



Legislation Text

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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 40, COMMERCIAL MOTOR VEHICLE PARKING LOT LICENSE, AND ESTABLISH RULES AND REGULATIONS.

Deferred 8-c 022124

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 (the "City") currently regulates the manner in which commercial motor vehicles and/or vehicles over 10,001 lbs. may be parked; and

WHEREAS, vacant lots within the City are being used by businesses as unauthorized parking lots and said businesses are illegally renting spaces to commercial motor vehicle operators; and

WHEREAS, due to the illegal and unauthorized nature, the City cannot exercise adequate oversight over commercial motor vehicle parking; and

WHEREAS, the illegal and unauthorized parking of commercial motor vehicles continue to negatively impact the community; and

WHEREAS, the City continues to deal with issues and complaints regarding commercial motor vehicle, which leads to disruption to City inhabitants; and

WHEREAS, the City wishes to regulate commercial motor vehicle parking within the City.

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 40, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is hereby amended as follows:

§ 8:40-1 DEFINITIONS.

APPLICANT means any person(s), business, operator, owner, and/or corporation that applies for a license for a commercial motor vehicle parking lot with the Division of Tax Abatement and Special Taxes.

COMMERCIAL MOTOR VEHICLE means any self-propelled or towed vehicle used on a public highway in interstate commerce to transport passengers or property when the vehicle and has a gross vehicle weight rating of 10,001 pounds or more; which includes, but shall not be limited to, box trucks, straight trucks, semi-trailer trucks, trailers, heavy equipment, semi-trucks, tractors, combination vehicles, conventional trucks, day cabs, eighteen wheelers, truck-tractors, dry van trailers, refrigerated trailers, intermodal containers, trailer chassis, etc.

COMMERCIAL MOTOR VEHICLE OPERATOR means any owner, manager, company, or person (s) who operates a commercial motor vehicle.

COMMERCIAL MOTOR VEHICLE PARKING LOT means any open air place, lot, parcel, and/or yard used in whole, or in part, for storing or parking commercial motor vehicles, which includes but is not limited to, where a storage or parking fee is charged thereof.

DIRECTOR means the Director of the Department of Finance and/or his/her designee.

LICENSEE means any person(s), business, operator, owner, and/or corporation that has applied for and has been granted a commercial vehicle license by the Division of Tax Abatement and Special Taxes.

OWNER means any 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, that owns a land within the City of Newark.

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

§ 8:40-2 LICENSE REQUIRED.

Any person, business and/or owner intending to operate a commercial motor vehicle parking lot within the City of Newark shall apply for a “Commercial Motor Vehicle Parking Lot License” with the Division of Tax Abatement and Special Taxes of the Department of Finance.

§ 8:40-3 AUTHORIZED LOCATIONS FOR COMMERCIAL MOTOR VEHICLE PARKING LOT.

No Commercial Motor Vehicle Parking Lot shall be established outside of applicable zones as outlined in Title XLI, Zoning and Land Use Regulations, of the City of Newark. For any applicant seeking to establish a Commercial Motor Vehicle Parking Lot outside of an established zone must first obtain a variance or permit as prescribed in Title XLI, Zoning and Land Use Regulations.

§ 8:40-4 APPLICATION FOR LICENSE; CONTENTS; ACCOMPANYING PLAT OR DRAWING.

a) Application under this Chapter for maintaining or operating a commercial motor vehicle

parking lot shall be made on a form furnished by the Division of Tax Abatement and Special Taxes of the Department of Finance.

b) The application shall set forth the following:

1. Name and home address of the individual applicant; if a firm, the names and home addresses of the members of the firm; if a corporation, the names and home addresses 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 and address.
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 commercial motor vehicles, which may at one time be stored upon the premises.
8. The hours during which parking attendants will be on duty on the lot.
9. A complete schedule of rates to be charged for storing commercial motor vehicles, including monthly rates, weekly rates, and any other bulk rates, if offered.

c) The applicant shall file with the application a plat or drawing of the commercial motor vehicle parking lot, which shall be approved by the Director of the Department of Engineering, showing the location and size of the parcel; the location and size of each stall and parking lane; 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 provided on the parcel.

- 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 commercial motor vehicle parking 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 parking lot.

§ 8:40-5 INSURANCE REQUIREMENTS.

Prior to the issuance of a commercial motor vehicle parking lot 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 amount of: (1) \$100,000.00 for one (1) person and \$200,000.00 for two (2) or more person for personal injury; and (2) \$10,000.00 for property damage; for the period of issuance coverage as evidenced by the certificate shall be concurrent with the term of the license.

§ 8:40-6 LICENSE FEE.

The Fee for such license shall be fixed at \$.08 per square feet of the parcel size biennially.

When an application for a license is made after the first of October of any year, the annual fee shall be for the pro-rata part thereof of the unexpired period of the twenty-four (24) month cycle as prescribed by the Division of Tax Abatement and Special Taxes, commencing on the first of the month in which the parking lot comes into operation.

§ 8:40-7 ISSUANCE OF LICENSE; NUMBERING OF LICENSE.

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

§ 8:40-8 LICENSES NOT TRANSFERABLE.

Licenses issued under this Chapter shall not be transferable.

§ 8:40-9 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 Commercial Motor Vehicle Parking Lot Licenses as appropriate.
- b) Each license shall expire on October 1, 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.**

§ 8:40-10 GENERAL REQUIREMENTS.

- a) **All licenses and renewal thereof shall be subject to the requirements of this Chapter and any amendments thereto or supplements thereof.**
- b) **The conditions set forth in the application and its accompanying items upon which the license or any renewal thereof, was issued shall be maintained by the licensee continuously during the conduct of the business thereunder, and a violation thereof shall constitute a violation of this chapter.**
- c) **The licensee shall be responsible for the proper conduct of his agents, servants, and employees in the conduct of the business for any violation of the provisions of this Chapter thereby.**
- d) **Each license issued under this Chapter must be prominently displayed on the parcel upon which the operation of a commercial motor vehicle parking lot is conducted throughout the entire period of the license.**

§ 8:40-11 SIGNS.

- a) **Each licensee under this Chapter shall maintain in good condition at all time, at each entrance to such parking lot, a sign, suitable to apprise persons intending to use the parking lot, of the:**
1. **Name of licensee;**
 2. **Address of licensee;**
 3. **Telephone number of licensee;**
 4. **Address of parcel;**
 5. **Parking lot license number;**
 6. **Opening and closing hours of the parking lot;**
 7. **Hours when attendant will be on parcel; and**

8. Rates charged for parking or storage indicating that these rates include City of Newark parking taxes.

- b) Signs giving all the above information shall be erected only at points of ingress on private property. If point of ingress is more than fifty (50) feet wide, the signs must be so position as to be no more than fifty (50) feet from the point of ingress.**
- c) The signs shall be of sheet metal or other suitable material and shall be displayed at a height of not less than four (4) feet (bottom edge) and not more than twelve (12) feet (top edge) above the street level. No sign shall be less than twenty (20) feet and no more than fifty (50) square feet.**
- d) Signs shall be erected so as to be visible to a motorist before he leaves the thoroughfare and before he enters the parking lot.**
- e) Signs shall be composed of a solid background and the letters, numerals, or symbols shall all be of the same contrasting color. The upper-case (capital) to be two (2) inches high; all letters "san serif," as per attached specimen "No. I." Letters and numerals shall be proportionately spaced and shall neither be contracted nor expanded so as to inhibit readability. Each classification and the applicable rate or rates thereunder shall be listed on a separate line not to exceed forty (40) inches in width. The lines shall be spaced one and one-half (1 1/2) inches apart, as measured between the upper-case (capital) letters. Rates for fractional or hourly periods shall be so listed as to reflect the total charge for each aggregate period up to the maximum thereof.**
- f) No licensee shall alter or change his charges or rates from that set forth in his application until he has filed a written notice with the Division of Tax Abatement and Special Taxes of such change at least forty-five (45) days before the effective date of the change, and has posted signs showing the changed rates or charges in the same manner as provided in this Section and placed at the right hand side of the regular sign (unless such change is authorized by a City ordinance in which case a twenty-four (24) hour notice shall be sufficient).**
- g) Auxiliary signs may be displayed, provided that all the letters and numerals are of equal size and conform to the style of lettering so designated (see attached copy "Specimen No. II") and further provided that such sign or signs neither mislead nor confuse or tend to mislead or confuse the public.**
- h) In the event the maximum capacity of a licensed parking lot has been reached, a sign composed of letters at least six (6) inches in height, must be posted at the public entrance of such parking lot, stating, "Parking Lot Full."**
- i) A licensee who has taken over the business of a previous licensee may not increase the schedule of prices until formal notice has first been filed with the Director and forty-five**

(45) days have elapsed subsequent to such filing.

§ 8:40-12 BARRIERS.

An effective guardrail or tire bumper shall be provided along such interior lot lines as required to prevent the front or rear of cars from damaging walls, fences or other adjacent property.

§ 8:40-13 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.

§ 8:40-14 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.

§ 8:40-15 FIRE SAFETY REUIREMENTS.

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 motor vehicles shall be so stored that they may be reached readily in case of fire or other emergency.

§ 8:40-16 ILLEGAL USE OR MOVEMENT OF COMMERCIAL MOTOR VEHICLES.

- a) No person shall move or transfer, or permit the movement or transfer of any commercial motor vehicle from any parking lot through or upon the streets of the City without the consent of the owner or bailor of such vehicle. The ownership or bailment of the commercial motor vehicle shall be evidenced by the possession of the commercial motor vehicle registration at the time such consent is given.
- b) All operators, their agents, servants or employees who actually manipulate customers' commercial motor vehicles, shall be legally licensed to operate commercial motor vehicles.
- c) Licensees, their agents, servants or employees shall not park nor maneuver commercial motor vehicles on public sidewalks or streets.

§ 8:40-17 RATES AND CHANGE OF RATES.

- a) No licensee or employee shall make any charge for storage different from that charge or rate set forth in his application for a license, as provided in Section 8:40-4, and posted in accordance with Section 8:40-11.
- b) No licensee shall alter or change his charges or rates from that set forth in his/her application, unless he has filed a written notice with the Division of Tax Abatement and Special Taxes of such change at least ~~ninety-six (96)~~ hours **forty-five (45)** before the effective date of the change and has posted signs showing the changed rates or charges in the same manner as provided in Section 8:40-11.

§ 8:40-18 ENFORCEMENT.

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

§ 8:40-19 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 a commercial motor vehicle parking lot. Any determination made by the Director under this Section shall be made in accordance with N.J.S.A. 2A:168A-2.

§ 8:40-20 REVOCATION OR SUSPENSION OF LICENSE.

- a) In addition to the penalty provided in Section 8:40-21, the Director shall have the power to suspend or revoke for cause any such license. Reasonable causes for suspension or revocation of a license issued according to the provisions of this Chapter include, but are not limited, a licensee, his agent, servant or employee has done the following:
 - 1. Made any false or materially incorrect statements in the application;
 - 2. Made any charge for storing a commercial motor vehicle in a parking lot other than the rate set forth in his license application, unless a new schedule of rates has been filed as provided in Section 8:40-17;
 - 3. Violated, permitted or countenanced the violation of any provision of this Chapter;
 - 4. Violated, permitted or countenanced the violation of any provision of any penal law or ordinance regarding theft, larceny, or conversion of a motor vehicle, or operation of a motor vehicle without the owner's or bailor's consent, whether or not such licensee or other person has been convicted of such an offense;
 - 5. Failure to keep an attendant on duty during the times specified in the application;

6. Used or directed the use of an area of the public streets or sidewalks for parking motor vehicles, or used an area not covered by license for the storage of motor vehicles;
 7. Failed to keep the lot adequately lighted in accordance with the requirements of this Chapter;
 8. Failed to remit timely payment of parking taxes 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) If the Director determines that there is reasonable cause to suspend or revoke any such license, a notice of suspension or revocation shall be issued to the licensee or other responsible person at the address provided on the application. The notice shall require the licensee to appear before the Director and/or her designee, at such time and place as she may designate, for a hearing, where the burden is on the licensee to show why the license should not be suspended or revoked. After the hearing, the Director and/or her designee shall issue a written report (Final Determination Report) to the licensee and all effected departments as to her findings and penalties, if any. The 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.
- c) If a summons is issued by the Department of Engineering, Division of Code Enforcement or the Department of Public Safety, then the matter shall proceed through the normal process in Newark Municipal Court.
- d) Written letter indicating the reason for the notice of suspension or revocation shall be forwarded to the licensee, within ten (10) business days of the date of the notice, prior to the suspension or revocation of the license.

§ 8:40-21 PENALTY.

- a) 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 exists.

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 40, by creating a new section, Commercial Motor Vehicle Parking Lot License.