



Foreign Trade Zone #235

Lakewood, New Jersey

ZONE SCHEDULE

Township of Lakewood, New Jersey
Administered by the Lakewood Development Corporation

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Table of Contents

INTRODUCTION	4
ZONE SCHEDULE	4
Schedule Content:	4
Amendment and Interpretation:	4
AUTHORITY	5
ZONE TO BE OPERATED IN THE PUBLIC INTEREST	5
Potential Detriment to Public Interest:	5
ZONE REGULATION, RULES AND POLICIES	5
General Policy:	5
Qualifications:	5
Non-Reliance	6
Operators Not Filing a Schedule:	6
Local Requirements:	6
Other Requirements:	6
Use of Grantee Owned Facilities	6
Application to the Board:	6
Interpretation of This Schedule	7
OPERATIONS WITHIN THE ZONE	7
USCBP Approval:	7
Treatment of Merchandise in the Zone:	7
Sunset Provision:	7
Prohibited Use:	8
Property Ownership:	8
Retail Trade:	8
Residence within the Zone:	8
Controlled Access to the Zone:	9
Reporting:	9
Prior Disclosure:	9
Indemnification:	9
Insurance:	10

PAYMENT OF FEES AND CHARGES..... 11
Rates: 11
Non-Payment of Fees:..... 11
Miscellaneous Fees: 12
Fees Assessed by Operators:..... 12
APPENDIX..... 13

INTRODUCTION

This Zone Schedule (“Schedule”) has been created by the Lakewood Development Corporation (“LDC”), a body politic and corporate created and existing under Title 15A of the New Jersey Statutes, as amended, acting in its capacity as the Administrator for the Grantee of Foreign Trade Zone Number 235 and shall govern all operations taking place within Foreign Trade Zone No. 235.

ZONE SCHEDULE

Schedule Content: This Schedule contains the internal rules and regulations governing the use of Foreign Trade Zone No. 235 by Operators, Subzone Operators, Users and all other persons or entities. The Schedule also includes the Rates and Charges applicable to the use of the Zone. This Schedule is intended to conform with and supplement the Foreign Trade Zones Act (“Act”) and the rules and regulations of the Board and United States Customs and Border Protection (“USCBP”).

Amendment and Interpretation: Subject only to the requirements of the Act and the FTZ Regulations, this Schedule may be modified, amended or replaced by the LDC at any time, if the LDC determines it to be necessary or appropriate to do so. LDC shall, in its sole discretion, interpret the provisions of this Schedule and determine the applicability of any of its provisions. The LDC shall also have complete authority governing the imposition of the Rates and Charges provided for herein, including a decision to waive any such rate or charge in whole or in part.

AUTHORITY

The Zone has been established pursuant to the Grant subject to oversight by the Grantee and all activities within the Zone. All persons who are doing business within the Zone and all operations moving merchandise into or out of the Zone must strictly conform to the Act, the Regulations, this Schedule and all other applicable federal, state and local laws, rules and regulations.

ZONE TO BE OPERATED IN THE PUBLIC INTEREST

Potential Detriment to Public Interest: In accordance with the FTZ Regulations, the Board may restrict or prohibit any operation in the Zone that the Board deems detrimental to public interest, health and/or safety. Any party that is concerned that it is or may be adversely affected by any Zone operation may submit written comments to the Board relative to these concerns, if the Grantee is unable to resolve the party's concerns. Comments must stipulate how the activity in question is or would be detrimental to the public interest, health and/or safety.

ZONE REGULATION, RULES AND POLICIES

General Policy: It is the policy of the LDC to promote the use of the U.S. Foreign Trade Zone program and the Zone. The LDC shall encourage companies that can benefit from the activities allowed under the Act to invest resources and create jobs for the purpose of increasing international commerce.

Qualifications: Persons and business entities may qualify as Operators or Users of the Zone provided that they have:

- A. Satisfied any requirements imposed by the USCBP.
- B. Executed the necessary Operating Agreement with the Grantee.
- C. Conformed with all federal, state and municipal statutes and regulations, including but not limited to, the USCBP Regulations.
- D. Have filed a schedule of rates and charges with the Grantee, if applicable.

Non-Reliance: Users contemplating the utilization of an Operator's services should not rely solely upon the schedule for that Operator that is on file with the Grantee. The User should always contact that Operator directly for current quotes of rates and rules relating to the User's cargo to be handled by that Operator.

Operators Not Filing a Schedule: Any Operator that does not file a Schedule with the Grantee is restricted to handling only its own merchandise.

Local Requirements: Operators and Users shall comply with all requirements of applicable local laws, including the provisions of local zoning ordinances.

Other Requirements: Operators and Users shall comply with agencies of such legislation, rules or regulations promulgated by agencies having jurisdiction of certain import and/or exports, including but not limited to, the Food and Drug Administration, Fish and Wildlife Commission, Environmental Protection Agency, Department of Defense, Import Administration, Export Administration, U.S. Census Bureau, Alcohol, Tobacco & Firearms and any other agencies related to the import and export of merchandise. Operators and Users shall cooperate fully with all such agencies.

Use of Grantee Owned Facilities: In the event an Operator or User is utilizing a facility owned by the Grantee as a Zone Site, the Operator or User shall maintain that facility in a good state of repair and housekeeping in accordance with its Operating Agreement(s) with the Grantee.

Application to the Board: The Grantee shall have the primary responsibility for filing applications with the Board requesting modifications to the Grant. Requests for modification to the Grant may include expansion of the Zone, Zone boundary modifications, Subzone applications and/or changes in the scope of authority. However, a potential Operator or User may file an application directly with the Board subject to the approval of the Grantee and the Port Director evidenced by a letter of concurrence from each when required.

Interpretation of This Schedule: Whenever interpretation of the provisions of this Schedule become necessary, such interpretation shall be made by the Grantee in accordance with the Regulations and the laws of the State of New Jersey, as the same apply to the Operator's activities in the Zone.

OPERATIONS WITHIN THE ZONE

USCBP Approval: No Operator or User shall commence operations within the Zone or a Subzone without having first received approval for activation from the Port Director.

Treatment of Merchandise in the Zone:

A. Admission: Application for admission of merchandise into the Zone must be approved by the Port Director. Admission may also be conditioned upon the approval of any other state or federal agency having jurisdiction over such merchandise.

B. Status of Merchandise: Status of merchandise in the Zone shall be determined according to the provisions of this Schedule and shall be approved by the Port Director.

C. Treatment of Merchandise in the Zone:

1. General Purpose: Merchandise may be imported, exported, stored, labeled, exhibited, separated, sorted, graded, cleaned, and/or mixed with foreign or domestic merchandise within the Zone. Distribution of merchandise into Customs Territory or export of merchandise from the Zone shall be processed in accordance with the Act, the Regulations and USCBP directives.

2. Manufacturing or Processing in the Zone: No manufacturing or processing activities as defined by the Regulations, shall take place in the General Purpose Zone unless the Zone Site has been designated as an appropriate site for processing or manufacturing by the Board and the Grantee.

Sunset Provision: All zone operators in general-purpose zone sites are subject to sunset

provisions. A usage-driven site operator must demonstrate bona-fide zone activity within three (3) years from the date the site was first approved by the FTZ-Board or lose zone status. If an operator is located in a magnet site, the operator or another operator in the magnet site must activate a portion of the magnet site within five (5) years from the date the site was first approved by the FTZ-Board. Failure to meet the sunset provisions will result in automatic deletion of zone status. The LDC as Grantee will not be held liable for any difficulties this may create for an operator.

Prohibited Use: The Zone shall not be used to circumvent trade laws and directives of the United States, nor shall the Zone be used for any activities that do not comply with any other federal, state and municipal law or regulation.

Property Ownership: Grantee/LDC may request a renewal of zone status for a property if it is not activated within five (5) years as stated in a March 4, 2009 memorandum from Mr. Andrew McGilvray, Executive Secretary of the Foreign-Trade Zones Board. Zone status is a “privilege” (not a “right”) which is provided to Grantees only under the Foreign-Trade Zone Act. Property owners are not specifically included and the FTZ-Board does not have the legal right to grant them the privilege of zone status.

Retail Trade: No retail trade shall be conducted within the activated areas of the Zone except as may be approved by the Board and the Port Director, with concurrence from the Grantee.

Residence within the Zone: No person or persons shall reside within the activated areas of the Zone unless such residence is deemed to be necessary or beneficial by the Board, the Port Director. Permission for this activity shall also be required from the Grantee with respect to facilities that it owns; however, the Grantee shall not be required to grant such permission if it is not in the best interest of the Grantee’s facilities.

Controlled Access to the Zone: All persons and vehicles entering and leaving each Zone Site shall do so only through designated entrances to and exits from activated areas. All such persons and vehicles shall comply at all times with requirements of USCBP, the Grantee and/or Operator relating to ingress to and egress from the Zone.

Reporting:

A. Annual Report: All Operators and/or Users are required to compile an annual report in the format prescribed by the Board using the Online FTZ Information System (OFIS) within 60 days after the close of the annual reporting period. The report shall address the activated areas of the Zone detailing the total value of cargo that was handled in the Zone for the reporting period specified. Each Operator and/or User shall be provided with a unique ID number and password to access the system.

B. Other Reports: The Grantee or the Operators may be required from time to time to furnish information to other governmental entities. The Operators and Users of the Zone shall cooperate and provide any information necessary to comply with mandates of other governmental entities possessing jurisdiction over cargo handled through the Zone.

C. Confidentiality: To the extent permitted by the laws of the State of New Jersey, the Grantee will avoid disclosing proprietary information regarding an Operator's or User's activities and handling of merchandise within the Zone.

Prior Disclosure: In the event an Operator or User discovers any error or violation related to the handling or reporting of merchandise in the Zone, the Operator or User shall report such error or violation to USCBP as soon as reasonably practical.

Indemnification: All Operators or Users operating within the Zone shall be required to indemnify, defend and hold harmless the Grantee, LDC, its officers, employees, and any of its agents or representatives from all claims and demands including, but not limited to, claims and demands for personal injuries, including death, and for property damage and for any other loss, arising out of or connected or related in any way to the activities of the Operator or User, its agents, officers, representatives, employees or contractors within the Zone or in connection with any of its activities or responsibilities related to its use of the Zone. Without limiting the generality of the foregoing, it is understood that Operators and Users recognize that this

indemnification includes any liability resulting from all claims and demands prosecuted by any governmental agency, department or other entity, including without limitation, any claim or demand made by the USCBP for lost duty, penalties, fines and liquidated damages. In the event any claim or demand is asserted against the Grantee in connection with the operation by any Operator or User of the Zone, LDC shall promptly notify such Operator or User in writing of such claim or demand and shall provide the Operator or User the opportunity to defend LDC and/or Operator or User (as the case may be) against such claim or demand.

Insurance: Whether using facilities owned by the Grantee or not, all Operators shall, at all times during the term of their respective Operating Agreements, carry and keep in force comprehensive general liability insurance policies as required.

PAYMENT OF FEES AND CHARGES

Rates: Operators and Users shall pay LDC for services rendered at the rates published. The stated fees are non-refundable. The Annual Fee will cover Grantee expenses for oversight of the project and submission of the Annual report to the Foreign Trade Zone Board.

One-Time Administrative Fees*		
Applications		
	Sub zone Application	\$ 2,500
	Usage Driven Application	\$ 4,000
	Magnet Site Application	\$ 2,500
Boundary Modification		
	Boundary Modification Request	\$ 4,000
Change in Scope		
	Change in scope of authority	\$ 2,500
Grant Agreement and Activation Fee		\$ 2,750
Expansion of Service Area		\$ 4,000
Late Annual Report Information		\$100/day
	starting 42 days before FTZB due date	
Deactivation		\$ 2,000
*Administrative fees do not include any applicable FTZ Board fees or expenses of preparing applications except for Boundary Modification applications. Fees are assessed on a per site basis.		
Annual Fees		
<i>Includes Traditional General-Purpose Zone, Magnet, Usage-Driven & Subzone Site. All fees are assessed on a per site basis. Due January 1 of each year.</i>		
Active Operator		
Operator Fees for All Sites Activated for Manufacturing or Warehousing with Authority. At the time of activation, operator will be assessed a prorated annual fee for the year.		
	assessed each site	\$ 12,500
In-Active Operator		\$ 4,500
Non Activated Zone Property Owner		\$ 1,000

Non-Payment of Fees: LDC reserves the right to terminate any Operating Agreement or otherwise deny any Operator or User the use of the Zone as a result of the Operator or User's failure to pay fees due the Grantee, as provided for in this Schedule. All fees are payable prior to

the submission of an application. Failure to pay will result in the withholding of the requested application. Fees must be paid within 30 days of the date of invoice.

Miscellaneous Fees: Any other fees, charges, or expenses incurred by the Grantee for the purpose of obtaining FTZ Board approval and/or U.S. Customs & Border Protection approval on behalf of the client, and not specifically listed herein, shall be the responsibility of the applicant.

Fees Assessed by Operators: All Operators shall publish its own schedule of services offered to and fees to be charged to Users, if applicable. Such schedule must be available at the Operator's Zone Site and at the office of the Grantee. Such fees shall be uniform and reasonable, but shall not preclude any Operator from entering into agreements with Users based on time, volumes and other considerations.

APPENDIX

Definitions

The following words have the following meanings when used in this Schedule:

1. **“Act”** means the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998-1003; 19 USC 81 81a-81u), as amended.
2. **“Activated Area”** means a Zone Site or Subzone or any portion thereof that has been activated pursuant to the Act.
3. **“Alternative Site Framework”** (ASF) means a three part application which transforms a general-purpose zone by creating a defined “Service Area” comprising of one or more Counties within a specified Customs District where a “usage-driven” site can be established in thirty (30) days or a traditional “magnet” industrial park site can be established in six (6) to ten (10) months if certain criteria are met.
4. **“Board”** means the U.S. Foreign-Trade Zones Board of the United States (U. S.) Department of Commerce, as established by the Act.
5. **“CBPF”** means Customs Form as used in the Regulations, which will typically be paired with a specific number used by USCBP to stipulate the use of such form.
6. **“Customs Territory”** means the territories of the U.S. in which general U.S. Tariff laws apply. This includes all of the U.S. States, District of Columbia and Puerto Rico minus any areas within the boundaries of Foreign Trade Zones.
7. **“Domestic Merchandise”** means merchandise which has been (i) produced in the United States and not exported, or (ii) previously imported into the Customs Territory of the United States and properly released from USCBP’s custody. Foreign merchandise on which all necessary and applicable duties and taxes have been paid, and upon which no drawback has been claimed, is considered Domestic Merchandise when admitted to a foreign-trade zone.
8. **“FTZ”** means Foreign-Trade Zone (capitalized or not) as defined by the Act.
9. **2.09 “FTZ Regulations”** means Title 15, Code of Federal Regulations (CFR), Part 400, as presently constituted and as amended from time to time, which governs the grant of authority, the establishment and maintenance of FTZ’s by Grantees.

10. **“General Purpose Zone”** means those portions of the Zone used for the general import, storage and distribution of merchandise which do not involve manufacturing or processing.
11. **“Grant”** means the authorization, as amended, issued to the Grantee that established the Zone.
12. **“Grantee”** means the Township of Lakewood as the recipient of the Grant, and subject to the requirement of Title 15 CFR Part 400, this Schedule and all other applicable federal, state and local statutes and regulations.
13. **“Magnet Site”** means large industrial/commercial sites intended to attract multiple potential FTZ operators/users meeting criteria established by the Grantee in accordance with the Act.
14. **“Operating Agreement”** means a written agreement between the Grantee and any Operator utilizing the Zone that establishes the rules, procedures and requirements for the Operator’s use of the Zone.
15. **“Operating Procedures”** means the inventory control and record keeping system that will be used in the Zone, specified in writing and certified by the Operator to USCBP and the Grantee to meet the requirements of Subpart B of 19 CFR 146
16. **“Operator”** means any company or other entity that executes an Operating Agreement with the Grantee and that assumes the responsibilities enumerated by Operating Agreement and 19 CFR 146.
17. **“Port Director”** means the local USCBP Port Director with jurisdiction over the port of entry and the Zone pursuant to Section 4.02(h) of 15 CFR 15.
18. **“Regulations”** collectively means 15 CFR 400 and 19 CFR 146.
19. **“Schedule”** means this schedule of rules, regulations and fees issued and promulgated by the Grantee.
20. **“Service Area”** means the designated County or Counties approved by the FTZ-Board in the Alternative Site Framework application where usage-driven or magnet sites can be established.
21. **“Subzone”** means a special purpose zone established for a limited use that cannot be accommodated as a general purpose use within the Zone.

22. **“Sunset Provision”** – Magnet Sites have a rolling five (5) year sunset provision where at least a portion of the magnet site must be activated. A usage-driven site must demonstrate actual zone activity within three (3) years or lose zone status.
23. **“Tariff”** means (as referenced in the CFR) actual rates, charges, classifications, rules, regulations and practices of a common carrier or a conference of common carriers. The term “practices” refers to those usages, customs or modes of operation which in any way affect, determine or change the transportation rates, charges or services provided by a common carrier or conference and, in the case of conferences, must be restricted to activities authorized by the basic conference agreement.
24. **“Usage-driven Site”** means a site designated to meet a specific operator/users present need for FTZ designation and cannot be used by another entity.
25. **“USCBP”** means the United States Customs and Border Protection Service.
26. **“USCBP Regulations”** means 19 CFR 146 that governs the activities of Operators within the Zone; the admission, manipulation, manufacture or exhibition of merchandise within the Zone; the exportation of merchandise from the Zone; the transfer of merchandise from one zone to another; and the transfer of merchandise from the Zone into Customs Territory.
27. **“User(s)”** means those persons, whether real or artificial, utilizing the services of any **Operator** of a Zone Site.
28. **“Zone”** means the aggregate of all Zone Sites within FTZ No. 235.
29. **“Zone Site”** means each separate area comprising the Zone and its Subzones including the buildings and facilities located within that particular area that is utilized by an **Operator** while exercising the rights and privileges granted it pursuant to its Operating Agreement with the Grantee.
30. **“Zone Status”** means status of merchandise that is brought into the Zone or any of its Subzones. Merchandise shall be identified according to its type of status. The four types of Zone Status are:
- A. Privileged Foreign Status** is the status that will be given to foreign merchandise or non-tax- paid domestic merchandise upon which the duty and applicable taxes have been determined at the time the status is approved according to a CBPF 214. Once they have been determined, the duty rate and taxes are not subject to future fluctuation. Once

established, the Privileged Foreign Status given to merchandise cannot be changed. If merchandise has already been admitted into the Zone and given Non-Privileged Foreign Status, Privileged Foreign Status for that merchandise may be requested by filing CBPF 214, CBPF 7502 and related documents. Application for Privileged Foreign Status must be filed prior to manipulation or manufacture of any merchandise.

B. Non-Privileged Foreign Status is the status that will be given to foreign merchandise or non-tax paid domestic merchandise upon which the duty and applicable taxes will be determined at the time the merchandise enters Customs Territory from the Zone for consumption.

C. Domestic Status is the status that will be given to merchandise that is comprised of (i) U.S. products on which all internal revenue taxes have been paid; or (ii) imported merchandise on which all duty and/or taxes have been paid; or (iii) imported merchandise which is free of duty and tax.

D. Zone Restricted Status is the status that will be given to merchandise entering the Zone for the purpose of exportation or destruction (other than alcoholic spirits or beverages). Merchandise with Zone Restricted status may not be returned to any geographic area under USCBP jurisdiction for domestic consumption except as approved by the Board.