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**Title:** AN ORDINANCE AMENDING TITLE VIII, BUSINESSES AND OCCUPATIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO CREATE CHAPTER 41, INTERMODAL CONTAINER LOT LICENSE, AND ESTABLISH RULES AND REGULATIONS.  
 Deferred 6PSF-b 032024  
 Deferred 6PSF-a 041024  
 Deferred 6PSF-a 042424  
 Amended 6PSF-a 050824  
 Deferred 6PSF-a 052224

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**AN ORDINANCE AMENDING TITLE VIII, BUSINESSES AND OCCUPATIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO CREATE CHAPTER 41, INTERMODAL CONTAINER LOT LICENSE, AND ESTABLISH RULES AND REGULATIONS.**

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**WHEREAS**, N.J.S.A. 40:48-2 authorizes a municipality to make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the City of Newark desires to move certain regulations from the Zoning Office to the Division of Tax Abatement and Special Taxes of the Finance Department; and

**WHEREAS**, the City continues to acknowledge that the Port Newark Container Terminal and other on-port intermodal container companies have strict safety protocols and the concerns for intermodal containers on-port differ drastically than the intermodal containers off-port; and

**WHEREAS**, it has been found and declared that off-port intermodal container businesses store, rent, own, lease, and sell intermodal containers on land within the limits of the City of Newark ("City"); and

**WHEREAS**, the off-port businesses that have intermodal containers on site do not have adequate oversight by the City; and

**WHEREAS**, the City intends to regulate and bring oversight to those aforementioned businesses, as intermodal containers can be dangerous and can become an attractive nuisance without having proper safeguards inherent in the way intermodal containers are stored.

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

**Note:** Additions are shown as **underlined and bold**. Deletions are shown as ~~strikethroughs~~.

**SECTION 1.** Title VIII, Business and Occupations, Chapter 41, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is hereby amended as follows:

**§ 8:41-1 DEFINITIONS.**

**APPLICANT means the person(s), business, operator, owner, and corporation that apply for the intermodal container lot license with the Division of Tax Abatement and Special Taxes.**

**INTERMODAL CONTAINER DWELL TIME REPORT means a report that measures how long intermodal containers are stored at a specific site. The report shall identify each intermodal container using industry standard identification, which should generally be reflected by a registration number.**

**INTERMODAL CONTAINER(S) means ISO Container(s), shipping container(s), storage container(s), ISO container(s), ISO shipping container(s), and/or any other six sided steel storage unit utilized for the shipment or storage of goods.**

**INTERMODAL CONTAINER, SHIPPING CONTAINER, STORAGE CONTAINER, ISO CONTAINER and/or ISO SHIPPING CONTAINER means any standardized shipping container, which may be constructed in accordance with the standard sizes promulgated by the International**

Standards Organization (ISO) for use in international intermodal transportation of goods by ship, rail, or truck, which shall include, but shall not be limited to containers that are twenty (20) feet in length and eight (8) feet in width, forty (40) feet in length and eight (8) feet in width, fifty-three (53) feet in length and eight (8) feet in width, and/or fifty-six (56) feet in length and eight (8) feet in width.

INTERMODAL CONTAINER OPERATOR means any owner, manager, company, or other entity that has intermodal containers on site for any use.

OWNER means a person, group of persons or corporation with legal ownership of real property within the City of Newark. For the purpose of this Ordinance, owner may also mean "Intermodal Container Operator."

PARCEL means a tract or plot of land within the City of Newark.

PERSON means an individual, corporation, partnership, limited partnership, limited liability partnership, Limited Liability Company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

PREMISES means a building together with its land and outbuildings, occupied by a business within the City of Newark.

STORED means placed or left on a parcel for any length of time.

STORAGE PERIOD means the period of time during which the intermodal container has been stored on the premises.

**§ 8:41-2 LICENSE REQUIRED.**

Any person, business, and/or operator having and/or storing intermodal containers on any parcel within the City of Newark shall apply for an "Intermodal Container Lot License" with the Division of Tax Abatement and Special Taxes of the Department of Finance.

**§ 8:41-3 APPLICATION FOR LICENSE; CONTENTS.**

- a) Application under this Chapter for an Intermodal Container Lot License shall be made on a form furnished by the Division of Tax Abatement and Special Taxes.
- b) The application shall set forth the following:
  1. Name of the individual applicant; if a firm, the names of the members of the firm; if a corporation, the names of the president, secretary, all other officers of the corporation and the registered agent of the corporation and any other person or entity which has a financial or beneficial interest in the business of the Applicant.
  2. If the manager in charge is to be someone other than a person named above, then his name.

3. Business address at which the Applicant proposes to conduct the business.
  4. Whether the premises to be licensed are owned or leased by the Applicant, and, if leased, the name and bona fide residence and business address of the lessor.
  5. Other information as to the Applicant, his personnel and management which is or may be necessary in determining approval of the application and issuance of the license.
  6. Whether or not any person listed on the application has ever been convicted of a crime, misdemeanor or disorderly persons offense, the number of convictions and the date, place and nature of the offense for which convicted.
  7. The maximum number of intermodal containers which may, at one time, be stored upon the premises.
- c) The Applicant shall file with the application a plat or drawing of the parcel, approved by the Director of the Department of Engineering, showing the locations and size of the parcel; the location and size of each stall; the location and size of driveways and aisles; the kind of floors or ground surface; the location and type of lighting units and signs; and the number and type of fire extinguishing equipment to be provide on the premises.
- d) Each application shall be signed and verified under oath by the Applicant, if an individual firm or partnership; or by a duly authorized agent or properly constituted officers, if a corporation or association.
- e) No license shall be granted for any parcel, unless the use for the storing of intermodal containers is permitted on the parcel under Title XLI, Zoning and Land Use Regulations, of the City of Newark, or upon granting of a permit thereof as provided by Title XLI, Zoning and Land Use Regulations by way of a variance from the terms of Title XLI, Zoning and Land Use Regulations as by the Ordinance and Statutes provided, and subject further to all ordinances of the City affecting the construction and maintenance of the premises.

#### **§ 8:41-4 INSURANCE REQUIREMENTS.**

**Prior to the issuance of a license, each Applicant shall file with the Division of Tax Abatement and Special Taxes a policy or certificate of public liability insurance issued by a company authorized to do business in New Jersey, in the minimum amount of \$1,000,000.00 per occurrence and \$3,000,000 aggregate; the period of insurance coverage as evidenced by the certificate shall be concurrent with the term of the license.**

#### **§ 8:41-5 LICENSE FEE.**

a) The Applicant may utilize either fee schedule (1) or (2) below in determining the fee that will be owed to the City for the Intermodal Container Lot License.

(1) i. Fee for an Intermodal Container Lot License shall be calculated based on the maximum number of intermodal containers that can fit on the parcel in accordance to Zoning restrictions and are specified as follows:

<u>Number of Intermodal Containers</u>	<u>Biennial License Fee</u>
<u>1-500</u>	<u>\$2,000.00</u>
<u>501-1000</u>	<u>\$4,000.00</u>
<u>1001-2000</u>	<u>\$6,000.00</u>
<u>Greater than 2000 The fee shall be applied as prescribed above, and any additional container above 2000 shall be charged at a rate of \$2.50 per container.</u>	

ii. In addition to the above license fee, there shall be a daily fee for each intermodal container on the parcel, specified as follows:

<u>From day 1 through day 30</u>	<u>\$.20 per container per day</u>
<u>From day 31 through day 60</u>	<u>\$.30 per container per day</u>
<u>From day 61 through day 90</u>	<u>\$.50 per container per day</u>
<u>In excess of 90 days</u>	<u>\$1.00 per container per day</u>

2. Fee for an Intermodal Container Lot License shall be calculated based on the maximum number of intermodal containers that can fit on the parcel in accordance to Zoning restrictions and are specified as follows:

<u>Number of Intermodal Containers</u>	<u>Biennial License Fee</u>
<u>1-500</u>	<u>\$20,000.00</u>
<u>501-1000</u>	<u>\$40,000.00</u>
<u>1001-2000</u>	<u>\$60,000.00</u>
<u>Greater than 2000 The fee shall be applied as prescribed above, and any additional container above 2000 shall be charged at a rate of \$25.00 per container.</u>	

**§ 8:41-6 ISSUANCE OF LICENSE; NUMBERING OF LICENSE.**

All licenses issued under this Chapter by the Division of Tax Abatement and Special Taxes shall be numbered.

**§ 8:41-7 LICENSES NOT TRANSFERABLE.**

Licenses issued under this Chapter shall not be transferable.

**§ 8:41-8 LICENSE REGULATED; TERM; RENEWAL.**

a) The Division of Tax Abatement and Special Taxes shall establish administrative rules and/or regulations pertaining to scheduling for the issuance of Intermodal Container

**Lot Licenses as appropriate.**

- b) **Each license shall expire on April 30, of the biennial licensing cycle as prescribed by the Division of Tax Abatement and Special Taxes.**
- c) **If any Applicant obtains an initial license pursuant to this Chapter in between a biennial cycle, the applicant shall pay a pro-rated application fee.**

**§ 8:41-9 REPORTING.**

- a) **On the last business day of each month, Intermodal Container Operators who select the fee option set forth in § 8:41-5(a)(1) shall provide a Container Dwell Time Report to the City of Newark's Division of Tax Abatement and Special Taxes:**
  - 1. **The report must indicate the total number of intermodal containers at the site during the month.**
  - 2. **The report must indicate the amount of days each intermodal container has been at the site.**
  - 3. **Intermodal Container Operators must indicate in its report any fees or penalties owed to the City, based upon the fee schedule prescribed herein.**
  - 4. **Payment must be remitted with the report.**
  - 5. **Intermodal Container Operator must certify to the reported figures under penalty of perjury, license revocation, and personal liability of the Owner.**

**§ 8:41-10 BARRIERS.**

**An effective guardrail, tire bumper or other barrier shall be provided along such interior lot lines as required to prevent the intermodal containers from damaging walls, fences or other adjacent property.**

**§ 8:41-11 GROUND MAINTENANCE.**

- a) **Each parcel shall be kept free from debris, so that the same shall not become a nuisance to adjacent property owners or others.**
- b) **Each parcel shall be maintained in good and safe condition.**
- c) **Each facility shall be adequately drained so that it does not retain water.**

**§ 8:41-12 LIGHTING.**

**Each parcel shall be adequately lighted in all portions when in operation during the hours of**

darkness. Illumination shall be means of shielded floodlights or other means of lightening as approved by the Electrical Subcode Official.

**§ 8:41-13 FIRE SAFETY REQUIREMENTS.**

Each parcel shall be equipped with proper fire extinguishing apparatus, as required by the Fire Prevention Code of the City and subject to the approval of the Division of Fire. All intermodal containers shall be so stored that they may be reached readily in case of fire or other emergency.

**§ 8:41-14 ENFORCEMENT.**

The Director shall be authorized to make any complaint for the violation of any of the provisions of this Chapter.

**§ 8:41-15 DISQUALIFICATION OF APPLICANT.**

No license shall be issued, held or transferred to any person, firm or corporation where the Applicant, any partner, any officer, any person in management, or any person or entity having a financial or beneficial interest in the business of the Applicant shall have been convicted of any crime that relates adversely to the operation of an Intermodal Container. Any determination made by the Director under this Section shall be made in accordance with N.J.S.A. 2A:168A-2.

**§ 8:41-16 SUMMONS ISSUED.**

a) The Department of Engineering, Division of Code Enforcement or the Department of Public Safety shall issue a summons for reasonable cause, including, but not limited to, if a Licensee, his agent, servant, or employee has willfully done the following:

1. Made any false or materially incorrect statements in the application;
2. Violated, permitted or countenanced the violation of any provision of this Chapter;
3. Violated, permitted or countenanced the violation of any provision of any penal law or ordinance regarding theft, larceny, or conversion, whether or not such licensee or other person has been convicted of such an offense;
4. Failure to complete monthly reporting as prescribed in this Chapter;
5. Failure to remit monthly fees and penalties as prescribed in this Chapter;
6. Failure to keep an attendant on duty during the times specified in the application;

7. Failed to keep the lot adequately lighted in accordance with the requirements of this chapter;
  8. Failed to remit timely payment of taxes and fees to the City of Newark; or
  9. Failed to renew the license according to the provisions of this Chapter within a reasonable period upon notification of renewal from the Division of Tax Abatement and Special Taxes.
- b) Upon issuance of a summons, Licensee shall be required to appear before the Director and/or his designee, at such time and place as he may designate, for a hearing.

#### § 8:41-17 REVOCATION OR SUSPENSION OF LICENSE.

- a) In addition to the penalty provided in Section 8:41-19, upon a hearing as prescribed in Section 8:41-17, the Director shall have the power to suspend or revoke any such license following a conviction in Newark Municipal Court.
- b) The Licensee/Applicant may challenge the suspension or revocation in the Superior Court of New Jersey within the time period provided by the New Jersey Court Rules.

#### § 8:41-18 EXCLUSIONS

- a) Intermodal Container Operators that are: (1) Marine Terminal Operators as defined in 46 U.S.C. 40102(15); and (2) are located on property leased from the Port Authority of New York and New Jersey; and (3) provide an annual briefing regarding safety protocols at the marine terminal facility to the City of Newark's Office of Airport and Sea Port Administration, shall be exempt from the terms and conditions of this Ordinance.
- b) Intermodal Container Operators who: (1) previously received approval from the Newark Central Planning Board or the Newark Zoning Board of Adjustment; (2) are operating consistent with the terms of that approval; (3) store only empty intermodal containers on the property; (4) have a primary business of repurposing intermodal containers; and (5) submits its safety protocols to the City of Newark Department of Engineering, are exempt from § 8:41-12 and § 8:41-13.

#### § 8:41-19 PENALTY.

Except as otherwise provided by State Statute or some other provision in this chapter, any person who violates any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not more than \$2,000.00, per day the violation occurs.

#### § 8:41-20 INCONSISTENT ORDINANCES REPEALED



**All Ordinances or parts of Ordinances inconsistent with this Chapter be and the same are hereby repealed.**

**SECTION 2.** The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

**SECTION 3.** The Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

**SECTION 4. Codification.** This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**STATEMENT**

This Ordinance Amends Title VIII, Business and Occupations, Chapter 41, by creating a new section, Intermodal Container License.