



## Legislation Text

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### **ORDINANCE AMENDING TITLE VIII BUSINESSES AND OCCUPATIONS BY ADDING CHAPTER 30 REGULATION OF CONVENIENCE STORES**

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**WHEREAS**, it is hereby declared to be the purpose of this Section to use the inherent power of a municipality to protect and regulate the health, welfare and safety of its citizens and exercise its police powers of the City of Newark to keep adequate records of the locations of convenience stores operating throughout the city; and

**WHEREAS**, it is hereby declared to be in the best interests of the health, safety and welfare of the residents of the City of Newark, as well as the employees and patrons of convenience stores to regulate the hours of operation and closure of convenience stores to which the public is invited.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, AS FOLLOWS:**

**SECTION 1:** Title VIII of the Revised Ordinances of the City of Newark shall be amended by including a new Chapter 30, Regulation of Convenience Stores.

#### **8:30-1.DEFINITIONS.**

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

**Certificate of Registration** means a certificate of registration issued by the police official under this Chapter to the owner or operator of a convenience store.

**Convenience goods** means basic food primarily for off-premises consumption, household and/or pharmaceutical items.

**Convenience store** means any retail establishment that sells convenience goods, tobacco products, magazines, and having less than 10,000 square feet of retail floor space accessible to the public. This definition includes small retail stores located on the same parcel as, or operated in conjunction with, a service station.

**Employee** means any person who performs any service on the premises of a convenience store on a full-time, part-time, temporary or contract basis (including managers), whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair, maintenance or cleaning of the premises or for the delivery of goods to the premises.

**Manager** means the person designated in the registration application filed under this Chapter as being responsible for the daily operation of a convenience store.

**Notice** means any written notice that the Director is required to give an applicant or registrant under this Chapter.

**Person** means any individual, corporation, organization, partnership, association, or other legal entity.

**Police official** means the director of the police department for the City of Newark or person he may designate to act as the official primarily responsible for the administration of this section.

**Registered Agent** means the person identified in the registration application filed under this Chapter who is authorized to receive on behalf of the convenience store any legal process or notice required or provided for in this Chapter.

**Registrant** means a person issued a certificate of registration for a convenience store under this Chapter and includes all owners, lessees and operators of the convenience store identified in the registration application filed under this Chapter.

#### **8:30-2. REGISTRATION OF ALL NEW AND PRE-EXISTING CONVENIENCE STORES.**

No person shall keep, maintain, or operate a convenience store in the City of Newark without first having registered with the police official.

#### **8:30-3. AUTHORITY OF THE POLICE OFFICIAL.**

The police official shall implement and enforce this Chapter and may establish rules, regulations, or procedures as necessary to carry out the purpose of this Chapter.

#### **8:30-4. REGISTRATION REQUIRED.**

a. Each newly constructed or established convenience store within the City of Newark must comply with the provisions of this section not later than thirty (30) calendar days following completion of construction or commencement of business operations, whichever occurs first.

b. A registrant must obtain a new certificate of registration within thirty (30) calendar days after any change in the information contained in the application for a certificate of registration for a convenience store, including, but not limited to, any changes in ownership of the convenience store, and any changes in the registered agent, manager, or emergency contact person for the convenience store.

#### **8:30-5. CERTIFICATE OF REGISTRATION.**

To obtain a certificate of registration for a convenience store, a person must submit to the police official a notarized application on a form provided by the police official. The applicant must be

the person who will own, operate, or manage the convenience store.

#### **8:30-6. NATURE OF APPLICATION.**

The application for registration shall be made to the Licenses and Permits Unit on a blank form prepared and furnished by the police official. Such application shall give the name and physical post office address of the applicant, the location of the convenience store, the name of the owner of the property and such other information as the Licenses and Permits Unit may require to locate such business and its owners and to show compliance with the provisions of this chapter and any other applicable laws or regulations of the City of Newark.

#### **8:30-7. ISSUANCE, DENIAL, AND DISPLAY OF CERTIFICATE OF REGISTRATION.**

a. The police official shall issue to the applicant a certificate of registration for a convenience store if the police official determines that the applicant has complied with all requirements for issuance of the certificate of registration.

b. A certificate of registration must be displayed in a conspicuous manner and location in the convenience store that is visible to the public inside the store. The certificate of registration must be presented upon request to the police official or any other designated agents having responsibility for enforcement of this Code for examination.

#### **8:30-8. FEES.**

The administrative fee for registration shall be one hundred (\$100.00) dollars.

#### **8:30-9. EXPIRATION AND RENEWAL OF CERTIFICATE OF REGISTRATION.**

a. A certificate of registration for a convenience store expires December 31<sup>st</sup> of each calendar year.

b. A registrant may apply for renewal within thirty (30) calendar days prior to the expiration of the certificate of registration by making application to the police official. However, a certificate of registration must be renewed within ten (10) days following expiration.

#### **8:30-10. PROPERTY INSPECTIONS.**

An applicant or registrant shall permit, at reasonable times upon request, representatives any designated agent of the City of Newark to inspect the interior and exterior of the convenience store for the purpose of ensuring compliance with this chapter and other city ordinances and state and federal laws applicable to convenience stores.

#### **8:30-11. VIOLATION.**

The applicant or registrant commits an offense if either personally or through an agent or

employee, the applicant or registrant refuses to permit a lawful inspection of the convenience store as required by this section or is found to be operating a convenience store in the City of Newark without being registered with the police official.

### **8:31-1. HOURS OF OPERATION FOR ALL NEW AND EXISTING CONVENIENCE STORES.**

a. No convenience store to which the public is invited, shall be opened to the public or conduct any such business, operations or activities in any manner before 5 a.m. on any day and after midnight on the same day on Mondays through Thursdays, or after 1 a.m. on Fridays through Sundays and legal holidays.

b. Except with respect to security lighting, all exterior and window electrical lighting or illumination, whether temporary or permanent, for each such business or commercial establishment shall be extinguished at the closing time thereof, as established herein.

### **8:31-2. EXCLUSIONS.**

The following convenience stores, if not otherwise excluded pursuant to paragraph (a) above, shall be excluded from the application of paragraph (a), all being either otherwise regulated by law, deemed to involve minimal nuisance characteristics, necessary to the public health, safety, welfare or convenience, or some combination of the foregoing, as follows:

1. Establishments licensed for the sale of alcoholic beverages whose hours and mode of operation are governed separately by City ordinances and by N.J.S.A. 33:1-1 et seq. of the laws of New Jersey pertaining to alcoholic beverages.
2. In-house cafeteria and similar retail food operations customarily servicing employees or residents of institutions but not the general public, and operating within the interior of an enclosed building or structure.
3. Gasoline service stations, provided such operations do not include automobile, truck or other motor vehicle repair or body and fender repair work during the hours of operation prohibited by paragraph (a) above.
4. Hotels and motels.
5. Medical and dental offices, hospitals, nursing homes and rehabilitation centers.
6. Movies and other theatrical performances provided that the final performance or featured film on any given date commences at or before 11 p.m. on that date.

### **8:31-3. VIOLATION AND PENALTY.**

Any person, firm, corporation, limited liability company, partnership or other business entity or commercial establishment of any type whatsoever violating the provisions of this Section or any other sections in this chapter shall, upon conviction, pay a fine of at least one hundred (\$100.00) dollars but not more than five hundred (\$500.00) dollars and may be subject to imprisonment for not more

than sixty (60) days or to a period of community service for a period of not more than sixty (60) days or both, in the discretion of the court. A separate offense shall be deemed committed on each day or part thereof during or on which a violation occurs or continues.

#### **8:31-4. RELIEF FROM HOURS OF OPERATION.**

Any waiver of or relief from the provisions contained in this Section, in whole or in part, must be sought by way of an application made to the police official and filed by the applicant in the Licenses and Permits Unit, pursuant to this paragraph and only the police official shall have the authority to provide relief from and/or waive the provisions contained in this Section, in whole or in part.

#### **8:31-5. NOTICE.**

All new and unregistered existing businesses operating as a convenience store in the City of Newark shall be given notice of this Chapter by way of Business Registration Notices provided through the Division of Tax Abatements/Special Taxes, Tax Collection Notices, Water and Sewer Payment Notices or through any and all other appropriate modes of communication as determined by the police official.

### **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 become effective twenty (20) days after final adoption and publication thereof in accordance with law.

### **STATEMENT**

This ordinance will require all current and new businesses operating as a convenience store in the City of Newark to be registered with the Newark Police Department and regulate their hours of operation and closure.