



Legislation Text

---

File #: 15-0858, Version: 1

---

**ORDINANCE AMENDING TITLE VIII, BUSINESSES AND OCCUPATIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING CHAPTER 32, WAGE THEFT.**

**SPONSORS: OSBORNE/RAMOS**

**WHEREAS**, the City of Newark has found that certain employees working in business establishments throughout the City have experienced various degrees of misuse and abuse by their employers in the workplace, and on many occasions, are either substantially underpaid or go unpaid by their employers; and

**WHEREAS**, many employees have limited or no resources for proper recourse to obtain unpaid wages from their employers; and

**WHEREAS**, as a consequence, the financial losses incurred by employees working throughout the City due to underpaid or unpaid wages have a negative economic impact on the City of Newark and its local economy; and

**WHEREAS**, the Municipal Council is desirous of amending certain provisions of the Revised General Ordinances of the City of Newark, New Jersey, 2000, more specifically, Title VIII, Businesses and Occupations, to increase greater accountability among business establishments by imposing stiffer penalties for those establishments that engage in such unfair practices.

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

**SECTION 1:** Title VIII of the Revised General Ordinances of the City of Newark, New Jersey, 2000, shall be amended by including a new Chapter 32, Wage Theft.

**8:32-1.DEFINITIONS.**

In this Chapter, the following words and phrases shall have the meanings stated in this Section unless the context otherwise requires:

**Investigator** shall mean Director of Code Enforcement for the City of Newark or his/her designee.

**Wage Theft** shall mean having been found guilty, liable or responsible in any judicial or administrative proceeding for unpaid wages in violation of the New Jersey State Wage and Hour Law (N.J.S.A. 34:11-56a et. seq.), the New Jersey State Wage Payment Law (N.J.S.A. 34:11-4.1 et. seq.), N.J.S.A. 2C:40A-2, the U.S. Fair Labor Standards Act, or any other federal or state law related to the payment of wages or the collection of debt owed due to unpaid wages. Wage Theft shall be

understood as to have a negative effect on public morals and welfare.

### **8:32-2. GROUNDS FOR DENIAL OF LICENSE AND LICENSE RENEWAL.**

No license under Title VIII shall be issued or renewed to an applicant, licensee, or business entity that has committed a Wage Theft violation which has not been cured by compliance with the Order or Decision of the judicial, governmental, or administrative entity determining the same.

### **8:32-3. GROUNDS FOR DENIAL OF LICENSE TRANSFER.**

No license under Title VIII shall be transferred to or from an applicant, licensee, or business entity that has committed a wage theft violation which has not been cured by compliance with the Order or Decision of the judicial, governmental, or administrative entity determining the same. No license under Title VIII shall be transferred to or from an applicant, licensee, or business entity that has had license revoked and or/ suspended pursuant to **8:32-5** of this ordinance.

### **8:32-4. APPLICATION FOR LICENSE AND RENEWAL; INVESTIGATION OF APPLICANTS AND LICENSEES.**

At the time of application and renewal of all licenses under Title VIII, all applicants shall declare if the applicant has been found guilty or liable of Wage Theft; the dates, location, and nature of such Wage Theft; and the ultimate disposition thereof. The City shall maintain copies of the applications for the purpose of complying with this ordinance.

If the City is made aware of allegations of adjudications of Wage Theft against applicants or licensees, whether at the time of an application for a license or after the issuance of the license, the City may commence an investigation. The designated investigator shall:

1. Investigate whether the applicant has committed a wage theft violation which has not been cured by compliance with the Order or Decision of the judicial, governmental, or administrative entity determining the same; and
2. Whether the applicant has prior Wage Theft violations of a widespread or gross nature so as to severely undermine the applicant's character.

If the investigation determines either one or both of these findings to be true, the application or renewal shall be denied or an existing license may be revoked; and all cost associated with the investigation shall be the responsibility of the applicant.

### **8:32-5. GROUNDS FOR SUSPENSION AND REVOCATION; FALSE STATEMENTS.**

The following shall be causes for the suspension or revocation of all licenses under Title VIII:

- a. A Wage Theft violation which has not been cured after 90 days by compliance with the Order or Decision of the judicial, governmental, or administrative entity determining the same;
- b. Wage Theft violation(s) of such a widespread or gross nature so as to severely undermine the licensee's character. In making the determination of gross nature, the investigator shall consider any or all of the following:

1. Total amount of wages withheld by the employer;

2. Total number of employees for which the employer failed to pay wages;

3. Total number of valid complaints filed against the employer, where the determination is that a violation has occurred, during the current year and, when applicable, the preceding year.

c. If an applicant makes false statements or fails to report information as required in 8:32-4, the City may seek revocation of any previously issued license or deny the application for a license or renewal. The penalty for violation of section 8:32-5 of this ordinance is revocation and/ or suspension of license for 90 days.

## **SECTION 2. REPEALER.**

All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance shall be repealed to the extent of such conflict or inconsistency.

## **SECTION 3. SEVERABILITY.**

If any paragraph or provision of this ordinance shall be adjudicated invalid or unenforceable, such determination shall not, to the extent severable, affect any other paragraph or provision of this ordinance, which shall otherwise remain in full force and effect.

## **SECTION 4. EFFECTIVE DATE.**

This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

**STATEMENT**

This ordinance amends Title VIII, Businesses and Occupations, to add a new Chapter 32, to prevent business licenses from being issued or renewed to an applicant, licensee, or business entity that has committed a Wage Theft violation which has not been cured.