, Ms. Coriano developed a serious bone cancer and passed away on March 11th. Her family has not had the funds to cover the full costs of burial. The family would greatly appreciate that the City releases the requested funds to the estate of Ms. Coriano.

I had also intended to speak briefly this evening of a separate matter regarding Luis Rivera. However, considering the time limitation for speaking, I will for now forego that portion to give some references that are applicable to both matters.

Early Constitutional scholar William Rawle said in 1825:

But it is said that there is generally a propensity in public functionaries to extend their power beyond its proper limits¹

James McHenry, a signer of the Constitution, stated,

[T]he Holy Scriptures . . . can alone secure to society, order and peace, and to our courts of justice and constitutions of government, purity, stability, and usefulness. In vain, without the Bible, we increase our penal laws and draw entrenchments [protections] around our institutions.²

In his book, Restoring the Lost Constitution – A Presumption of Liberty, Law Professor Randy E. Barnett explains,

The Constitution that was actually enacted and formally amended creates islands of governmental powers in a sea of liberty. The judicially redacted constitution creates islands of liberty rights in a sea of governmental powers.³

- 3 -

Finally for now, the Declaration of Independence refers to “the Laws of Nature and of Nature’s God”. It affirms “certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

I thank you for your attention.

Ethan Book

¹ Original Intent by David Barton (2010, WallBuilders Press, Aledo, TX), p. 273 quoting from A View of the Constitution of the United States by William Rawle (1829, Philip H. Nicklin, Philadelphia), p. 201.

² Original Intent at p. 179 quoting from The Life and Correspondence of James McHenry by Bernard C. Steiner (1907, The Burrows Brothers, Cleveland) at p. 475.

³ Restoring the Lost Constitution – A Presumption of Liberty by Randy E. Barnett (2004, Princeton University Press, Princeton, NJ), p. 1.

John Marshall Lee

signed up to speak prior to the public session

Mr. Lee spoke about the following topics summarized below:

- City Charter, Chapter 9, Section 7 – it was stated that the charter calls for the Mayor to submit fiscal reports including revenues, expenditures and variances to the city council by the fourth Friday of each month relative to the prior month – a full 12-months of these reports haven't been made available to the city council or the Budget and Appropriations Committee. He questioned why this unlawful pattern continues and how does this show a record of accountability?
- The charter and budgets presented and passed by the city council body each year indicate an internal audit staff. He found that the city has not had an internal audit staff for a number of years and he questioned what the story is and where are these watchdogs?
- City spending and total City revenues. He indicated that from 2007 through 2011, the city had a deficit in total cash flow each year for a sum of \$163 million; an average of approximately \$33 million annually. He questioned how city expenditures can exceed revenue regularly? He further mentioned that the city has bonded \$133 million in the past five years that resulted in entering the debt market on four occasions. And the city fund balance has decreased during that time by half at least, but not by \$30 million. He questioned if the subject is ever discussed by the Budget & Appropriations Committee? Does either the city council or B&A formally review the CAFR each year? Overall, he questioned if the city council is aware of the entire city fiscal picture. He concluded to ask where the financial accountability and transparency is.

Mr. Lee noted that he would be holding a public session on Bridgeport Finances 101 next Sunday at 4:00 pm at Harborview Market.

Mary Jane Foster

signed up to speak prior to the public session

Ms. Foster spoke about sexually oriented businesses. She stated that the topic is a big concern for many people. She mentioned the proposed new ordinance; she said the new ordinance was much better drafted than the one that was proposed last year. She expressed that residents in Bridgeport have an opportunity to show that they can lead and do something good for the city and passing the ordinance will further regulate these types of businesses and how they are used. She emphasized that this was the city council's chance to support the ordinance and show some initiative. She further commented that there are at least nineteen (19) of these businesses in Bridgeport, pointing out that the matter pertains to quality of life and doing something to change it. She asked that the council act in favor of the bill and show leadership.

Stephanie Barnes

signed up to speak prior to the public session

Ms. Barnes said she concurred with Ms. Foster's comments in support of the ordinance. She stated that there are four (4) massage parlors in the Black Rock area; noting that one of them is very close to a playground. She stressed that she would like to see the environment change; especially for the kids. She questioned why nothing has been done in the past to address the problem. She also mentioned the issue of human trafficking that are often related to these establishments. She expressed that it wasn't right to turn a blind eye and she emphasized the importance of doing our part to address the issue. Overall, she said the ordinance was important and relative to building up the city to bring in new business.

The public hearing session closed at 7:04 pm.

CITY of BRIDGEPORT

CITY COUNCIL MEETING

MONDAY, MARCH 19, 2012

7:00 PM

City Council Chambers, City Hall - 45 Lyon Terrace

Bridgeport, Connecticut

ATTENDANCE: Council members: Brannelly, M. McCarthy, Colon, Olson, Brantley, Austin, Lyons, Vizzo-Paniccia, Bonney, Blunt, dePara, Silva, Ayala, Martinez, Paoletto, Curwen

ABSENT: Council members: Taylor-Moye, T. McCarthy, Baker, Holloway

Mayor Finch called the meeting to order at 7:10 pm.

Prayer - Council member Austin offered the prayer.

Pledge of Allegiance - Council member M. McCarthy led the pledge of allegiance.

Moment of Silence

Council member Brantley asked for a moment of silence for Margaret Morton; former State Representative; passed away.

She also asked for a moment of silence for the two women that were involved in a motor vehicle accident on the Merritt Parkway, noting that they were residents of Stratford and had friends in Bridgeport.

Council member Lyons asked for a moment of silence for James Cleary who passed away under unfortunate circumstances. She said he sold the CT Post for many years and he did a lot for the north end community. She further expressed that he always had a smile!

Council member Curwen asked for a moment of silence for Bobby Deluca who passed away.

Mayor Finch acknowledged the contributions that Margaret Morton made to the state and the city. He recalled that she proudly won elections during a time when minorities weren't welcomed in politics or elected to office. He commented that Council member Brantley reminded him of her when she speaks.

MINUTES FOR APPROVAL:

Approval of City Council Minutes: February 21, 2012

**** COUNCIL MEMBER BRANTLEY MOVED TO ACCEPT THE MINUTES
** COUNCIL MEMBER CURWEN SECONDED
** MOTION PASSED UNANIMOUSLY**

Roll call - the city clerk took the roll call and she announced there was a quorum.

COMMUNICATIONS TO BE REFERRED TO COMMITTEES:

64-11 Communication from Mayor re: Proposed Five-Year Capital Plan (CP) for Fiscal Years 2013-2017, referred to Budget and Appropriations Committee.

65-11 Communication from City Attorney re: Twenty day notice to Settle Litigation pursuant to Municipal Code Section 2.10.130: Elizabeth Newby, **ACCEPTED AND MADE PART OF THE RECORD.**

**** COUNCIL MEMBER PAOLETTO MOVED TO REFER
** COMMUNICATIONS TO BE REFERRED TO COMMITTEES
** COUNCIL MEMBER COLON SECONDED
** MOTION PASSED UNANIMOUSLY**

RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.:

66-11 Resolution presented by Council Members dePara, Silva, and Austin re: Installation of appropriate Signage identifying Gurdon Street (between Salem Street and Hawley Avenue) "Compact Car" Parking Only Area, referred to Board of Police Commissioners.

**** COUNCIL MEMBER M. MCCARTHY MOVED TO REFER RESOLUTIONS TO BE REFERRED TO BOARDS, COMMISSIONS, ETC.
** COUNCIL MEMBER dePARA SECONDED
** MOTION PASSED UNANIMOUSLY**

MATTERS TO BE ACTED UPON (CONSENT CALENDAR):

***56-11** Public Safety and Transportation Committee Report re: Grant Submission: 2011 Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program.

Mayor Finch asked if there were any items to be removed from the consent calendar. There were none heard.

The city clerk read the consent calendar item into the record.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE
** COUNCIL MEMBER dePARA SECONDED
** MOTION PASSED UNANIMOUSLY**

New business:

- Council member Colon announced that Council member Taylor-Moye had minor surgery that she was recovering from and unable to attend the meeting.

**** COUNCIL MEMBER BRANNELLY MOVED TO SUSPEND THE RULES FOR THE PURPOSE OF REFERRING TWO ITEMS TO COMMITTEE**
**** COUNCIL MEMBER AUSTIN SECONDED**
**** MOTION PASSED UNANIMOUSLY**

**** COUNCIL MEMBER BRANNELLY MOVED TO REFER RESOLUTIONS RE: TO ADDRESS THE REGULATION OF SEXUALLY ORIENTED BUSINESSES (ITEM# 67-11) AND MASSAGE ESTABLISHMENTS AND MASSAGE THERAPISTS (ITEM#68-11) TO THE ORDINANCE COMMITTEE**
**** COUNCIL MEMBER LYONS SECONDED**
**** MOTION PASSED WITH SIXTEEN VOTES IN FAVOR AND ONE ABSTENTION (COUNCIL MEMBER BLUNT)**

**Mayor Finch thanked Auden Groggins for her leadership in this matter.*

ADJOURNMENT

**** COUNCIL MEMBER dePARA MOVED TO ADJOURN
** COUNCIL MEMBER LYONS SECONDED
** MOTION PASSED UNANIMOUSLY**

The meeting adjourned at 7:20 pm.

Respectfully submitted,

Diane Graham
Telesco Secretarial Services



**OFFICE OF THE MAYOR
CITY OF BRIDGEPORT, CONNECTICUT**

999 BROAD STREET
BRIDGEPORT, CONNECTICUT 06604
TELEPHONE (203) 576-7201
FAX (203) 576-3913

BILL FINCH
Mayor

Comm, #64-11 Ref'd to Budget & Appropriations Comm. on 03/19/2012

March 7, 2012

Fleeta Hudson, City Clerk
City Clerk's Office
45 Lyon Terrace
Bridgeport, CT 06604

Dear Fleeta:

In accordance to the City Charter, I am pleased to present the proposed Five-Year Capital Plan (CP) for fiscal years 2013-2017 for the City of Bridgeport to be referred to the Budget and Appropriations Committee.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,

Bill Finch
Mayor

Attachments

RECEIVED
CITY CLERK'S OFFICE
M12 03-17 A 10:39

PROJECT DESCRIPTION <u>Board of Education</u>	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
	Capital Plan REQUESTED	Capital Plan 2013-2017				
Park City/Skane renovations	13,076,000					13,076,000
Marin Roof	3,000,000					3,000,000
John Winthrop Renovation	7,126,120					7,126,120
High Horizons Multicultural Asbestos Abatement	800,000					800,000
JFK Improvements	727,000					727,000
TOTAL BOE	24,729,120					24,729,120

PROJECT DESCRIPTION	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
	Capital Plan REQUESTED	Capital Plan 2013-2017				
<u>Economic Development</u>						
City / Neighborhood Beautification	500,000	500,000	500,000	500,000		2,000,000
South End Traffic Corridor	1,650,000					1,650,000
Land management / Acquisition Steel Point	6,349,873					6,349,873
Knowledge/Barnum Waterfront Development	8,265,606					8,265,606
Blight Removal / Demolition Clean Up		1,000,000	1,000,000	1,000,000		3,000,000
TOTAL OPED	16,765,479	1,500,000	1,500,000	1,500,000	1,500,000	21,265,479

PROJECT DESCRIPTION	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
	Capital Plan REQUESTED	Capital Plan 2013-2017				
<u>Public Facilities</u>						
Roadway Paving, Culverts, Intersections	4,058,272	2,500,000	2,500,000	2,500,000	2,500,000	10,000,000
Public Facilities Equipment	2,633,919	500,000	500,000	500,000	500,000	4,958,272
Muni Bldg. HVAC / Heating / Elec / Facilities	18,618,337	250,000	250,000	250,000	250,000	19,368,337
City Wide Building & Security Improvements	400,000					400,000
Facilities Assessments / Planning Studies	1,700,000					1,700,000
Beardsley Zoo Improvements		200,000	200,000	200,000		800,000
Energy Conservation / Conversion Program		200,000	200,000	200,000		800,000
Sikorsky Plow/Dump		200,000				200,000
Runway Crack Seal Machine		60,000				60,000
IP based access control system		200,000				200,000
Multi-purpose tractor		50,000				50,000
Runway Sweeper and Vacuum Truck			210,000			210,000
FAA AARF index rapid response fire truck				400,000		400,000
Maintenance Garage Apron Paving					100,000	100,000
Lincoln Boulevard Esplanades	880,000					880,000
Police Howard Avenue Fit-Up	85,000					85,000
Construction Management	500,000					500,000
Kennedy Stadium Improvements	150,000					150,000
Parks Maintenance Equipment	1,163,106	275,000	50,000	50,000		1,538,106
Various Park Improvement Projects	28,250,440					28,250,440
Pleasure Beach Water and Park Accessibility	9,388,739					9,388,739
TOTAL PUBLIC FACILITIES	68,087,813	4,175,000	4,060,000	4,250,000	2,800,000	83,372,813

PROJECT DESCRIPTION	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	TOTAL
	Capital Plan REQUESTED	Capital Plan 2013-2017				
<u>Other Departments</u>						
EOC Capital Maintenance Program	225,000	225,000				450,000
Archives Scan Pro Microform Scanner	9,685					9,685
Vital Statistics Scan Pro Microform Scanner & shelving	12,453					12,453
Police Records Management System	500,000					500,000
Police Final Phase of Car Replacement (41 vehicles)	1,089,459					1,089,459
Fire Apparatus Replacement Program/Vehicles	1,260,000					3,285,000
Modular Training Structure & Smoke House			650,000		735,000	275,000
Technology Enhancements / Systems Improvement	500,000		275,000			500,000
WPCA Sewer Separation Program	250,000	125,000				500,000
IT Telephony & Computer Replacement Program	250,000	250,000				375,000
TOTAL OTHER	4,096,597	600,000	925,000	735,000	640,000	6,986,597
TOTAL ALL DEPARTMENTS	113,873,009	6,275,000	6,485,000	6,485,000	3,440,000	136,364,009

RECEIVED
 CITY OF CHICAGO OFFICE
 01/12/2012 10:39 AM

CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY

CITY ATTORNEY
Mark T. Anastasi

999 Broad Street
Bridgeport, Connecticut 06604-4328

DEPUTY CITY ATTORNEY
Arthur C Laske, III



ASSISTANT CITY ATTORNEYS
Salvatore C. DePiano
R. Christopher Meyer
Edmund F. Schmidt
Eroil V. Skyers

ASSOCIATE CITY ATTORNEYS

Gregory M. Conte
Betsy A. Edwards
Richard G. Kascak, Jr.
Russell D. Liskov
John R. Mitola
Ronald J. Pacacha
Lisa R. Trachtenburg

Telephone (203) 576-7647
Facsimile (203) 576- 8252

Comm. #65-11 ACCEPTED AND MADE PART OF THE RECORD
on 03/19/2012

March 1, 2012

The Honorable City Council
City of Bridgeport
45 Lyon Terrace
Bridgeport, CT 06604

Re: **SETTLEMENT OF CLAIM**
ELIZABETH NEWBY v. CITY OF BRIDGEPORT, ET AL

Dear Honorable Members:

The Office of the City Attorney proposes to settle the above referenced litigation in the amount of \$15,000.00 payable to William M. Burke, Esq., Trustee for Elizabeth Newby. The action was claiming personal injuries to Ms. Newby when, on September 27, 2007, she was involved in a motor vehicle accident with a City of Bridgeport Public Facilities employee.

Pursuant to the City Council's recently amended Ordinance Section 2.10.130, this office hereby provides notice of its intent to settle this matter in accordance with the terms set forth in said Section 2.10.130.

If you wish to discuss the details of this case or have any questions, please feel free to contact me. If I am not immediately available, please speak with my Paralegal, Margo Litz, who will then follow-up with me. Further, if I do not hear from you within the twenty (20) day time period provided by the Ordinance, I will proceed to finalize settlement of this matter.

Very truly yours,

Mark T. Anastasi
City Attorney

MTA/mal

RECEIVED
CITY ATTORNEY
MARCH 19 2012

RESOLUTION

By Councilmember(s): Argel M. dePara, Jr.
Co-Sponsors: Carlos Silva
Howard Austin

District: 133rd and 136th

Introduced at a meeting
of the City Council, held:

March 19, 2012

Referred to: Board of Police Commissioners

Whereas, the issue of "On-Street" parking on Gurdon Street (between Salem Street and Hawley Avenue) is and has been quality of life/public safety concern for the residents of the area; and

Whereas, the drivers that make use of the "On-Street" parking opportunities on Gurdon Street have increasingly become more careless with their use of the public Roadways; and

Whereas, the thoughtless behaviour of these drivers is causing a greater Roadway congestion on Gurdon Street (between Salem Street and Hawley Avenue); and

Whereas, the City has a duty to address and ensure a level of safety for its Citizenry; Now, Therefore be it

Resolved, that Gurdon Street (between Salem Street and Hawley Avenue) be designated a "Compact Car" parking only area; and be it further

Resolved, that the City will install the appropriate Signage identifying Gurdon Street (between Salem Street and Hawley Avenue) "Compact Car" parking only area.

Attest:

City Clerk

Referrals Made:

RESOLUTION

By Councilmember(s): Susan T. Brannelly

Co-Sponsors: Martin McCarthy, Leticia Colon, Denese Taylor-Moye, Rev. John Olson, M. Evette Brantley, Thomas McCarthy, Howard Austin Sr., Michelle Lyons, AmyMarie Vizzo-Paniccia, Richard Bonney, Carlos Silva, Angel dePara Jr., Richard Paoletto Jr., Andre Baker Jr.

District: 130th, 131st, 132nd, 133rd, 134th, 135th, 136th, 138th & 139th

Introduced at a meeting of the City Council, held:

March 19, 2012 (OFF THE FLOOR)

Referred to: Ordinance Committee

Re: Proposed Amendment to the Municipal Code of Ordinances, amend to add New Chapter 8.81 Sexually Oriented Business Ordinance.

(SEE ATTACHED)

Referrals Made:

Ref'd to City Attorney's office on: 03/20/2012

Attest:

City Clerk

Resolution

By Council Member Susan T. Brannelly, 130th District.
Co-sponsored by Martin C. McCarthy, Leticia Colon, Denese Taylor-Moye, Rev. John Olson, M. Evette Brantley, Thomas McCarthy, Howard Austin, Michelle Lyons, AmyMarie Vizzo-Pannicia, Richard Bonney, Carlos Silva, Angel dePara, Richard Paoletto, Andre Baker

Presented for immediate consideration at the City Council meeting of March 19, 2012.

For referral to the Committee on Ordinances

Resolution to Address Regulation of Sexually Oriented Businesses and Massage Establishments and Massage Therapists.

Whereas, the City of Bridgeport contains commercial premises and structures which by design or intended use are conducive to the spread of dangerous communicable disease to the public.

Whereas, the operation of sexually oriented businesses requires regulation and supervision by the city to protect, preserve and promote the health, safety and welfare of the patrons of those businesses as well as that of all the city's residents.

Whereas, the reasonable licensing of sexually oriented businesses tends to discourage prostitution, sex-related crimes and unsanitary sexual activity and other harmful effects while it promotes and protects the health, safety and property interests of the city and its residents.

Be it resolved that the City Council adopt new Chapter 8.81 Sexually Oriented Business Ordinance which details the requirements for licensing of sexually oriented businesses in order to promote the health, safety and general welfare of the residents of the city and to establish reasonable and uniform requirements for such businesses in order to:

- Reduce or eliminate the adverse secondary effects of such sexually oriented businesses
- Protect residents from increased crime
- Preserve the quality of life
- Preserve the property values and the character of surrounding neighborhoods and businesses
- Deter the spread of blight
- Protect against the threat to public health from the spread of communicable and social diseases.

Be it resolved that the City Council amend Chapter 5.12 Massage Establishments And Massage Therapists in order to better state that this is a business that affects public health, safety and general welfare and necessitates regulation and control.

Submitted


Susan T. Brannelly

3-19-12
Date

FILED
2012 MAR 20 10 58 AM
CLERK OF CITY COUNCIL
BRIDGEPORT, CT

2/8/12 Rev Draft

**Title 8, Health and Safety, Adopt New Chapter 8.81
SEXUALLY ORIENTED BUSINESS ORDINANCE
AND
AMEND CHAPTER 5.12 MASSAGE ESTABLISHMENTS AND
MASSAGE THERAPISTS**

Section 1: (NEW)

8.81.010 Short Title

This chapter shall be known and may be cited as the "Bridgeport Sexually Orientated Business ordinance."

8.81.020 Purpose of chapter

The city of Bridgeport City Council finds:

(1) The City contains commercial premises, commercial structures, or parts thereof, which by reason of design and their intended use are conducive to the spread of dangerous communicable disease to the public. Standards for such places must be established to protect the public by eliminating the possibility of infection or contagious disease. The commercial premises, structures, or parts thereof, which expose persons to the risk of infection are necessarily subject to regulation and minimal standards in order to prevent the spread of disease, and to protect the public's health, safety and welfare. The operation of sexually oriented businesses in the city requires special regulation and supervision by the city to protect, preserve and promote the health, safety and welfare of the patrons of such businesses, as well as the health, safety and welfare of the city's residents. Further, protecting order and morality, preserving the character and preventing the deterioration of the city's neighborhoods, promoting retail trade, maintaining property values, and ensuring sanitary and safe public places are desirable objectives of the community and its leaders.

(2) Statistics and studies performed by a substantial number of cities in the United States indicate that:

- a. Large numbers of persons, primarily male, frequent such sexually oriented businesses, especially those which provide closed booths, cubicles, studios and rooms for the private viewing of so-called "adult" motion pictures, videotapes or live entertainment.
- b. Such closed booths, cubicles, studios and rooms have been used by patrons, clients or customers of such sexually oriented businesses for the purpose of engaging in specified sexual activities.
- c. Male and female prostitutes have been known to frequent such businesses in order to provide sex for hire to the patrons, clients or customers of such businesses within such booths, cubicles, studios and rooms.

d. Doors, curtains, blinds and other closures installed in or on the entrances and exits of such booths, cubicles, studios and rooms which are closed while such booths, cubicles, studios and rooms are in use encourage patrons using such booths, cubicles, studios and rooms to engage in specified sexual activities therein with prostitutes, other persons or by themselves, thereby promoting and encouraging prostitution and the commission of specified sexual activities which cause blood, semen, urine or other bodily secretion to be deposited on the floors and walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits.

e. Booths, stalls, partitioned portions of a room or individual rooms used for viewing motion pictures or other forms of entertainment shall not have doors, curtains or portal partitions. All such places shall have at least one (1) side open to an adjacent public room so that the area inside is visible to persons in that room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public room. However, such lighting shall not be so intense that it prevents the viewing of motion picture or other offered entertainment.

f. Specified sexual activities often occur at sexually oriented businesses that have not obtained a license. Specified sexual activities include sexual physical contact between employees and patrons of sexually oriented businesses and specifically include "lap dancing" or manual or oral touching or fondling of specified anatomical areas, whether clothed or unclothed. Such casual sexual physical contact between strangers may result in the transmission of communicable diseases, which would be detrimental to the health of the patrons and employees of such sexually oriented businesses.

g. The unregulated operation of sexually oriented businesses, *including off-site sexually oriented businesses like adult bookstores, adult video stores and adult novelty stores*, is associated with an increase in the incidence of sex-related crimes and other crimes and also has a disruptive effect on the surrounding neighborhood by causing excessive noise, parking problems, the presence of discarded sexually oriented material on residential lawns, and the performance of sexual acts in public places, as well as causing a deleterious effect on surrounding businesses *and decrease in the value of surrounding property*.

h. The reasonable licensing of such sexually oriented businesses tends to discourage prostitution, other sex-related crimes, anonymous and high-risk sexual contact and unsanitary sexual activity, excessive noise and reduction in property values, thereby decreasing the incidences of communicable diseases and sex-related crimes, all thereby promoting and protecting the health, safety and welfare of the employees and the members of the public who patronize such businesses and protecting the health, safety and property interests of this city and its residents.

i. This ordinance is intended to require sexually oriented businesses to obtain a license to protect the public and is intended to complement but not conflict with Adult Entertainment Zoning Regulations adopted by the Planning and Zoning Commission which became effective July 4, 2011. Zoning regulations alone do not adequately protect the public health, safety and welfare and thus certain requirements are necessary with respect to ownership, employees, facility, operation, advertising, hours of business and other aspects of the sexually oriented business that relate to public health, safety and welfare.

(3) The continued unlicensed operation of such sexually oriented businesses is and would be detrimental to the health, safety and general welfare of the residents of the city.

(4) The constitution and laws of the state grant to the city powers, especially the police power and G.S. 7-148(c)(7)(H), to enact reasonable legislation and measures to regulate and supervise sexually oriented businesses in order to protect the public health, safety and general welfare and as such necessitates regulation and control.

(5) It is the purpose and intent of the city council, in enacting this ordinance, to require sexually oriented businesses to obtain licenses. These licenses are intended to promote the health, safety and general welfare of the residents of the city and to establish reasonable and uniform requirements for such businesses in order to: reduce or eliminate the adverse secondary effects of such sexually oriented businesses; protect residents from increased crime; preserve the quality of life; preserve the property values and the character of surrounding neighborhoods and businesses; deter the spread of blight; and protect against the threat to public health from the spread of communicable and social diseases.

(6) It is not the intent of the council, in enacting this ordinance, to deny to any person rights to speech protected by the United States or state constitutions, nor is it the intent of the council to impose any additional limitations or restrictions on the content of any communicative materials including sexually oriented films, videotapes, books or other materials. Further, by enacting this article, the council does not intend to deny or restrict the constitutionally protected rights of any adult to obtain or view any sexually oriented materials under the United States or state constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

8.81.030 Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

Specified anatomical areas and specified sexual activities shall have the same meaning as defined in Article 2, Section 2.2 of the Bridgeport Zoning Regulations, as may be amended.

Adult cabaret, adult media, adult theater or motion picture theater, adult videos, nude model studio NEED TO DECIDE IF THESE TERMS MUST BE DEFINED.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult arcade means any establishment where one or more still or motion picture projectors, slide projectors or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

Adult cabaret means...

Adult minimotion picture theater means any enclosed building with a capacity of 50 or less persons regularly used for showing films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons therein.

Adult Novelties means: (a) instruments, devices, toys or paraphernalia that are designed for or marketed primarily for stimulating human genital organs, sexual arousal or sadomasochistic use; (b) instruments, devices, gag gifts, toys or paraphernalia that depict, display or are shaped in the form of specified anatomical areas; and (c) oils, lotions, gels or creams that are designed for or marketed primarily for use upon specified anatomical areas and intended for stimulating human genital organs, sexual arousal or as an aid to enhance or promote specified sexual activities.

Employee means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of a sexually oriented business.

Entertainer means any person who provides adult entertainment within a sexually oriented business, whether or not a fee is charged or accepted for such entertainment and whether or not such entertainment is provided as an employee or independent contractor.

Escort means any person who, for any form of consideration, agrees or offers to act as a social companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means any person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Inspector means the chief of police, fire marshal, chief building official, health director and social services, zoning enforcement officer, their agent or representative, or any city or state employee designated to make inspections for public safety, fire code, building code, public health, zoning purposes, violations of this article, or for violations of other laws and ordinances of this city or state.

Licensed premises means any premises that requires a sexually oriented business license pursuant to this chapter, including any buildings, parking areas and all other portions of the property of which the licensee has control.

Licensee means any person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on an application for a license.

Live adult entertainment means any live performance by a person who appears exposes any specified anatomical areas or any live performance that is characterized by the exposure of specified anatomical areas.

Massage establishment as defined in Section 5.12.030.

Masseur means any person who, for any form of consideration, performs massage activities as described in the previous definition of this section.

Minor means any person under the age of 18 years.

Operator means any person operating, owning, managing, conducting or maintaining a sexually oriented business.

Sexual activities is not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications that devote at least 25 percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography. Nor does this definition apply to any news periodical that reports or describes current events and which, from time to time, publishes photographs of nude or seminude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films that describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or seminude persons when describing cultures in which nudity or semi nudity is indigenous to the population.

Sexual encounter establishment means a business or commercial establishment that, for any form of consideration, offers a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas. A sexual encounter establishment shall not include an establishment where a state-licensed medical practitioner, psychologist, psychiatrist, or similar professional person engages in medically approved and recognized sexual therapy.

Sexually oriented business means:

- (1) An adult arcade, adult oriented store, adult cabaret, adult minimotion picture theater, escort agency, massage establishment or sexual encounter establishment;
- (2) Any premises to which the public, patrons, or members are invited or admitted and wherein an entertainer provides adult entertainment, or which premises are so physically arranged as to provide booths, cubicles, studios, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or wherein an entertainer provides adult entertainment, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; or
- (3) Any studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- (4) Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a significant or substantial portion of such performance any performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers, when such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; and
- (5) Any amusement machine that is regularly used for presenting material that is characterized by the depiction or description of specified anatomical areas or specified sexual activities, for observation by patrons thereof.

8.81.040 LICENSE

(a) Pursuant to G.S. 7-148(c)(7)(H), licenses shall be required for:

(1) Commercial buildings, structures, premises or portion thereof, or facilities therein, which are so constructed, used or operated to unlawfully facilitate sexual activities, or designed or used to promote high-risk sexual conduct.

(2) The operation of a sexually oriented business without first obtaining a license to operate from the city.

(3) Each sexually oriented business located at a fixed and certain place. Any person who desires to operate more than one sexually oriented business must have a license for each such business.

(b) It shall be a violation of this chapter for any owner, operator, entertainer or employee to knowingly work in or about, or to knowingly perform any service directly related to, the operation of any unlicensed sexually oriented business.

(c) Each license shall be specific to a licensee and to a location and may not be sold, assigned or transferred to any other person or location in any way, including, but not limited to:

(1) The sale, lease or sublease of the business;

(2) The transfer of shares, securities or interests that constitute a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or other similar legal device that transfers ownership or control of the business, except for a transfer by bequest or other operation of law upon the death of the licensee or a person possessing the ownership or control of the licensee.

8.81.041 Application

(a) The operator of each sexually oriented business shall submit an application to the town clerk together with an application fee as listed in appendix to this chapter prior to the commencement of business or within 60 days of the effective date of the ordinance from which this chapter is derived for any establishment already open for business. The town clerk shall date stamp the application and shall promptly deliver the application to Health and Social Services. The application shall be made upon a form prepared by and available from Health and Social Services.

(b) The application shall be signed and filed by a person having direct control or management of the proposed sexually oriented business. In instances where the applicant is a partnership, limited liability company or corporation, the application shall be signed and filed by a duly authorized partner, member, manager, officer, director, or majority shareholder of such entity, as the case may be. The application shall be sworn to be true and correct by the applicant.

(c) The applicant for a license shall furnish the following information:

(1) Name and business and residence address of the applicant, owner, operator, manager and any other person having direct control or management of the sexually oriented business, including all fictitious names. If the applicant is a partnership, the names of all general partners. If the applicant is a limited liability company, the names of all members and managers of such

company. If the applicant is a corporation, the names of all officers, directors and shareholders holding a ten percent or greater interest in the total number of shares of such corporation;

- (2) Name and business and residence address of the spouse of each individual named in subsection (c)(1) of this section;
- (3) Name and address of all employees and any other persons directly involved in the operation of the sexually oriented business, including all fictitious names;
- (4) Written proof that the applicant is at least 18 years of age;
- (5) A recent photograph of the applicant;
- (6) The applicant's driver's license number and social security number or federal employer identification number;
- (7) If the applicant is:
 - (i) A partnership, the application shall be accompanied by the partnership agreement, if any;
 - (ii) A limited partnership, the application shall specify the name of the partnership, the date and state of the filing of its certificate of limited partnership, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the partnership agreement, if any, and by evidence that such partnership is in good standing under the laws of the state;
 - (iii) A limited liability company, the application shall specify the name of the company, the date and state of the filing of its articles of organization, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of the operating agreement, if any, and by evidence that such company is in good standing under the laws of the state;
 - (iv) A corporation, the application shall specify the name of the corporation, the date and state of incorporation, and the name and address of its statutory agent for service of process, and shall be accompanied by a copy of its bylaws, if any, and by evidence that such corporation is in good standing under the laws of the state;
 - (v) Operating under a fictitious name, the application shall be accompanied by a copy of the applicant's recorded trade name certificate.
- (8) The applicant's sexually oriented business license and land use permit history, which shall include, but not be limited to whether such person is currently licensed or has previously operated in this or another municipality or state under license; the names and locations of such businesses; whether the applicant has had such license suspended or revoked; the dates of and reasons for such suspension or revocation; and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation. Such history shall include any entity of which the applicant was a partner, member, officer, director or shareholder;
- (9) Any criminal convictions of the applicant, operator, employees and other persons directly involved in the management or control of the sexually oriented business, to any crime involving moral turpitude, prostitution, obscenity or other sex-related crimes in any jurisdiction within three years of the date of the filing of the application. Such crimes include, but are not limited to, obscenity, child pornography, prostitution, patronizing a prostitute, promoting or permitting prostitution and sexual assault, in the state, being G.S. §§ 53a-194, 53a-196, 53a-196a, and 53a-196b (obscenity); G.S. §§ 53a-196c and 53a-196d (child pornography); G.S. §§ 53a-82, 53a-83 and 53a-83a (prostitution, patronizing a prostitute, and patronizing a prostitute from a motor vehicle); G.S. §§ 53a-86, 53a-87, 53a-88 and 53a-89 (promoting or permitting prostitution); and G.S. §§ 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b and 53a-73a (sexual assault);
- (10) The location of the sexually oriented business to be operated by the applicant, including the street address, legal description of the property, and telephone number, if any;

- (11) The exact nature of the entertainment to be conducted at the sexually oriented business;
- (12) A sketch or diagram showing the configuration of the premises drawn to a designated scale and with marked dimensions of the interior of the premises, including a statement of total floor space occupied by the business. Such sketch or diagram shall include, without limitation, all doors, windows, bars, stages, manager's stations, restrooms, dressing rooms, booths, cubicles, rooms, studios, compartments, stalls, overhead lighting fixtures and any areas where patrons are not permitted; and
- (13) A statement by the applicant that the applicant is familiar with the provisions of this chapter, is in compliance with them, and consents to the authority of the city in licensing the proposed sexually oriented business.
- (d) Health director shall have the right to request additional information and documentation of the applicant and the proposed business to support or clarify any information previously provided.
- (e) If a license to operate a sexually oriented business is granted, the information furnished in the application, including employee information, shall be updated within 30 days of any material changes. Such update shall be filed at the office of the town clerk, who shall promptly forward such update to the health director.

8.81.042 Licensing procedure

- (a) The chief of police and the health director shall be responsible for investigating, granting, denying, renewing, suspending and revoking all sexually oriented business applications and licenses pursuant to this chapter. Upon receipt of a properly completed application with all required attachments, the chief of police and the health director shall immediately forward copies of such application to the following city officials for their investigation:
 - (1) The chief of police shall investigate the criminal convictions, qualifications and suitability of the applicant to be licensed and shall inspect the premises for compliance with all laws and regulations.
 - (2) The fire marshal shall investigate the compliance of the proposed premises with all applicable fire codes and laws.
 - (3) The chief building official shall investigate the compliance of the proposed premises with all applicable building codes and laws.
 - (4) Health director shall investigate the compliance of the proposed premises with all applicable public health codes and laws.
 - (5) The zoning enforcement officer shall investigate the compliance of the proposed premises with all applicable zoning regulations and laws.
- (b) Within 30 days of the date the application was filed, all such investigations to be performed pursuant to subsection (a) of this section shall be completed. At the conclusion of each investigation, each city official shall indicate on the photocopy of the application his approval or disapproval of the application, state the reasons for any disapproval, date it, sign it, and return it immediately to the chief of police and health director. The chief of police and health director shall disapprove an application if they find that the proposed sexually oriented

business will be in violation of any provision of any state statute, state code, city ordinance or regulation.

(c) Within 45 days of the date the application was filed, the chief of police and health director shall render a decision approving or denying such application and shall file such decision with the town clerk and mail such decision to the applicant by certified mail, return receipt requested. If the application is denied, they shall state in writing the reasons for such denial. All copies of the investigations performed pursuant to subsection (b) of this section shall be attached to the decision.

(d) The chief of police and health director shall issue to the applicant a license to operate a sexually oriented business within 45 days of the date the application was filed if all requirements for a sexually oriented business described in this chapter are met, unless they find that:

(1) The applicant is under 18 years of age.

(2) The applicant or any other person who will be directly engaged in the management and operation of the business has been convicted in this or any other state of any of the crimes specified in section 8.81.041 (c) (9), regardless of the pendency of any appeal, within three years of the date the application was filed.

(3) Within five years of the date the application was filed, the applicant or spouse has been denied a license by the city to operate a sexually oriented business, has had a license revoked by the city, or has failed to correct any material violation of this chapter for more than 30 days, of which the licensee has received written notice.

(4) Within three years of the date the application was filed, the applicant or spouse has had a license to operate a sexually oriented business denied or revoked by another municipality or state.

(5) The applicant or spouse is overdue on payment to the city of any taxes, fees, fines or other penalties relating to the sexually oriented business or the licensed premises.

(6) The business as proposed by the applicant, if permitted, would not have complied with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, and zoning codes of the city, and this chapter. If the premises are not in compliance, the applicant shall be advised of the reasons in writing and what if any measures the applicant can take to bring the premises into compliance for a license to issue.

(7) The applicant has failed to complete the license application as specified in section 8.81.041(c), has failed to provide any supporting or clarifying documentation when requested by chief of police and health director, or has provided materially false or misleading information in the application.

(8) The application fee has not been paid.

(9) The granting of the application would violate a statute, ordinance or court order.

(10) The applicant, if a limited partnership, limited liability company or corporation, is not in good standing under the laws of the state.

(e) Any failure of the license to issue within 45 days of the date the application was filed shall constitute a denial subject to appeal.

(f) If the sexually oriented business application is denied, the city shall retain one-half of the permit fee for expenses incurred in the investigation of the application and shall return the remainder to the applicant.

(g) When an application is denied solely for reasons stated in subsection (d)(6) of this section and such violation is correctable, the applicant shall be given an additional 30 days from the date of such notification of denial to bring the premises into compliance. Upon verification by

inspection that the correction has been made, which shall be determined no later than 48 hours after receipt by the chief of police and health director of written notice of such correction, a license shall be issued to the applicant so long as no new violations or other disqualifying factors have occurred within such 30 days.

(h) As a condition of the license, the entire licensed premises shall be open to random physical inspections for compliance with this article by any inspector during all hours when the premises are open for business. Any refusal to allow such an inspection shall constitute a violation of this chapter.

(i) The license, if granted, shall state on its face the name and residence address of the person to whom it is granted, the expiration date, the address of the sexually oriented business, and the department or public official and telephone number to report any violation of this article. The license shall also include a notice that the subject premises are subject to random inspections by inspectors of the city for compliance with this chapter.

(j) The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at all times.

8.81.043 Expiration and renewal

(a) Each license issued to a licensee shall expire one year from the date it is issued, unless it is renewed upon application of the licensee accompanied by payment of a renewal fee. Such application and application fee shall be submitted by the licensee to the town clerk at least 30 days before the expiration date of the license, but not more than 90 days before. Provided the application is filed within such time and the renewal fee paid, health director shall, prior to the expiration of the previous license, renew the license for the same licensee at the same location for an additional one year, unless the random inspection reports in the licensee's file reveal uncorrected violations of this chapter or uncorrected violations of any fire, building, health or zoning codes or regulations, of which the licensee has received written notice, or any condition under section 14-263(d) that could have been grounds for denial of the original application has since become true. If renewed, health director shall mail the renewed license to the licensee prior to the expiration date of the previous license. If not renewed, the health director shall mail a notice of nonrenewal to the licensee by certified mail, return receipt requested, prior to the expiration date of the previous license, stating the reasons for such nonrenewal. No sexually oriented business shall continue operations without a renewed license.

(b) If there are uncorrected violations of this chapter or uncorrected violations of any fire, building, health or zoning codes or regulations, of which the licensee has received written notice, the license renewal shall be delayed for a maximum of 30 days beyond the original expiration date in order for all corrections to be completed and inspections done to determine compliance. If the licensee does not make such corrections of violations within such 30 days, no license renewal shall be issued. Health director shall mail a notice of nonrenewal to the licensee by certified mail, return receipt requested, within five days after the extended 30-day period, stating the reasons for such nonrenewal.

(c) Notwithstanding the provisions in subsection (b) of this section, in no instance shall a renewal be issued to a licensee who, within the one-year period of the previous license has had two or more material violations of this chapter, to which the licensee has received written notice, or has had one or more uncorrected material violations of this article pending for over 30 days.

(d) Should a license not be renewed for any violation of this article, no license shall issue for the same licensee for five years from the expiration of the previous license.

8.81.044 Suspension and revocation

(a) Health director may suspend a sexually oriented business license for a period not to exceed 30 days upon a determination that a licensee, operator or employee has materially violated any part of this chapter. Health director shall issue such suspension in writing stating the reasons therefore and shall notify the licensee by certified mail, return receipt requested, addressed to the licensee at his business or residence address, or by service by any process server at the usual place of abode of the licensee or at the licensed premises. If a suspension is issued for a correctable violation, health director, within 48 hours of receipt of written notice that the correction has been made, shall terminate such suspension upon verification by inspection. No sexually oriented business shall continue operations while under suspension.

(b) Health director shall revoke any license where any of the following occur:

(1) It is discovered that materially false or misleading information or data was given on, or material facts were omitted from, any application for a sexually oriented business license.

(2) Any taxes, fees, fines or other penalties relating to the licensed premises or required to be paid by this chapter become more than 30 days delinquent.

(3) A licensee, operator, employee or other person directly involved in the management or control of the sexually oriented business has been convicted of any crime specified in section 8.81.041(c)(9).

(4) A licensee has had within a one year period two or more material violations of this chapter to which the licensee has received written notice.

(5) A licensee has one or more uncorrected material violations of this chapter pending for over 30 days, to which the licensee has received written notice.

(6) A licensee has failed to correct within 30 days any violation for which his license was suspended pursuant to subsection (a) of this section.

(7) The license or any interest therein is transferred in any way.

(8) A licensee, operator or employee has knowingly allowed any live performance or conduct featuring any specified sexual activities to occur on the licensed premises.

(9) A licensee, operator or employee has knowingly allowed any illegal activity to occur on the licensed premises including, but not limited to, prostitution, gambling, or the possession, use or sale of controlled substances.

(10) A licensee, operator or employee has knowingly operated the sexually oriented business while the business's license was under suspension.

(c) At least ten days prior to the revocation of any license, health director shall issue such revocation in writing stating the reasons therefore and shall notify the licensee by certified mail, return receipt requested, addressed to the licensee at his business or residence address, or by service by any process server at the usual place of abode of the licensee or at the licensed premises.

(d) Subject to section 8.81.044 (f), no sexually oriented business shall continue operations after its license has been revoked, and no new license shall be issued for the same licensee for five years from the date of revocation.

8.81.045 Appeal

- a) Within five days of receipt of notification of a denial, nonrenewal, suspension or revocation of a license by the chief of police or the health director, the licensee may contest such decision by appealing to the superior court within 20 days of such written notice of such decision.
- (b) During the pendency of any appeal of a nonrenewal, suspension or revocation, the operations of the sexually oriented business may be maintained by the licensee, unless otherwise ordered by the superior court.

8.81.050 Existing businesses

- (a) Any sexually oriented business lawfully operating on the effective date of the ordinance from which this chapter is derived but in violation of section 14-291 shall be deemed a nonconforming use. No nonconforming use shall be increased, enlarged, extended or altered except to make it a conforming use.
- (b) Any existing sexually oriented business on the effective date of the ordinance from which this chapter is derived shall submit an application for a license pursuant to section 14-261 and shall comply with all regulations herein within 60 days of the effective date of the ordinance from which this article is derived. Otherwise, such existing sexually oriented business shall cease operations.

8.81.060 Operating requirements

The following requirements shall apply to all sexually oriented businesses within the city:

- (1) *Generally.*
 - a. No licensee, operator or employee of a sexually oriented business shall perform or permit to be performed, offer to perform, or allow patrons to perform any live performance or conduct featuring any specified sexual activities on the licensed premises.
 - b. Every sexually oriented business shall comply with all applicable statutes, codes, ordinances, laws and regulations including, but not limited to, the fire, building, health, and zoning regulations and codes of the city and state.
 - c. Every sexually oriented business shall be physically arranged in such a manner that the entire interior portion of any room or other area used for the purpose of viewing of adult entertainment shall be clearly visible from the common areas of the premises. Visibility into such areas shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever. Such areas shall be readily accessible at all times to employees and shall be continuously open to view in their entirety. It shall be a violation of this chapter to install enclosed booths, cubicles, rooms or stalls within sexually oriented businesses, for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult entertainment.
 - d. Every sexually oriented business, including common areas, entryways, parking areas, restrooms, and any room or other area used for adult entertainment, shall be well-lighted. The entire premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than

one foot candle as measured at the floor or ground level. It shall be the duty of the operator and his agents to ensure that such illumination is maintained at all times that any patron is present on the premises.

e. No booths, cubicles, rooms or stalls used for the purpose of viewing adult entertainment shall be occupied by more than one person at any one time. No holes shall be allowed in the walls or partitions that separate each such room from any adjoining room.

f. No sexually oriented business shall be conducted in such a manner that permits the observation of any material depicting specified anatomical areas or specified sexual activities from outside of the building that houses the sexually oriented business.

g. No sexually oriented business shall advertise the availability at such business of any activity that would be in violation of this chapter or any state or federal law. Nor shall any exterior sign, display, decoration, show window or other advertising of such business contain any material depicting, describing or relating to specified anatomical areas or specified sexual activities.

h. No alcoholic beverage or other intoxicant shall be displayed, served, ingested or sold on the premises of any sexually oriented business unless permitted by the state. No licensee, operator or employee shall be under the influence of any alcoholic beverage or other intoxicant while working at a sexually oriented business. No patron who is under the influence of any alcoholic beverage or other intoxicant shall be allowed to enter any sexually oriented business.

i. No gambling shall be permitted by any person in any sexually oriented business.

(2) *Employees.*

a. The licensee and operator shall be responsible for the conduct of all employees while on the licensed premises. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee and operator, when such licensee or operator knew or should have known of such act or omission, for purposes of determining whether the operating license shall be renewed, suspended or revoked and whether the licensee and operator shall be subject to the penalties imposed by this chapter.

b. No licensee or operator shall knowingly employ in any sexually oriented business any person who, within three years of the commencement of such employment, has been convicted in this or any other state of any of the crimes specified in G.S. 14-262(c)(9), regardless of the pendency of any appeal.

(3) *Minors.*

a. No licensee, operator or employee of a sexually oriented business shall allow or permit any minor to enter into or in any way loiter in or on any part of the licensed premises, purchase goods or services at the licensed premises, or work at the licensed premises as an employee.

b. Every sexually oriented business shall display a sign outside each entrance of such business bearing the words "Sexually Oriented Business. Persons Under 18 Not Admitted" in legible letters between two and six inches tall.

(4) *Hours of business.* No sexually oriented business shall open to do business before 10:00 a.m., Monday through Saturday, nor shall it remain open after 1:00 a.m. Tuesday through Friday, nor after 2:00 a.m. on Saturday, Sunday or any legal holiday as designated in G.S. § 1-4.

8.81.061 Operating requirements - Live adult entertainment

In addition to the requirements contained in section 8.81.060, the following requirements shall apply to all sexually oriented businesses within the city containing live adult entertainment:

- (1) No person shall perform live adult entertainment for patrons of a sexually oriented business except upon a stage at least 18 inches above floor level and separated from any and all such patrons by a minimum distance of four feet or as approved by the liquor division of the state department of consumer protection.
- (2) Separate dressing room facilities for male and female entertainers shall be provided that shall not be occupied or used in any way by anyone other than such entertainers.
- (3) No entertainer shall expose any specified anatomical areas to any patron of a sexually oriented business either before or after a performance including, but not limited to, when such entertainer is entering or exiting the stage.
- (4) No entertainer, either before, during or after a performance, shall have physical contact with any patron of a sexually oriented business while on the licensed premises.
- (5) No employee of any sexually oriented business shall engage in any live adult entertainment while acting as a waiter, host or bartender for such business.

8.81.062 Promulgation of rules and regulations

- (a) The health director shall promulgate and enforce reasonable rules and regulations to carry out the requirements of this chapter.
- (b) The health director shall upon promulgating any regulation or rule, file a copy of the regulation or rule with the city clerk.

8.81.063 Inspections

- (a) The health director shall, from time to time, but not less than twice a year, make an inspection of such adult entertainment establishments for purposes of determining that the provisions of this chapter are complied with.
- (b) Such inspections shall be at a reasonable time, completed in a reasonable manner. No person shall hinder any health official in carrying out an inspection under this chapter.

8.81.064 Penalties for violation of chapter

- (a) In addition to other available methods of enforcement, this chapter may also be enforced through the civil citation process. Any licensee, operator, employee or other person who violates any of the provisions of this chapter shall be subject to a fine of \$250 for each such citation.
- (b) Each citation under this chapter shall be considered a separate citation, and any violation continuing more than one hour of time shall be considered a separate violation for each hour of violation.
- (c) In addition to any citations, fines or penalties imposed in this section, this chapter may be enforced by injunctive procedure in the superior court. The city may further recover from any violator any and all costs and fees, including reasonable attorney's fees, expended by the city in enforcing the provisions of this chapter.
- (d) This chapter shall not preclude any additional enforcement action taken by any appropriate city, state or federal official conducted pursuant to any applicable ordinance, regulation or law of the city, state or the United States of America.

(e) All remedies and penalties provided for in this section shall be cumulative and independently available to the city, and the city shall be authorized to pursue any and all remedies set forth in this section to the fullest extent allowed by law. Nothing in this chapter shall be construed as to limit or waive any requirements of state or local laws and regulations concerning activities falling within their jurisdiction.

(f) If any section or subsection of this chapter is found for any reason to be unenforceable by a court decision, then that section or subsection is deemed severed from this chapter and the remaining chapter remains enforceable.

RESOLUTION

By Councilmember(s): Susan T. Brannelly

Co-Sponsors: Martin McCarthy, Leticia Colon, Denese Taylor-Moye, Rev. John Olson, M. Evette Brantley, Thomas McCarthy, Howard Austin Sr., Michelle Lyons, Amy/Marie Vizzo-Paniccia, Richard Bonney, Carlos Silva, Angel dePara Jr., Richard Paoletto Jr., Andre Baker Jr.

District: 130th, 131st, 132nd, 133rd, 134th, 135th, 136th, 138th & 139th

Introduced at a meeting of the City Council, held:

March 19, 2012 (OFF THE FLOOR)

Referred to: Ordinance Committee

Re: Proposed Amendment to the Municipal Code of Ordinances, amend Chapter 5.12, Massage Establishments and Massage Therapists.

(SEE ATTACHED)

Referrals Made:

Ref'd to City Attorney's Office on: 03/20/2012

Attest: _____

City Clerk

Resolution

By Council Member Susan T. Brannelly, 130th District.
Co-sponsored by Martin C. McCarthy, Leticia Colon, Denese Taylor-Moye, Rev. John Olson,
M. Evette Brantley, Thomas McCarthy, Howard Austin, Michelle Lyons, AmyMarie Vizzo-
Pannicia, Richard Bonney, Carlos Silva, Angel dePara, Richard Paoletto, Andre Baker

Presented for immediate consideration at the City Council meeting of March 19, 2012.

For referral to the Committee on Ordinances

Resolution to Address Regulation of Sexually Oriented Businesses and Massage Establishments and Massage Therapists.

Whereas, the City of Bridgeport contains commercial premises and structures which by design or intended use are conducive to the spread of dangerous communicable disease to the public.

Whereas, the operation of sexually oriented businesses requires regulation and supervision by the city to protect, preserve and promote the health, safety and welfare of the patrons of those businesses as well as that of all the city's residents.

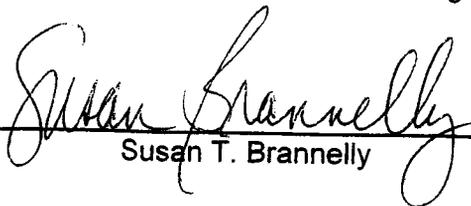
Whereas, the reasonable licensing of sexually oriented businesses tends to discourage prostitution, sex-related crimes and unsanitary sexual activity and other harmful effects while it promotes and protects the health, safety and property interests of the city and its residents.

Be it resolved that the City Council adopt new Chapter 8.81 Sexually Oriented Business Ordinance which details the requirements for licensing of sexually oriented businesses in order to promote the health, safety and general welfare of the residents of the city and to establish reasonable and uniform requirements for such businesses in order to:

- Reduce or eliminate the adverse secondary effects of such sexually oriented businesses
- Protect residents from increased crime
- Preserve the quality of life
- Preserve the property values and the character of surrounding neighborhoods and businesses
- Deter the spread of blight
- Protect against the threat to public health from the spread of communicable and social diseases.

Be it resolved that the City Council amend Chapter 5.12 Massage Establishments And Massage Therapists in order to better state that this is a business that affects public health, safety and general welfare and necessitates regulation and control.

Submitted


Susan T. Brannelly

3-19-12
Date

RECEIVED
CITY CLERK
OFFICE

Section (2)

Amend Chapter 5.12, Massage Establishments and Massage Therapists. (Deleted language in brackets [] and new language in CAPS.)

Chapter 5.12

MESSAGE ESTABLISHMENTS AND MESSAGE THERAPISTS

Sections:

Article I. In General

- 5.12.010 Short title.**
- 5.12.020 Purpose of chapter.**
- 5.12.030 Definitions.**
- 5.12.040 Exceptions.**
- 5.12.050 Promulgation of rules and regulations.**
- 5.12.060 Inspections.**
- 5.12.070 Notification of suspension or revocation of permits– Hearing.**
- 5.12.080 Hearings on denial of permit or renewal.**
- 5.12.090 Transfer of permit.**
- 5.12.100 Penalties for violation and enforcement.**
- 5.12.110 Effective date– Current massage establishments and massage therapists.**

Article II. Massage Establishment Permit

- 5.12.120 Permit required.**
- 5.12.130 Filing of application– Fee.**
- 5.12.140 Contents of application.**
- 5.12.150 Issuance of a permit.**
- 5.12.160 Expiration of permit– Renewal– Application– Fee.**
- 5.12.170 Revocation or suspension of permit. ‘**

Article III. Massage Therapy Permit

- 5.12.180 Permit required.**
- 5.12.190 Filing of application– Fee.**
- 5.12.200 Contents of application.**
- 5.12.210 Issuance of permit– Fee.**
- 5.12.220 Expiration of permit– Renewal– Application– Fee.**
- 5.12.230 Revocation or suspension of permit.**

Article IV. Outcall Massage Service

- 5.12.240 Permit required.**
- 5.12.250 Records required.**

RECEIVED
MAY 20 10 21 14

**Article I.
In General**

5.12.010 Short title.

This chapter shall be known and may be cited as the "massage establishment and massage therapist ordinance" for the city.

5.12.020 Purpose of chapter.

It is resolved that the business of operating massage establishments, as defined in this chapter, is a business affecting the public health, safety and general welfare, and as such necessitates regulation and control.

5.12.030 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Chief of police" means the chief of the Bridgeport police department in the city.

"Employee" means any and all persons including independent contractors other than the massage therapists who render any service in a massage establishment, but have no physical contact with customers or clients.

"Health director" means the director of health for the city.

"Massage establishment" means any establishment by whatever name called, where any person engages in or carries on or permits to be engaged in or carried on, any of the activities of massage as defined this section, for a profit.

"Massage therapist" means a person who meets the educational requirements for treatment and certification as a Connecticut Certified Massage Therapist set forth in Chapter 384a of the Connecticut General Statutes.

"Massage therapy" means the systematic and scientific manipulation and treatment of the soft tissues of the body, by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion and nonspecific stretching. Massage therapy may include the use of oil, ice, hot and cold packs, tub, shower, steam, dry heat, or cabinet baths, for the purpose of, but not limited to, maintaining good health and establishing and maintaining good physical and mental condition. Massage therapy does not encompass diagnosis, the procedure for which a license to practice medicine, chiropractic, naturopathy, physical therapy or podiatry is required by law.

"Outcall massage service" means any business, the function of which is to engage in or carry on massage at a location designated by the customer or patron rather than at a massage establishment.

"Recognized school" means any school or institute of learning which has for its purpose the teaching of theory and practice, the method, profession or work of massage including anatomy, physiology, hygiene and professional ethics. Such school must require a resident course of study of not less than six months prior to graduating or receiving a certificate of graduation, with classroom instruction totaling not less than five hundred (500) clock hours as specified in the following subjects: anatomy, physiology, theory and practice of massage and clinical practice.

5.12.040 Exceptions

In addition to those practices not encompassed under the definition of "massage therapist" in Section 5.12.030 of this chapter, this chapter shall not apply to any recognized school, hospital, nursing home, sanitarium, clinics, rehabilitation facility, nonprofit agencies, barber schools, operating in accordance with the laws of the state, nor to any person holding a valid certificate or license to practice the healing arts or to practice podiatry, physical therapy, midwifery, nursing, dentistry, dental hygiene or optometry, or to engage in the occupation of barber, hairdresser or cosmetician under the laws of the state; provided that the activities of such person are confined to those for which the certificate or license is granted, nor shall this chapter apply to any person lawfully acting under their supervision or control; nor shall it prohibit the furnishing of assistance in the case of emergency.

5.12.050 Promulgation of rules and regulations.

The chief of police and the health director shall promulgate and enforce reasonable rules and regulations to carry out the requirements of this chapter. The chief of police and the health director shall upon promulgating any regulation or rule, file a copy of the regulation or rule, with the city clerk.

5.12.060 Inspections.

The police department and [the] A city health official, as directed by the health director, shall, from time to time, but not less than twice a year, make an inspection of such massage establishments in the city for purposes of determining that the provisions of this chapter are complied with. Such inspections shall be at a reasonable time, and completed in a reasonable manner. No person shall hinder any police officer or health official in carrying out an inspection under this chapter.

5.12.070 Notification of suspension or revocation of permits– Hearing.

A. The chief of police OR HEALTH DIRECTOR shall not revoke or suspend any permit issued under this chapter without notifying the holder of the permit, in writing, of the facts and of the specific section or sections of this chapter upon which his determination was made and of the holder's right to request a hearing before the chief of police AND HEALTH DIRECTOR OR

THEIR DESIGNEES and to present evidence or argument on all the facts or issues involved. The chief of police AND HEALTH DIRECTOR shall upon receipt of a request for such hearing, schedule such hearing not later than thirty (30) days from the date of receipt of the request and shall notify all parties of the time and place of such hearing.

B. A request for such hearing under this section shall stay any revocation or suspension until such time as a hearing has been held and a decision rendered thereon; provided, however, that if the chief of police AND HEALTH DIRECTOR finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in his notice, the permit may be summarily suspended, pending a hearing, which hearing shall be scheduled within five business days of the order of suspension and all facts and issues promptly determined.

5.12.080 Hearings on denial of permit or renewal.

A. The chief of police shall notify the applicant in writing of his decision to refuse to issue or renew a permit under this chapter and [his] reason(s) therefor.

B. Any applicant denied a permit or renewal of such permit may request, in writing, a hearing before the chief of police AND HEALTH DIRECTOR OR THEIR DESIGNEE at which hearing such persons may present evidence and argument on all the facts or issues involved.

C. The chief of police AND HEALTH DIRECTOR shall, upon receipt of a request for a hearing under this section, schedule a hearing not later than fifteen (15) days from the date of receipt of the request and shall notify all parties of the time and place of such hearing.

D. The chief of police AND HEALTH DIRECTOR shall render a decision within ten days of the conclusion of the hearing.

5.12.090 Transfer of permit.

No permit issued under this chapter may be transferred.

5.12.100 Penalties for violation and enforcement.

A. Any person violating any of the provisions of this chapter shall be punished as provided in Chapter 1.12 of this code.

B. The chief of police OR HEALTH DIRECTOR may issue a cease and desist order to abate any violation of this chapter and may apply to the superior court to enforce any such order.

5.12.110 Effective date— Current massage establishments and massage therapists.

A. These amendments to this chapter shall be effective upon passage and publication as required by law.

B. The operator of any massage establishment or any massage therapist operating on or practicing massage therapy on the effective date of the ordinance codified in this chapter may continue to operate a massage establishment or practice massage therapy without the permits required by this chapter for the period of ninety (90) days after the effective date of the ordinance codified in this chapter, thereafter, no person shall operate a massage establishment or practice massage therapy without complying with the requirements of this chapter.

**Article II.
Massage Establishment Permit**

5.12.120 Permit required.

No person shall engage in, conduct or carry on or permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a massage establishment without first having obtained a permit from the chief of police AND THE HEALTH DIRECTOR.

5.12.130 Filing of application– Fee.

Each applicant for a permit to operate a massage establishment shall file an application with the chief of police and pay a filing fee of one hundred and fifty dollars (\$150.00), and a filing fee of one hundred and fifty dollars (\$150.00) with the health director, which filing fees shall not be refundable.

5.12.140 Contents of application.

The application for a permit to operate a massage establishment shall be in writing, signed and sworn to by the applicant and shall set forth in a manner and form prescribed by the chief of police AND HEALTH DIRECTOR, the following requirements:

- A. The name and address of each applicant;
- B. The applicant's Social Security number or employer identification number;
- C. Written evidence that the applicant is at least eighteen (18) years of age;
- D. The proposed place of business and facilities therein;
- E. The exact nature of the massage to be administered;
- F. Two portrait photographs of the applicant at least two inches by two inches and a complete set of the applicant's fingerprints. Such fingerprints shall be taken by the police department;
- G. Business, occupation or employment history of the applicant for the three years immediately preceding the date of application;

H. Massage or similar business license or permit history in this or any other state of the applicant for the three years immediately preceding the date of the application and whether or not the applicant has had any such license or permit denied, suspended or revoked and the reason or reasons therefore;

I. Any criminal conviction, except minor motor vehicle violations within five years preceding the date of application;

J. Plans for the physical layout of the massage establishment;

K. The applicant's massage therapy permit. If the applicant is not a massage therapist LICENSED TO PRACTICE MASSAGE THERAPY UNDER C.G.S. SECTIONS 20-206A TO 20.206F, then the application shall designate a [permitted] LICENSED massage therapist to be the agent of the principal owner and operator and to be in constant direct and personal supervision of said establishment;

L. A list of all persons having a beneficial financial interest in the massage establishment and the amount of each person's interest if ten percent or over. If a corporation holds ten percent or more, the names and addresses of the corporate officers, directors and shareholders;

M. The certificates, licenses and permits necessary to operate and carry out the proposed business, showing proper compliance with all the applicable rules, regulations, ordinances and statutes including zoning, building and health laws and regulations;

N. A written statement of operating policies and procedures pertaining to such matters as times of operation, accessibility, personnel policies, safety and health of clients and employees;

O. Authorization to the chief of police to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualification of the applicant for the permit; and

P. Such other information as may be required in order for the chief of police OR HEALTH DIRECTOR to carry out or make any determination required by this chapter.

Q. The application to the health director shall provide a list of all equipment that will be used and the method of sterilizing any equipment that will come in contact with human skin.

R. Such other information as may be required in order for the health director to carry out or make any determination regarding the health and safety of customers as required by this chapter.

5.12.150 Issuance of a permit.

A. The chief of police AND HEALTH DIRECTOR shall issue a permit to operate a massage establishment or notify applicant of his denial within thirty (30) days of the receipt of the application. A permit shall be issued upon finding:

1. All requirements concerning operation and facilities described in this chapter will be complied with as of the effective date of the permit;

2. Compliance with all other statutes, codes or ordinances including health, zoning, building, fire and safety requirements of the city and the state as of the effective date of the permit;

3. The applicant has not be convicted within five years immediately preceding the date of the application of a crime involving the unauthorized practice of the healing arts, sexual misconduct, or obscenity or any offense of prostitution, pandering or solicitation of a lewd or unlawful act;

4. The applicant has not in this or any other state within the three years immediately preceding the date of the application had a massage or similar business license or permit suspended or revoked for a reason or reasons that would authorize the chief of police OR HEALTH DIRECTOR to revoke a permit under this chapter;

5. The applicant has complied with, furnished all information, documents certification required and meets the requirements set forth in Section 5.12.140;

6. The applicant has paid the requisite filing fee and fee for issuance of a permit to operate a massage establishment.

B. The fee for issuance of a permit to operate a massage establishment shall be two hundred and fifty dollars (\$250.00).

C. All permits issued under this section shall be kept on public display in a conspicuous place on the premises of the massage establishment.

D. In addition to the permit issued by the chief of police, the health director shall issue a permit to operate a massage establishment following an inspection and a determination that the health, safety and general welfare of the public who patronize the establishment meet all health and safety standards the director deems to be appropriate.

E. The applicant has paid the requisite filing fee and fee for issuance of a permit from the health director that the massage establishment meets all health and safety requirements.

F. The fee for issuance of a health and safety permit for a massage establishment shall be two hundred and fifty dollars (\$250.00).

G. All permits issued by the health director under this section shall be kept on public display in a conspicuous place on the premises of the massage establishment.

5.12.160 Expiration of permit– Renewal– Application– Fee.

A. Unless sooner revoked or suspended all permits issued to operate a massage establishment shall expire on the thirtieth day of June, 1993 succeeding the date of issue thereof and the thirtieth day of June each year thereafter.

B. A permit may be renewed under the same terms and conditions as the issuance of an original permit upon the filing of an application in the same form as an original application and payment of the requisite application and permit fees; provided, however, in the event a permit is renewed the application fee paid shall be credited to the payment of the permit fee.

C. In the event an application for renewal of a permit is filed prior to the date of expiration of the permit then the permit shall not expire until it is renewed or until three business days after notice of denial of the application for renewal is sent to the applicant by the chief of police OR HEALTH DIRECTOR.

D. Unless sooner revoked or suspended all permits issued to operate a massage establishment shall expire on [the thirtieth day of June 2009 succeeding the date of issue thereof and] the thirtieth day of June [each year thereafter].

E. A permit may be renewed under the same terms and conditions as the issuance of an original permit upon the filing of an application in the same form as an original application and payment of the requisite application and permit fees; provided, however, in the event a permit is renewed the application fee paid shall be credited to the payment of the permit fee.

F. In the event an application for renewal of a permit is filed prior to the date of expiration of the permit then the permit shall not expire until it is renewed or until three business days after notice of denial of the application for renewal is sent to the applicant by the health director.

5.12.170 Revocation or suspension of permit.

Any permit for a massage establishment may be revoked or suspended by the chief of police OR HEALTH DIRECTOR if the permit holder or the permit holder's massage therapist agent under Section 5.12.140(K) or any employee or massage therapist in his/her employ is involved in any violations of this chapter or commits or meets any of the following:

A. Is convicted of a crime involving the unauthorized practice of the healing arts, sexual misconduct, obscenity or any offenses of prostitution, pandering or solicitation of a lewd or unlawful act;

B. Uses or permits to be used on the premises any narcotic or any controlled substance as described in Connecticut General Statutes 21a-240 and 21a-242 to the extent or manner that such use is illegal;

C. Fails to maintain standards prescribed by the State Department of Health, the health department of the city and the Bridgeport police department;

D. Furnishes or makes any misleading or false statements or report in relation to this chapter;

E. Refuses to submit to the chief of police any reports or refuses to make available to the chief of police any records required by the chief of police to investigate the establishment for purposes associated with this chapter;

F. Fails or refuses to submit to an investigation or inspection by persons authorized by the city to conduct fire-, building-, health-, or law enforcement-related inspections;

G. Fails to provide, maintain, equip and keep in a safe and sanitary condition the premises established for and used by clients and customers pursuant to minimum standards prescribed by the State Department of Health or the city health department;

H. Employs any unpermitted massage therapist to practice massage therapy in the massage establishment; or

I. Violates any of the provisions of this chapter, or the rules and regulations established by the chief of police or the director of health pursuant to this chapter.

J. Any health and safety permit for a massage establishment may be revoked or suspended by the health director if:

1. The establishment fails any inspection of the establishment and does not cure the violations as required by the health director, or

2. The owner or employee of the establishment violates any of the provisions of this chapter, or the rules and regulations established by the director of health pursuant to this chapter.

Article III. Massage Therapy Permit

5.12.180 Permit required.

No person, including an applicant for a massage establishment permit, shall engage in the practice of massage therapy without first having obtained a massage therapy permit from the chief of police AND HEALTH DIRECTOR.

5.12.190 Filing of application- Fee.

Each applicant for a massage therapy permit shall file an application with the chief of police AND HEALTH DIRECTOR and pay a filing fee of fifty dollars (\$50.00), which filing fee shall not be refundable.

5.12.200 Contents of application.

The application for a massage therapy permit shall be in writing, signed, sworn to by the applicant, and shall set forth, in a manner and form prescribed by the chief of police AND HEALTH DIRECTOR, the following requirements:

A. The name and address of the applicant;

- B. The applicant's social security number;
- C. Applicant's height, weight, color of hair and eyes, and a full set of applicant's fingerprints (fingerprints to be taken by the police department);
- D. Written evidence that the applicant is at least eighteen (18) years of age;
- E. Business, occupation or employment history of the applicant for three years immediately preceding the date of application;
- F. Massage or similar business license or permit history in this or any other state of the applicant for the three years immediately preceding the date of the application and whether or not the applicant has had such license or permit denied, suspended or revoked and the reason or reasons thereforE;
- G. Whether such applicant has ever been convicted of any crime except for minor traffic violations within the five years immediately preceding the date of application;
- H. Name and address of the recognized school attended, the dates attended and a copy of the diploma or certificate of graduation awarded to the applicant, showing the applicant is a massage therapist as defined in this chapter and transcript that verifies graduation from said accredited school;
- I. Two portrait photographs of the applicant of at least two inches by two inches;
- J. Authorization to the chief of police to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit; and
- K. Such other information as may be required in order for the chief of police AND HEALTH DIRECTOR to make any determination required by this chapter.

5.12.210 Issuance of permit– Fee.

- A. The chief of police AND HEALTH DIRECTOR shall issue a massage therapy permit or notify the applicant of his/her denial within thirty (30) days after such application. A permit shall be issued upon finding:
1. That the applicant is at least eighteen (18) years of age;
 2. The applicant is a massage therapist as defined in this chapter;
 3. That the applicant has not been convicted within five years immediately preceding the date of the application of a crime involving the unauthorized practice of the healing arts, sexual misconduct, obscenity, or any other offenses of prostitution, pandering or solicitation of a lewd or unlawful act;

4. The applicant has not in this or any other state within the three years immediately preceding the date of the application had a massage or similar business license or permit suspended or revoked for a reason or reasons that would authorize the chief of police to revoke a permit under this chapter;

5. The applicant has complied with, furnished all information, documents and certificates required and meets the requirements set forth in Section 5.12.200; and

6. The applicant has paid the requisite application and permit fees.

B. The fee for a massage therapy permit shall be one hundred and fifty dollars (\$150.00).

C. All permits issued under this section shall be carried on the person of or within immediate access to the permitted massage therapist at all times the permitted massage therapist is engaging in or carrying on massage therapy whether at a massage establishment or in an outcall massage service.

5.12.220 Expiration of permit– Renewal– Application– Fee.

A. Unless sooner revoked or suspended all massage therapy permits shall expire [on the thirtieth day of June, 1993 succeeding the date of issue thereof and] on the thirtieth day of June [each year thereafter].

B. A permit may be renewed under the same terms and conditions as the issuance of an original permit upon the filing of an application and payment of the requisite application and permit fees.

C. In the event an application for renewal of a permit is filed prior to the date for expiration of the permit then the permit shall not expire until it is renewed or until three business days after notice of denial of the application for renewal is sent to the applicant by the chief of police OR HEALTH DIRECTOR.

5.12.230 Revocation or suspension of permit.

Any massage therapy permit may be revoked or suspended by the chief of police OR HEALTH DIRECTOR if the permit holder is involved in violations of this chapter or commits or meets any of the following:

A. Is convicted of a crime involving the unauthorized practice of the healing arts, sexual misconduct, obscenity or any offenses of prostitution or pandering or solicitation of a lewd or unlawful act;

B. Uses any narcotic or any controlled drug as described in Connecticut General Statutes 21a-240 and 21a-242 to an extent or manner that such use is illegal;

C. Fails to maintain standards prescribed by the State Department of Health, the health department of the city and the Bridgeport police department or any other applicable statutes, ordinances, rules or regulations;

D. Furnishes or makes any misleading or false statements or report in relation to this chapter;

E. Refuses to submit to the chief of police OR HEALTH DIRECTOR any reports or refuses to make available to the chief of police any records required by the chief of police OR HEALTH DIRECTOR to investigate compliance with this chapter;

F. Employs any unpermitted massage therapist;

G. Violates any of the provisions of this chapter, or the rules or regulations established by the chief of police or the [director o] health DIRECTOR pursuant to this chapter.

(NEW) Section 5.12.35, Operating Requirements for Massage Establishments and Massage Therapists:

The following requirements shall apply to all massage establishments and massage therapists within the city:

(1) *Facility requirements.*

a. Construction of rooms used for toilets, tubs, steam baths and showers shall be waterproofed with approved waterproof materials.

b. Toilet facilities shall be provided in convenient locations. When five or more persons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. Toilets shall be designated as to the sex accommodated therein.

c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(2) *Operating requirements.*

a. Every portion of the massage parlor, including appliances and apparatus, shall be kept clean and operated in a sanitary condition. Adequate lighting shall be provided, and each room or enclosure where a massage is administered shall have an illumination of not less than one foot candle as measured at the floor level while such room or enclosure is occupied.

b. All employees of the massage parlor shall be clean and wear clean outer garments, which use is restricted to the massage parlor. Provisions for a separate dressing room for each sex must be available on the licensed premises with individual lockers for each employee. Doors to such dressing rooms shall open inward and shall be self-closing.

c. All employees and masseurs shall be modestly attired. Diaphanous, flimsy, transparent, form-fitting, or tight clothing is prohibited. Clothing must cover the employee's or masseur's chest at all times. Hemlines of skirts, dresses or other attire may be no higher than three inches above the top of the knee.

d. All specified anatomical areas of patrons must be covered by towels, cloth or undergarments when in the presence of any employee or masseur. It shall be unlawful for any person in a massage parlor to expose their specified anatomical areas to any other person or for any person to expose the specified anatomical areas of another person.

- e. It shall be unlawful for any person in a massage parlor to engage in any specified sexual activities or to place their hand upon, to touch with any part of his body, to fondle in any manner, or to massage any specified anatomical areas of any other person.
- f. All massage parlors shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in an approved sanitary manner.
- g. Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day business is in operation. Bathtubs shall be thoroughly cleaned after each use.
- h. No massage parlor shall place, publish, or distribute or cause to be placed, published, or distributed any advertising material that depicts any portion of the human body or contains any written text that would reasonably suggest to prospective patrons that any services are available other than those services allowed in this ordinance, or that employees or masseurs are dressed in any manner other than described in subsection (2)c of this section.
- i. All services enumerated in this section shall be performed in a cubicle, room, booth or area within the massage parlor, which cubicle, room, booth or area shall have transparent doors or walls so that all activity therein shall be visible from outside the same.
- j. No massage parlor shall carry on, engage in, or conduct business on Sunday, nor on any other day before 8:00 a.m. or after 1:00 a.m.
- k. A full schedule of service rates shall be posted in a prominent place within the massage parlor in such a manner as to come to the attention of all patrons. No charges other than the specified rates for specified services shall be allowed and all patrons shall be notified of the full cost of services prior to the rendering of any service.

**Article IV.
Outcall Massage Service**

5.12.240 Permit required.

No person shall engage in the business of, carry out or conduct an outcall massage service unless that person is a permitted massage therapist under this chapter or the holder of a permit to operate a massage establishment under this chapter.

5.12.250 Records required.

A. Any person who engages in the business of, carries on or conducts an outcall massage service shall keep adequate records showing the time, address, nature of the massage therapy administered and the name and address of the massage therapist administering the massage therapy.

B. The records required in subsection A of this section shall be retained for a period of not less than two years after each such outcall massage therapy is administered and shall be available to the chief of police or the [director of health] HEALTH DIRECTOR for his/her inspection.

APPENDIX- APPLICATION FEE PURUSANT TO 8.81.041(a)

(Need to establish fee schedule)

Effective date:

***56-11 Consent Calendar**

Grant Submission: re 2011 Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program.

**Report
of
Committee
on**

Public Safety and Transportation

Submitted: March 19, 2012

Adopted: _____

Attest: _____

Fleeta C Hudson

City Clerk

Approved _____

Mayor



City of Bridgeport, Connecticut

To the City Council of the City of Bridgeport.

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

***56-11 CONSENT CALENDAR**

WHEREAS, the Federal Emergency Management Agency has authorized to extend financial assistance to municipalities in the form of grants; and,

WHEREAS, this funding has been made possible through a grant for 2011 Federal Emergency Management Agency Assistance to Firefighters Grant Program; and,

WHEREAS, funds under this grant will be used to implement the International Association of Firefighters (IAFF) Fire Ground Survival Program; and,

WHEREAS, it is desirable and in the public interest that the City of Bridgeport, Central Grants Office to submit an application to the Federal Emergency Management Agency in an amount not to exceed \$45,000 for this Train-the-Trainer Course that requires an IAFF FGS Master Instructor to educate and guide firefighters, company officers and chief officers on how to deal with MAYDAY Prevention and MAYDAY operations; and,

NOW THEREFORE, BE IT RESOLVED BY THE City Council:

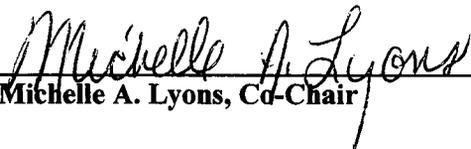
1. That it is cognizant of the City's grant application and contract to the Federal Emergency Management Agency to provide the International Association of Firefighters (IAFF) Fire Ground Survival Program.
2. That it hereby authorizes, directs and empowers the Mayor or his designee to execute and file such application with the Federal Emergency Management Agency and to provide such additional information and to execute such other contracts and documents as maybe necessary under this program.



Report of Committee on Public Safety and Transportation
***56-11 Consent Calendar**

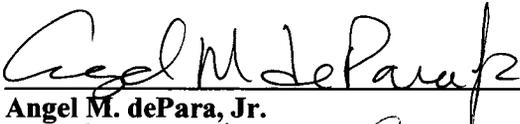
-2-

**Respectfully submitted,
THE COMMITTEE ON PUBLIC SAFETY
AND
TRANSPORTATION**

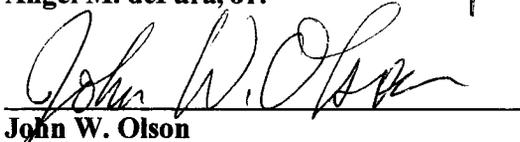

Michelle A. Lyons, Co-Chair


Leticia Colon, Co-Chair

Denese Taylor-Moye


Angel M. dePara, Jr.

Andre F. Baker, Jr.


John W. Olson


Richard M. Paoletto, Jr.

City Council Date: March 19, 2012