

**BOROUGH OF NEW PROVIDENCE
ORDINANCE 2012-07**

AN ORDINANCE OF THE BOROUGH OF NEW PROVIDENCE AMENDING AND SUPPLEMENTING § 310-6 OF THE "LAND USE" PROVISIONS OF THE BOROUGH CODE TO ADD NEW DEFINITIONS FOR EXISTING AND PROPOSED NEW LAND USES

WHEREAS, the Borough Council, in conjunction with the Borough's Planning Board and the Borough Planner, undertook a review of the land use provisions of the Borough Code governing the Borough's Central Business District (C) in order to, among other things, provide consistency in the standards applicable to the zone, to replace outdated standards contained therein, and to promote appropriate development within this zone; and

WHEREAS, as a result of this review, the Planning Board and the Borough Planner have recommended that certain amendments be made to the definitions within § 310-6 of the Borough Code to add new definitions for existing and proposed new land uses; and

WHEREAS, the Borough Council has determined that it is appropriate and necessary to amend § 310-6 of the Borough Code to add new definitions for existing and proposed new land uses;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of New Providence, County of Union and State of New Jersey that § 310-6 of the Borough Code of the Borough of New Providence is hereby amended and supplemented as follows:

(1) § 310-6 is hereby amended to add the following new defined terms:

SPAS/ DAY SPAS: Retail personal service establishments that offer a combination of non-medical personal services that may include hair, nail and skin treatment or others services typically found in a beauty shop, and may offer patrons multiple services such as personal hygiene, grooming, relaxation therapy, and hydro therapy, and licensed massage therapy as defined by New Jersey General Statutes. Massage therapy shall be an accessory use (See definition of massage-accessory) and shall cover less than 20 percent of the gross floor of the principal use.

MESSAGE – ACCESSORY: A use where massages occur, either permanently or temporarily, and the area where the massage occurs, which shall cover less than 20 percent of the gross floor of the principal use. The following professions and services shall not be classified as a massage establishment:

1. Any duly licensed medical physician, doctor, surgeon, osteopath, chiropractor, acupuncturist, registered nurse, or to other person licensed by the state while engaging in practices as part his or her license.

2. Any barber, beautician, manicurist, cosmetologist, or esthetician who is licensed under the laws of the State of New Jersey while engaging in practices as part his or her license. This exemption shall include hospitals, nursing homes, sanitariums, and any other health facilities duly licensed by the State of New Jersey or to accredited high schools, junior colleges, colleges, or universities whose coaches and trainers are acting within the scope of their employment.
3. Shall not apply to physical therapist or trainer of amateur, semiprofessional, or professional athletes or athletic teams while engaging in his or her training responsibilities for and with athletes.
4. Any massage technician offering massage services to a fully clothed client in public common areas where the primary use is not a massage establishment (i.e., chair massage services in a supermarket, massage services in the courtyard of an outdoor or indoor shopping center).

(2) All other defined terms set forth within §310-6 shall remain in full force and effect.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect on upon passage and publication in accordance with applicable law.

INTRODUCTION:
PUBLIC HEARING:
ADOPTED:

BOROUGH OF NEW PROVIDENCE
COUNTY OF UNION
STATE OF NEW JERSEY

J. Brooke Hern, Mayor

Attest:

Wendi B. Barry, Borough Clerk