



City of Newark

City Hall
920 Broad Street
Newark, New Jersey
07102

Ordinance

6PSF-e 11/01/2023

File ID: 23-1473

Type: Ordinance

Status: Adopted

AN ORDINANCE AMENDING AND REPLACING TITLE 41 OF THE MUNICIPAL CODE OF THE CITY OF NEWARK ZONING AND LAND USE REGULATIONS.

WHEREAS, the Newark Central Planning Board adopted the Newark360 Master Plan and Land Use Element ("Newark360") at a duly noticed public hearing on September 26, 2022; and

WHEREAS, Newark360 was the culmination of a multi-year planning and public outreach process during which in-person and virtual meetings were conducted throughout the City and input was received from thousands of residents and stakeholders; and

WHEREAS, the Municipal Land Use Law at N.J.S.A. 40:55D-62 provides municipalities with the power to adopt or amend zoning ordinances; and

WHEREAS, such zoning ordinances shall be adopted after the Newark Central Planning Board adopts a master plan land use element and housing plan element and all the provisions of the zoning ordinance shall be either substantially consistent with the elements or designed to effectuate the elements; and

WHEREAS, on March 15, 2023, the Municipal Council adopted Resolution 7R2-f, directing the Newark Central Planning Board to review the proposed zoning amendments, replacing Title 41 of the Newark Municipal Code of the City of Newark, Zoning and Land Use Regulations, to determine whether the requested amendments are consistent with Newark360, the Master Plan, and transmit its findings and recommendations, if any; and

WHEREAS, the proposed amendments to Title 41 of the Municipal Code of the City of Newark (Zoning and Land Use Regulations)("Revised Title 41") constitute a wholesale amendment that will replace Title 41 and are a continuation of the Newark360 process and designed to effectuate the policy statements and recommendations contained therein; and

WHEREAS, the Newark Central Planning Board reviewed the proposed zoning amendments, Revised Title 41, at its meeting of April 24, 2023, and transmitted its finding along with recommendations to the Municipal Council; and

WHEREAS, subsequently there were several community meetings in May and June of 2023 held by the Office of Planning and Zoning and the Department of Economic and Housing Development, whereby additional amendments were required; and

WHEREAS, on August 8, 2023, the Municipal Council adopted Resolution 7R2-f(S),

pursuant to N.J.S.A. 40:55D-26, referring the additional amendments, resulting from the community meetings to the proposed zoning amendments to the Newark Central Planning Board, to determine whether the requested amendments are consistent with Newark 360, the Master Plan, and transmit its findings and recommendations, if any; and

WHEREAS, the Newark Central Planning Board reviewed the proposed zoning amendments, Revised Title 41, at its regular public meeting on August 21, 2023, and did not identify any substantial inconsistencies with Newark 360, the Master Plan, and made several recommendations and findings, which are incorporated in the attached proposed Chapter 41:AO Zoning and Land Use Adopting Ordinance, Revised Title 41, and is being transmitted to the Municipal Council simultaneously; and

WHEREAS, this Ordinance together with Revised Title 41 shall supersede all development regulations found within the Kent/Brenner/Springfield Redevelopment Plan (6PSF-b adopted on April 1, 2009), Old Third Ward Urban Renewal Plan (7RB adopted on June 15, 1960), and Northern Fairmount Neighborhood Redevelopment Plan (6PSF-b(S) adopted on June 30, 2010); leaving all non-development regulatory provisions of these Urban Renewal Plans and Redevelopment Plans in effect; and

WHEREAS, the Municipal Council finds that this Ordinance, amending and replacing Title 41 of the Municipal Code of the City of Newark, is designed to effectuate the Newark360 Master Plan and Land Use Element.

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

SECTION 1. The Municipal Council hereby amends and replaces in full Title 41 of the Municipal Code of the City of Newark (Zoning and Land Use Regulations), with the form attached hereto.

SECTION 2. To the extent that any previous ordinance is inconsistent with or contradictory hereto, said Ordinance is hereby repealed or amended to the extent necessary to make it consistent herewith.

SECTION 3. 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 4. The Deputy Mayor/Director of the Department of Economic and Housing Development shall file a copy of this Ordinance along with Title 41 of the Municipal Code of the City of Newark (Zoning and Land Use Regulations), attached hereto, with the Office of the City Clerk.

SECTION 5. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 6. 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 and replaces Title 41 of the Municipal Code of the City of Newark (Zoning and Land Use Regulations).

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	9/14/2023	Jeannet Pavez	Approved as Modified	9/13/2023
1	3	9/14/2023	Allison Ladd	Approved	9/18/2023
1	5	9/14/2023	Eric S. Pennington	Approved	9/18/2023
1	6	9/14/2023	Leslie Peters	Approved	9/21/2023
1	7	9/14/2023	Michelle Nelson	Approved	9/18/2023
1	8	9/14/2023	Kenyatta Stewart	Approved	9/18/2023

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:	
1	Municipal Council	09/20/2023	Advance to First Reading				Pass	
	Action Text:	A motion was made by the Council of the Whole that this item be Advanced to First Reading. The motion was adopted by the following votes:						
		Yes: 6 - Patrick Council, C. Lawrence Crump, Dupre' Kelly, Luis Quintana, Louise Scott-Rountree and LaMonica McIver						6-1-2
		No: 1 - Carlos Gonzalez						
		Abstain: 2 - Anibal Ramos Jr. and Michael Silva						
1	Municipal Council	10/04/2023	Adopt on First Reading				Pass	
	Action Text:	A motion was made by the Council of the Whole that this item be Adopted on First Reading. The motion was adopted by the following votes:						
		Yes: 5 - Patrick Council, C. Lawrence Crump, Dupre' Kelly, Louise Scott-Rountree and LaMonica McIver						5-2-2
		No: 2 - Carlos Gonzalez and Anibal Ramos Jr.						
		Abstain: 2 - Luis Quintana and Michael Silva						
1	Municipal Council	11/01/2023	Adopted on second reading and final passage				Pass	

Action Text: Council of the Whole to Adopted on second reading and final passage. The motion was adopted by the following votes:

Yes: 5 - Patrick Council, C. Lawrence Crump, Dupre' Kelly, Louise
Scott-Rountree and LaMonica McIver
No: 3 - Carlos Gonzalez, Luis Quintana and Anibal Ramos Jr.
Abstain: 1 - Michael Silva

5-3-1

Approved or Rejected By


Ras J. Baraka, Mayor

Date

11/3/23

Certified By


Kecia Daniels, City Clerk

Date

CERTIFIED TO BY ME THIS

NOV 06 2023

Chapter 41:AO

Zoning and Land Use Adopting Ordinance

Chapter 41:1

Introduction

§ 41:1-1 Enumeration of Purposes.

The purpose of this Title is to promote the health, safety and general welfare of the City of Newark and its people by advancing the purposes of the Municipal Land Use Law set forth at NJSA 40:55D-2 and by ensuring that all land development in the City meets the applicable requirements of Federal, State and local laws. In order to fulfill this purpose, it is the intent of this Chapter to provide regulations that are consistent with the City's Master Plan, that implement the Master Plan's Land Use Plan Element, and that advance the general concepts and recommendations of the Master Plan.

§ 41:1-2 Introduction to Zoning Districts.

On the Newark Zoning Maps, every area of the City corresponds to one of the zones below. This introduction to the zones provides a general overview of what land uses are permitted and prohibited in each zone, the rules for design, and maps of where within Newark the zone appears.

R-1	Residential 1 Family
R-2	Residential 1-3 Family
R-3	Residential 1-4 Family & Town House
R-4	Residential Low-Rise Multifamily
R-5	Residential Mid-Rise Multi-Family
R-6	Residential High-Rise Multifamily
C-1	Neighborhood Commercial & Residential
C-2	Community Commercial & Residential
C-3	Regional Commercial

I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial
MX-1	Mixed Use 1 (Residential & Commercial)
MX-2	Mixed-Use 2 (Residential, Commercial, Industrial)
MX-3	Mixed-Use 3 Residential and Commercial (High Density)
PORT	Port
EWR	Airport
EWR-S	Airport Support
RDV/SD	Redevelopment Zone/Special District

R-1 Residential 1 Family

One-Family Residential (R-1) zoning allows for the lowest density, residential development in the city. In this zone, single-family homes up to three-stories high can be built. Accessory dwelling units are permitted to offer additional diverse housing opportunities at a scale that does not fundamentally alter the character of the city's single-family areas. In addition, certain home-based businesses are permitted as accessory uses to the principal residential use to encourage entrepreneurship and economic development throughout the city. Permitted non-residential uses are limited only to those that complement the residential character and development patterns without significant adverse impacts on that character.

R-1 zoning is generally applied in areas of neighborhoods with existing larger, single-family homes such Forest Hill, large sections of Vailsburg and portions of Weequahic and Upper Clinton Hill. These areas are generally characterized by detached homes on larger lots and feel more suburban than the denser residential areas of most of Newark.

Learn more about the specific uses that are permitted and prohibited in R-1 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-1 zones in Chapter 5, Building Bulk and Design Requirements.

R-2 Residential 1-3 Family

One-to-Two Family Residential (R-2) zoning allows for slightly denser residential development than in One-Family Residential (R-1) zoning, permitting single, two-, and three-family homes up

to three stories high. Certain home-based businesses are permitted as accessory uses to encourage entrepreneurship and economic development throughout the city. Other permitted uses include parks, community residences, garages, day care, storage sheds, private swimming pools, and home gardening. Areas zoned R-2 focus on residential character with limited complementary non-residential uses.

R-2 zoning is generally applied in areas of neighborhoods with a mix of single- and two-family homes such as those found in Upper Roseville, much of Upper Clinton Hill and sections of Vailsburg, Weequahic, Forest Hill, North Broadway/Woodside and Mount Pleasant. These areas are generally characterized by both detached and semi-detached, duplex homes on smaller lots, giving them a more suburban feel.

Learn more about the specific uses that are permitted and prohibited in R-2 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-2 zones in Chapter 5, Building Bulk and Design Requirements.

R-3 Residential 1-4 Family & Town House

One- to Three-Family and Town House Residential (R-3) zoning allows for denser, residential development than in the R-2 zone, permitting up to four-family homes, as well as townhomes, up to three stories high. Certain home-based businesses are permitted as accessory uses to encourage entrepreneurship and economic development throughout the city. Other permitted uses include parks, community residences, garages, and day care. Areas zoned R-3 focus on residential character with limited complementary non-residential uses.

R-3 zoning is generally applied in areas of neighborhoods with a mix of single-, two- and three-family homes, as well as townhomes, such as those found in Lower Roseville, Lower Broadway, Fairmount and Lower Clinton Hill, as well as sections of North Broadway/Woodside, Mount Pleasant, the Ironbound, and a small section of Weequahic. These areas are generally characterized by bulkier detached homes and rows of townhomes on smaller yards, giving them a semi-urban feel.

Learn more about the specific uses that are permitted and prohibited in R-3 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-3 zones in Chapter 5, Building Bulk and Design Requirements.

R-4 Residential Low-Rise Multifamily

Low-rise Multifamily Residential (R-4) zoning allows for denser, residential development than in One-to-Three-Family and Town House Residential (R-3) zoning, permitting single-, two- and three-family homes and townhomes up to three stories high as well as low-rise multi-family housing up to five stories or 60 feet tall. Other permitted uses include parks, community

residences, garages, ground floor retail, office or services, and daycare. Certain home-based businesses are also permitted as accessory uses to encourage entrepreneurship and economic development throughout the city.

R-4 zoning is generally applied in areas of neighborhoods with a mix of single-, two-, three-family homes and townhomes, but with a predominance of low-rise, multi-family homes, such as those found in large sections of Belmont, the residential sections of University Heights and portions of most Newark neighborhoods, including Upper and Lower Clinton Hill and the Ironbound. These areas are generally characterized by more densely packed homes and multifamily buildings that are four stories or less on very little yard space, giving them a more urban, residential feel.

Learn more about the specific uses that are permitted and prohibited in R-4 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-4 zones in Chapter 5, Building Bulk and Design Requirements.

R-5 Residential Mid-Rise Multifamily

Mid-Rise Multifamily Residential (R-5) zoning allows for dense, residential development, permitting low- and mid-rise multi-family housing up to 8 stories or 96 feet tall. Other permitted uses include parks, community residences, garages, ground floor retail, offices or services, and day care. Certain home-based businesses are also permitted as accessory uses to encourage entrepreneurship and economic development throughout the city.

R-5 zoning exists in several small pockets of the city including along Mount Prospect Avenue and New Street. These areas are generally characterized by dense complexes of residential buildings up to 8 stories in height on small, shared grounds, giving them a strong urban, residential feel.

Learn more about the specific uses that are permitted and prohibited in R-5 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-5 zones in Chapter 5, Building Bulk and Design Requirements.

R-6 Residential High-Rise Multifamily

High-Rise Multifamily Residential (R-6) zoning allows for dense, residential development, permitting low-, mid- and high-rise multi-family housing up to 10 stories tall in general, or up to 20 stories where there is greater lot square footage. Other permitted uses include parks, community residences, garages, ground floor retail, office or services, and day care. Certain home-based businesses are also permitted as accessory uses to encourage entrepreneurship and economic development throughout the city.

R-6 zoning is generally applied in areas of neighborhoods with a mix of low-, mid-, and high-rise multifamily buildings, such as those found in portions of numerous Newark neighborhoods, including Forest Hill, Lower Broadway, University Heights, Vailsburg, and Weequahic. These areas are generally characterized by dense complexes of residential buildings up to 10 stories in height on small, shared grounds, giving them a very strong urban, residential feel.

Learn more about the specific uses that are permitted and prohibited in R-6 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in R-6 zones in Chapter 5, Building Bulk and Design Requirements.

C-1 Neighborhood Commercial and Residential

Neighborhood Commercial and Residential (C-1) zoning allows for small-scale, commercial development that coexists with multi-family residential development that caters to local, everyday retail needs of nearby residents. Permitted development in C-1 zones includes residential and mixed-use buildings that are permitted, but not required to include a commercial component with a height up to five stories or 60 feet.

C-1 zoning is generally applied to areas that do not front on major commercial corridors or primary transportation thoroughfares. These moderate-density, residential neighborhoods include Upper Roseville, Forest Hill, North Broadway/Woodside, Vailsburg, University Heights, Upper Clinton Hill, Lower Clinton Hill, and Weequahic. These areas are generally characterized by low- to mid-rise multi-family buildings and areas able to support additional development giving them an urban, residential feel.

Learn more about the specific uses that are permitted and prohibited in C-1 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in C-1 zones in Chapter 5, Building Bulk and Design Requirements.

C-2 Community Commercial and Residential

Community Commercial (C-2) zoning allows for more dense commercial development that coexists with multi-family residential development permitting mixed-use buildings up to 5 stories and 60 feet tall and conditionally permitting mixed-use buildings up to 8 stories and 96 feet tall. C-2 zones are typically the heart of a neighborhood's central commercial district and along major commercial and transportation corridors. There are more permitted uses in C-2 zones than in C-1.

C-2 zoning is generally applied in existing community commercial centers, such as Bloomfield Avenue as it passes through Upper Roseville, Forest Hill and Lower Broadway; Orange Street in Lower Roseville; Central Avenue in Fairmount; South Orange Avenue as it passes through Vailsburg, Fairmount, and West Side; Ferry Street in the Ironbound; and number of smaller

sections of nearly all of Newark's neighborhoods. As with the MX-3 district, the C-2 includes a height restriction within 100 feet of Ferry Street to protect the established cultural character of that area. Surrounded by a mix of low- mid-rise residential buildings and often along vibrant streets, these areas are typically community's center of vibrancy.

Learn more about the specific uses that are permitted and prohibited in C-2 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in C-2 zones in Chapter 5, Building Bulk and Design Requirements.

C-3 Regional Commercial

Regional Commercial (C-3) zoning allows for larger scale commercial development that is intended to serve more than the neighborhood or community in which it is found. C-3 zoning allows for ground-floor commercial with commercial or residential above in buildings and detached commercial buildings up to 8 stories or 96 feet tall.

C-3 zoning is generally applied on the edges of neighborhoods, outside of residential areas and along primary transportation corridors, such as sections of Broadway as it passes through North Broadway/Woodside and Mount Pleasant; along Irvington Avenue on the southwestern edge of Vailsburg; in Fairmount along portions of West Market Street and Bergen Street; Springfield Avenue as it passes through University Heights and Belmont; and sections of Lincoln Park, the Ironbound, Upper Clinton Hill, Lower Clinton Hill and Dayton.

Learn more about the specific uses that are permitted and prohibited in C-3 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in C-3 zones in Chapter 5, Building Bulk and Design Requirements.

I-1 Light Industrial

Light Industrial (I-1) zoning allows for industrial development of buildings up to 8 stories high or 96 feet and permits a range of uses that are generally more compatible with surrounding neighborhoods than those of heavy industry. Permitted uses in the I-1 zone are those without nuisance or polluting effects that have limited heavy truck traffic associated with their operation.

Because it generally allows for uses that are more compatible with surrounding neighborhoods, I-1 zoning is typically applied on the edge of neighborhoods and sometimes as a buffer with more heavy industrial uses. I-1 zoning is applied in such places as along Oraton Street in North Broadway/Woodside; along 3rd Street in Upper Roseville; along N 13th Street in Lower Roseville; along Routes 1 & 9 in the Ironbound; between W Runyon Street and Peddie Street in Lower Clinton Hill; and in the Industrial District along much of the border with Lower Clinton Hill, as well as small pockets of other Newark neighborhoods.

Learn more about the specific uses that are permitted and prohibited in the I-1 zone in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in I-1 zones in Chapter 5, Building Bulk and Design Requirements.

I-2 Medium Industrial

Medium Industrial (I-2) zoning allows for industrial development of buildings up to 8 stories high or 96 feet and permits a range of uses that are generally less compatible with nearby residential neighborhoods than those of Light Industrial (I-1) zoning.

Because it allows for a range of uses that are less compatible with residential neighborhoods, I-2 zoning is typically applied in industrial districts of residential neighborhoods or adjacent to roads, waterways and lighter industrial areas that can serve as a buffer. I-2 zoning is applied in areas of Newark neighborhoods such as along McCarter Highway and the Passaic River waterfront in North Broadway/Woodside; around S 15th Street in Fairmount; north of Raymond Boulevard in the Ironbound; and in portions of the Newark Industrial District that border Lower Clinton Hill and the Ironbound.

Learn more about the specific uses that are permitted and prohibited in I-2 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in I-2 zones in Chapter 5, Building Bulk and Design Requirements.

I-3 Heavy Industrial

Heavy Industrial (I-3) zoning allows for industrial development of buildings up to 8 stories high or 96 feet and permits specific uses that are generally incompatible with residential neighborhoods and thus typically not allowing residential uses.

Because it allows for uses that are incompatible with and even harmful to residents, I-3 zoning is confined to — and comprises much of — the Newark Industrial District and has very low proximity to any residential neighborhood.

Learn more about the specific uses that are permitted and prohibited in I-3 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in I-3 zones in Chapter 5, Building Bulk and Design Requirements.

MX-1 Mixed-Use 1: Residential & Commercial

Mixed Use 1: Residential & Commercial (MX-1) zoning allows for a blend of residential and commercial uses within the same building or district, fostering communities with diverse but

integrated uses. These are the kinds of places where residents live over shops that offer everyday services, places to work, shop and play. MX-1 zoning allows for moderately dense residential development, permitting single-, two- and three-family homes and town homes up to three stories high, as well as low-rise, multi-family housing and mixed-use building up to 5 stories and 60 feet tall.

MX-1 zoning is applied in areas where there is already a well-integrated mix of residential and commercial uses, such as along Verona Avenue in North Broadway/Woodside; along Broadway in Mount Pleasant; along Morris and Central Avenues in University Heights; along Broad Street in Lincoln Park and throughout large sections of the Ironbound.

Learn more about the specific uses that are permitted and prohibited in MX-1 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in MX-1 zones in Chapter 5, Building Bulk and Design Requirements.

MX-2 Mixed-Use 2: Residential, Commercial, Industrial

Mixed Use 2: Residential, Commercial, Industrial (MX-2) zoning allows for a blend of residential and commercial within the same building or district, fostering flexible, working communities with integrated and innovative uses. These are the kinds of places where homes and businesses mix in creative and productive ways. MX-2 zoning allows for moderately dense residential development, permitting single-, two- and three-family homes and town homes up to three stories high as well as low-rise multi-family housing up to 5 stories and 60 feet tall. Mid-rise multi-family and mixed-use buildings are conditionally permitted up to 8 stories and 96 feet tall.

MX-2 zoning is applied in areas where there is already a well-integrated mix of residential, commercial and industrial uses, such as along Verona Avenue in Forest Hill; along Broad Street in Lower Broadway; around Central Avenue in University Heights; in small sections of Upper Clinton Hill; along the many of the edges of the Ironbound; and along Route 27 in Dayton.

Learn more about the specific uses that are permitted and prohibited in MX-2 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in MX-2 zones in Chapter 5, Building Bulk and Design Requirements.

MX-3 Mixed-Use 3: Residential & Commercial (High Density)

Mixed Use 3: Residential & Commercial (MX-3) zoning allows for a blend of high density residential and commercial uses in the same building or district, within a 1/2 mile from Newark Penn Station. It builds upon Newark's strength as a multimodal transportation hub to support the Downtown Core District, expand housing and economic opportunities along the area's major streets and transportation corridors and protect adjacent low-density neighborhoods. It promotes a walkable neighborhood with a vibrant commercial/retail zone. The district's bulk standards

allow buildings up to 8 stories and 96 feet tall with taller buildings up to 145 feet high conditionally permitted.

Commercial development in MX-3 zones allows for ground-floor commercial use with commercial or residential uses above.

MX-3 zoning is applied in areas where there is some existing mix of residential, commercial and industrial uses, such as along Lafayette Street, Union Street and Ferry Street and in under-utilized areas near Newark Penn Station where the predominant use is surface parking, such as along New Jersey Railroad Avenue, Bruen Street, McWhorter Street, Prospect Street and Congress Street.

Learn more about the specific uses that are permitted and prohibited in MX-3 zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in MX-3 zones in Chapter 5, Building Bulk and Design Requirements.

PORT Port

Port (PORT) zoning for port-related activities in and around the Port Newark-Elizabeth Marine Terminal. PORT zoning allows for uses related to the port and services that support it.

Learn more about the specific uses that are permitted and prohibited in the PORT zone in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in the PORT zone in Chapter 5, Building Bulk and Design Requirements.

EWR & EWR-S Airport & Airport Support

Airport (EWR) and Airport Support (EWR-S) zoning are for Newark Liberty International Airport and the supporting area around it. EWR/EWR-S zoning allows for industrial development related to the airport and the services that support it. In these areas, industrial buildings be can up to 10 stories high and detached commercial buildings up to 8 stories high.

Because it allows for specific uses related to Newark Liberty International Airport, EWR/EWR-S zoning is applied only in the Port District and a portion of the Newark Industrial District.

Learn more about the specific uses that are permitted and prohibited in EWR and EWR-S zones in Chapter 4, Permitted Uses by District.

Learn more about the size and design of buildings permitted in EWR and EWR-S zones in Chapter 5, Building Bulk and Design Requirements.

RDV/SD Redevelopment Zones & Special Districts

In Redevelopment Zones & Special Districts (RDV/SD), zoning and land use regulations are set by Redevelopment Plans adopted by the City of Newark under New Jersey Local Housing and Redevelopment Law (P.L. 1992, c.79, s. 1.).

1. Broad Street Station
2. Downtown Core
3. Lincoln Park
4. Living Downtown
5. Newark's River: Public Access and Redevelopment Plan
6. South Bergen Street
7. Carnegie Avenue
8. Dayton Street
9. Fairmount Commons
10. Ferry and Main
11. Chestnut and Oliver
12. Delancy Street
13. Garden and East Kinney
14. Jackson and Ferry
15. Vesey Street
16. Irvine Turner Blvd. and Clinton Avenue
17. Waverly Yards
18. West Ward Model Neighborhood Initiative Redevelopment Plan

To find these Redevelopment Plans and the zoning & land use regulations they contain, visit the Newark Planning Office website at planning.ci.newark.nj.us or call the Newark Municipal Clerk at (973) 733-3669.

Chapter 41:2

Definitions

§ 41:2-1 **General.**

Whenever the following terms, words or phrases are used in this Title, they shall have the meaning and scope herein given. Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular. The word "lot" includes the word "plot;" the word "building" includes the word "structure;" the word "zone" includes the word "district;" the word "occupied" includes the words "designed or intended to be occupied" and the word "used" includes the words "arranged, designed or intended to be used."

§ 41:2-2 **Definitions.**

ACCESSORY BUILDING

(See "Structure, Accessory").

ACCESSORY DWELLING UNIT

Shall mean a dwelling unit that is attached or detached or located within or appurtenant to a permitted principal single-family dwelling unit, is located on the same lot as a permitted principal dwelling unit, and contains provisions for independent living, including space for sleeping, food preparation, and sanitation.

ACCESSORY STORAGE STRUCTURE

Shall mean a shed, accessory structure or building used primarily for storage purposes. Shed is defined herein.

ACCESSORY STRUCTURE

(See "Structure, Accessory").

ACCESSORY USE

(See "Use, Accessory").

ACTIVE GROUND FLOOR USES

Shall mean retail, cultural venue, artisans and craft workspaces, live-work units, makers spaces, recreation rooms, entertainment venues, fitness rooms, production areas, and workshops.

ACTIVE RECREATION PARK

(See "Park: Recreation Park, Active").

ADDITION

Shall mean an extension or increase in floor area or height to an existing building or structure.

ADJOINING LOT OR LAND

Shall mean a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

ADMINISTRATIVE OFFICER

Shall mean the Zoning Officer or authorized designee for purposes of the application and enforcement of this Title.

ADULT DAY CARE

(See "Community Center" or "Adult Family Care Home).

ADULT FAMILY CARE HOME

Shall mean a residence regulated by the New Jersey Department of Health (NJDH) and housing no more than three clients which offers twenty-four-hour per day living arrangements for persons who, because of age or physical disability, need assistance with activities of daily living, and for whom personal care and other supportive services designed to meet their individual needs are provided by caregivers licensed by NJDH, pursuant to NJS 26:2Y-1 et seq., "New Jersey Adult Family Care Act."

AIRPORT

Shall mean and include the Newark Liberty International Airport, flight training schools, aircraft hangers, airport repair and maintenance facilities, aircraft chartering operations, air freight operations, and accessory maintenance, storage, and commercial uses that directly serve airport users on airport property.

AISLE OR PARKING AISLE

Shall mean the traveled way by which cars enter and depart parking spaces.

ALLEY

Shall mean a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

ALTERATIONS

Shall mean any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

ANIMAL

Shall mean a living organism other than a plant or bacterium, including fish, amphibians, reptiles, birds, and other mammals, excluding humans.

ANIMAL BOARDING OR KENNEL

Shall mean any establishment wherein or whereupon the business of boarding or selling or breeding of dogs and/or cats for sale is carried on, except a pet shop.

ANIMAL CAFÉ

Shall mean an establishment wherein food and beverage may be sold while simultaneously animals are available for visit and adoption. Educational and recreational programs may be conducted as an accessory use to the café. Areas where animals reside and in which direct contact with animals is permitted shall be separated by windows and doors from any area in which food is prepared or consumed. Food preparation and consumption areas shall be subject to all applicable health codes and inspections.

ANIMAL DAY CARE

Shall mean any place kept or maintained for the care, grooming, training, exercising, and socializing of live dogs or cats for less than 24 hours per day by a person other than the owner of the live animal. Animal day care does not include facilities that provide animal boarding, breeding or selling of animals, or facilities whose primary source of revenue is licensed veterinarian services.

ANIMAL GROOMING

Shall mean any place or establishment whose primary service offered is to be a place where cats or dogs are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health. Such use shall not include animal boarding, kennels, or animal daycare.

ANIMAL MARKET, LIVE

Shall mean a retail sales food market where, in the regular course of business, non-domesticated animals are stored alive for the purpose of on-site slaughtering, dressing and/or evisceration to be sold to consumers for the purpose of human consumption.

ANIMAL SHELTER

Shall mean any establishment where stray, homeless, abandoned, or unwanted domesticated animals are received, housed and distributed. Such use shall be owned, operated, or maintained by a public body, established humane society, animal welfare society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

ANIMAL, DOMESTICATED

Shall mean an animal no larger than the largest breed of dogs. This term includes fish, birds, and mammals customarily kept as domestic pets within a dwelling unit.

APARTMENT HOUSE

(See "Dwelling, Multi-Family/Multiple").

APPLICANT

Shall mean a developer submitting an application for development.

APPLICATION FOR DEVELOPMENT

Shall mean the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L. 1975, c.291 (C.40:55D-34 or C.40:55D-36).

APPROVED PLAN

Shall mean a plan that has been granted final approval by the appropriate approving agency.

APPROVING AGENCY

Shall mean the planning board of the municipality, unless a different agency is designated by ordinance when acting pursuant to the authority of P.L. 1975, c. 291 (C.40:55D-1 et seq.).

AQUACULTURE FARMS

(See "Urban Farm").

AQUAPONIC FARMS

(See "Urban Farm").

ARRAY

Shall mean a linked collection of photovoltaic modules which are in turn made of multiple interconnected solar cells.

ARTISANS AND CRAFT WORKSPACE

Shall mean space for skilled craft workers who create things by hand that may be functional or decorative in nature including but not limited to: art, furniture, sculptures, clothing and jewelry. The display and sale of these crafts is permitted as an accessory use.

ARTIST LIVE/WORK STUDIO (NUISANCE PRODUCING)

Shall mean a place designated to be used as both a dwelling place and a place of work by artists and craftspersons for the production of (a) paintings, drawings, jewelry, pottery or sculpture involving the use of fiberglass, epoxy and other toxic or hazardous materials or one or more of the following processes: welding, woodworking, spray painting, silk screening or fired ceramics, (b) dance or live music involving electronically amplified sound, or (c) moving or still photography (excluding video) involving on-site film processing. Artists engaged in their residence in the production of dance, live music, creative writing, painting, drawings, pottery or sculpture, video, moving or still photography, or any other art form or craft which does not involve amplified sound or one or more of the materials or processes listed above shall not be considered an artist live/work studio for the purpose of this Chapter.

ASSISTED LIVING FACILITY

Shall mean a facility or portion thereof which is licensed by the New Jersey Department of Health (NJDOH) to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

ATTIC

Shall mean that part of a building which is immediately below, and wholly or partly within, the roof framing.

ATTIC, HABITABLE

Shall mean an attic that has a stairway as a means of access and egress and in which the ceiling area at a height of seven feet above the attic floor is not more than 1/3 of the area of the next floor below.

AUTO-SHARING ORGANIZATION

Shall mean a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short term use through a self-service fully automated reservation system. An auto-sharing organization does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.

AUTOMOBILE

Shall mean a self-propelled, free-moving vehicle with four wheels, usually used to transport not more than eight passengers, and licensed by an appropriate agency as a passenger vehicle.

AUTOMOBILE CAR WASH

Shall mean an establishment that provides for the washing, cleaning, waxing or detailing of passenger vehicles, either by means of employees or by means of automated or semi-automated methods or cleaning, or by a combination thereof.

AUTOMOBILE PAINT & BODY REPAIR

Shall mean those establishments which provide wrecker service; collision services including body frame or fender straightening; customizing; vehicle steam cleaning; undercoating and rust proofing; or repair and painting of the exterior or interior of vehicles by spraying, dipping flow-coating or similar means; and other similar uses. Automobile paint and body repair may also include diagnostic services, general repair associated with automobile repair shops.

AUTOMOBILE RENTAL

Shall mean an establishment used for the purpose of renting automobiles, small trucks or vans, trailers, motorcycles, or recreational vehicles.

AUTOMOBILE REPAIR & TIRE REPAIR

Shall mean a facility for the servicing or minor mechanical repair of motor vehicles. This use may include the retail sale of lubricating oils, tires, or parts for use in motor vehicles. This use does not include as its primary function the disassembly, rebuilding, and replacement of motor vehicle engines, transmissions, or other major machinery components, nor auto body repair or painting.

AUTOMOBILE SALES

Shall mean those uses that provide for the sale of new or used automobiles, small trucks or vans, trailers, motorcycles, or recreational vehicles, and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

AUTOMOBILE TOWING FACILITY

(See "Vehicle Towing Facility").

AUTOMOTIVE LIFT

Shall mean equipment designed to deposit motor vehicles in a parking space or to serve as the mechanism to provide a parking space by moving motor vehicles vertically and/or horizontally above floor level on pallets or platforms equipped with tracks, channels or similar devices to hold the vehicle's wheels, not the vehicle frame or designated support points, in place while the vehicle is being moved vertically or horizontally.

BAIL BOND AGENCY

Shall mean a person or establishment who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised there for money or other things of value.

BANQUET HALL

See "Event Space"

BARS, TAVERNS, LOUNGES

Shall mean an establishment licensed by the New Jersey Division of Alcoholic Beverage Control to sell alcoholic beverages for consumption by patrons on the premises. Pursuant to NJSA 33:1-12, packaged crackers, chips, nuts and similar snacks may be sold as an accommodation to patrons. For the purposes of this Chapter, a "bar, tavern or lounge" shall be deemed an "eating and drinking establishment" only if food is prepared, served and consumed on the premises.

BASEMENT

Shall mean a space having more than one-half its floor-to-ceiling height above the average level of the adjoining ground. A basement shall be counted as a story if the distance between the grade elevation to the floor immediately above equals or exceeds seven feet.

BEDROOM

Shall mean a private room intended or used for sleeping separate from other rooms by a door or other physical barrier.

BILLBOARD

Shall mean an outdoor sign or combination of signs with size greater than 16 square feet that directs attention to or advertises a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. This definition does not include advertising placed on a public bus or railroad shelter, inside an athletic or performing arts facility, or other signs erected by the City of Newark, its designee, or a State or municipal public transportation agency. This definition also does not include artistic murals with no commercial purpose nor does it include wayfinding or neighborhood welcome signs erected with the Department of Engineering's

approval. This definition shall also not apply to any official sign established pursuant to the provisions of the Manual of Uniform Traffic Control Devices erected on any public highway by the public authority having jurisdiction over that public highway. For the purpose of this ordinance, the terms "billboard" and "billboard facility" shall both mean the sign face, border, support hardware, mounting hardware, and all other physical items constructed for the purpose of facilitating a billboard.

BOARD OF ADJUSTMENT

Shall mean the board established pursuant to section 56 of P.L. 1975, c. 291 (C.40:55D-69).

BODY ART STUDIO

Shall mean any establishment where tattooing, permanent make-up and/or body piercing (other than ear piercing) takes place and that meets the requirements of NJAC 8:27-1 et seq. This definition does not include practices that are considered medical procedures by the New Jersey State Board of Medical Examiners.

BREWERY, LIMITED

Shall mean a commercial facility, which shall not sell or serve food or operate a restaurant, which brews any malt alcoholic beverage in quantities for which it is licensed by the Alcoholic Beverage Commission pursuant to N.J.S.A. 33:1-10. The limited brewery may sell the product at retail to consumers on the licensed premises of the brewery for consumption on the premises but only in connection with tours of the brewery, or for consumption off premises in a quantity of not more than 15.5 fluid gallons per person, and to offer samples for sampling purposes only. "Sampling" shall mean the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of any malt alcoholic beverage produced on the premises. In addition, uses which manufacture 10,000 barrels of beverage or less, but do not meet the one or more requirements of N.J.S.A. 33:1-10 and N.J.S.A. 33:1-12, shall be considered as limited brewery.

BREWERY, RESTRICTED

Shall mean a commercial establishment, commonly known as Brewpub, that brews any malt alcoholic beverage on site and that meets the requirements of N.J.S.A. 33:1-10 and N.J.S.A. 33:1-12. The restricted brewery shall operate in conjunction with a "Sit-Down Restaurant," as defined herein. The restricted brewery may not manufacture more than 10,000 of 31 gallons capacity per year. The restricted brewery may sell, transport, and deliver malt alcoholic beverages to wholesalers licensed in accordance with N.J.S.A. 33:1-10.

BUILDING

Shall mean a combination of materials to form a construction adapted to permanent, temporary, or continuous use or occupancy and having a roof.

BUILDING COVERAGE

(See "Lot Coverage by Building")

BUILDING FOOTPRINT

Shall mean the area encompassed by a building's outer wall at ground level.

BUILDING HEIGHT

(See "Height of Building").

BUILDING, ACCESSORY

(See "Structure, Accessory").

BUILDING, ATTACHED

Shall mean a building that abuts two side lot lines or is one of a row of abutting buildings.

BUILDING, DETACHED

Shall mean a freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the zoning lot.

BUILDING, PRINCIPAL

Shall mean a building in which is conducted a principal use of the lot on which it is located.

BUILDING, SEMI-DETACHED

Shall mean a building that abuts or shares a wall, on a side lot line, with another building on an adjoining zoning lot and where the remaining sides of the building are surrounded by open areas or street lines.

BUSINESS, SPECIALIZED OR VOCATIONAL SCHOOLS

Shall mean and include institutions engaged in specialized instructional areas such as but not limited to driving, trade, language school, art, music, and dance schools.

CABARETS

(See "Nightclubs, Discotheques & Cabarets").

CABLE TELEVISION COMPANY

Means a cable television company as defined pursuant to Section 3 of P.L. 1972, c. 186 (C.48:5A-3).

CANNABIS

Shall mean all parts of the plant Cannabis sativa L., variations, and derivative products thereof having the same definitions as set forth in the State Law in accordance with P.L. 2021, c. 16 (C. 24:6I-33).

CANNABIS CONSUMPTION AREA

Means a designated indoor location operated by a licensed cannabis retailer or permit holder for dispensing medical cannabis, for which a State and local endorsement has been obtained, that is an indoor, structurally enclosed area of the cannabis retailer or permit holder that is separate from the area in which retail sales of cannabis items of the dispensing of medical cannabis occurs.

CANNABIS CULTIVATOR

Means any licensed person or entity that grows, cultivates, or produces cannabis in this

State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 1 Cannabis Cultivator license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CANNABIS DELIVERY SERVICE

Means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer. This person or entity shall hold a Class 6 Cannabis Delivery license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CANNABIS DISTRIBUTOR

Means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities. This person or entity shall hold a Class 4 Cannabis Distributor license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CANNABIS MANUFACTURER

Means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers. This person or entity shall hold a Class 2 Cannabis Manufacturer license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CANNABIS MICROBUSINESS

Means a person or entity licensed under P.L. 2021, c. 16 (C. 24:6I-31 et al.) as a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service that may only, with respect to its business operations, and capacity and quantity of product: (1) employ no more than 10 employees; (2) operate a cannabis establishment occupying an area of no more than 2,500 square feet, and in the case of a cannabis cultivator, grow cannabis on an area no more than 2,500 square feet measured on a horizontal plane and grow above that plane not higher than 24 feet; (3) possess no more than 1,000 cannabis plants each month, except that a cannabis distributor's possession of cannabis plants for transportation shall not be subject to this limit; (4) acquire each month, in the case of a cannabis manufacturer, no more than 23 1,000 pounds of usable cannabis; (5) acquire for resale each month, in the case of a cannabis wholesaler, no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof; and (6) acquire for retail sale each month, in the case of a cannabis retailer, no more than 1,000

pounds of usable cannabis, or the equivalent amount in any form of manufactured cannabis product or cannabis resin, or any combination thereof.

CANNABIS RETAILER

Means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer. This person or entity shall hold a Class 5 Cannabis Retailer license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CANNABIS WHOLESALER

Means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers. This person or entity shall hold a Class 3 Cannabis Wholesaler license as established and defined by P.L. 2021 c. 16 (C. 24:6I-33).

CAPITAL IMPROVEMENT

Means a governmental acquisition of real property or major construction project.

CATERING HALL

(See “Event Space”)

CELLAR

Shall mean that portion of a building below the first floor level having more than 1/2 of its height below the curb level at the center of the street in front of the building. Where the walls of a building do not adjoin a street or building line, then a cellar is a story having more than 1/2 of its height below the average level of the ground on which the building stands.

CEMETERY

Shall mean property used for the internment of the dead.

CENTRAL PLANNING BOARD

Shall mean the municipal planning board of the City of Newark established pursuant to NJS 40:55D-1 et seq.

CERTIFICATE OF CODE COMPLIANCE

Shall mean a certificate issued by the Director of the Department of Neighborhood and Recreational Services that indicates that a structure intended for human habitation including any dwelling, residence or apartment building has been inspected and appears to be in compliance with the minimum standards for habitation described by the Director in his/her

housing and zoning regulations.

CERTIFICATE OF OCCUPANCY

Shall mean the certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

CHARGING LEVEL

Shall mean the amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
3. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

CHECK-CASHING ESTABLISHMENT

Shall mean a person or business that for compensation engaged, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. Such facility does not include a state or federally chartered bank, savings association, credit union, or industrial loan company.

CHILD CARE CENTER

Shall mean any facility which is maintained for the care, development, supervision of six or more children who attend the facility for less than 24 hours a day and that is licensed by the State of New Jersey pursuant to NJSA 30:5B-1 et seq. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the New Jersey Department of Human Services (NJ DHS) prior to the enactment of the "Child Care Center Licensing Act," P.L. 1983, c.492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

1. A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;
2. Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services;
3. A program of specialized activity or instruction for children that is not designed or intended for child care purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;
4. Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P.L. 1973, c.375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the New Jersey Department of Health (NJDOH). A youth camp sponsor who also operates a child care center shall secure a license from the New Jersey Department of Children and Families (NJDCF) for the center;
5. Day training centers operated by or under contract with the Division of Developmental Disabilities within the New Jersey Department of Human Services (NJ DHS);
6. Programs operated by the board of education of the local public school district that is responsible for their implementation and management;
7. A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;
8. A child care program operating within a geographical area, enclave, or facility that is owned or operated by the Federal government;
9. A family day care home that is registered pursuant to the "Family Day Care Provider Registration Act," P.L. 1987, c.27 (C.30:5B-16 et seq.); and
10. Privately operated infant and preschool programs that are approved by the New Jersey Department of Education (NJDOE) to provide services exclusively to local school districts for handicapped children, pursuant to NJSA 18A:46-1 et seq.

CHILD, CHILDREN

Shall mean a person under the age of 18 years.

CIGAR BAR/LOUNGE

Shall mean any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere, except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking

areas of the bar so that air from the smoke area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

CIGAR/TOBACCO/VAPE RETAIL SALES ESTABLISHMENT

Shall mean a retail sales establishment in which at least 51% of the business is the sale of tobacco products and accessories, including liquids and accessories used for vaporized consumption of nicotine containing products, and in which the sale of other products is merely incidental.

CIRCULATION

Shall mean systems, structures and physical improvements for the movement of people, goods, water, air, sewage, or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses and other storage buildings or transshipment points.

CITY

Shall mean the City of Newark.

CITY CLERK

Shall mean the Clerk of the City of Newark.

COLDFRAME

Shall mean an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

COLLEGE/UNIVERSITY

Shall mean and include private or public colleges, universities or junior colleges, or other institutions of higher learning, which primarily teach classes that would count toward any bachelor degree, and the institutions associated dormitories. "College/University" shall not include "business, specialized or vocational schools," as defined herein.

COLOCATION SITE

Shall mean locating two or more transmission antennas, microwave dishes or related equipment on the same cellular antenna tower or building.

COLUMBARIUM

Shall mean a building or structure containing niches for the placement of cremated human remains.

COMMERCIAL

Shall mean a land use category that consists of a place of activity involving the sale of goods or services or the operation of an office.

COMMERCIAL ANTENNA EQUIPMENT HOUSING STRUCTURE

Shall mean any structure or part of a structure used to store, maintain, or operate equipment

involved in the operation of a commercial antenna including electronic equipment.

COMMERCIAL ANTENNA PROJECT

Shall mean any installation of commercial antennas within the City of Newark. This shall include mounting on existing structures, construction of any type of tower or other structure for commercial antenna purposes, installation of electronic equipment, construction or creation of cabinets, rooms or sheds for electronic equipment.

COMMERCIAL ANTENNAS & MICROWAVE DISHES

Shall mean any combination of antennas and support accessory structures and buildings and antennas designed in whole or in part for the reception and/or transmission of wireless communications including cellular and personal communications systems (PCS) signals or other form of radio frequency energy as part of a licensed radio television microwave, or other wireless communication facility, any system or reception devices including an amateur radio operation that is subject to license by the Federal Communication Commission, shall fall under the definition and regulations of commercial antennas.

COMMERCIAL RECREATION, LARGE SCALE

Shall mean a building, group of buildings or outdoor facilities used for recreational purposes and operated as a business and open to the public for a fee, including but not limited to, skating and roller rinks, go-cart raceway, bowling alleys, pool and billiard halls, indoor batting cages, rock climbing, indoor play areas, sports fields, recreation centers, and indoor swimming pools or tennis courts, arcades, paintball and laser tag.

COMMERCIAL RECREATION, SMALL SCALE

Shall mean a building used for recreational purposes and operated as a business and open to the public for a fee, including but not limited to karate or martial arts studios, dance studios, music instruction, bowling alleys, indoor play areas, recreation centers, and arcades. Facilities larger than 5,000 square feet shall be considered "Commercial Recreation, Large Scale."

COMMERCIAL, INDUSTRIAL TRUCK & BUS SERVICES

Shall mean those establishments which repair, install or maintain the mechanical components or bodies of; or provide for the sale and rental of large trucks, mass transit vehicles, large construction or agricultural equipment, or commercial boats. Commercial, industrial truck and bus services include truck stops and fueling facilities. Such uses may have, as an accessory use, facilities for washing the vehicles.

COMMERCIAL, INDUSTRIAL TRUCK & BUS WASH

Shall mean an establishment that provides for the washing of tractor-trailer trucks, busses and other large commercial vehicles by means of automated or semi-automated methods of cleaning, or by a combination thereof.

COMMON OPEN SPACE

Shall mean an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development.

Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMMUNITY CENTER

Shall mean a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency. A community center shall include those facilities with regular operating hours and staff that provide a broad spectrum of health, social, nutritional and educational services and recreational activities. This use shall also include a Senior Center. This use shall not include Child Care Centers, Substance Abuse Treatment Centers, or Private Clubs.

COMMUNITY FARMERS' MARKET

Shall mean an established area with multiple stalls where three or more farmers/growers gather on a regular, recurring basis to sell food crops and non-food crops directly to the consumer.

COMMUNITY GARDEN

Shall mean an area less than one acre managed and maintained by a group of individuals to grow and harvest food crops or non-food ornamental crops, such as flowers, for personal or group consumption or donation. A community garden area may be divided into separate garden plots or orchard areas for cultivation by more than one individual or may be farmed collectively by members of the group for a minimum of 15 hours a week during the growing season. A community garden may include common areas maintained and used by the group. Community gardens may be principal or accessory uses and may be located on a roof or within a building.

COMMUNITY RESIDENCE FOR PERSONS WITH HEAD INJURIES

Shall mean a community residential facility licensed pursuant to P.L. 1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c.136 (C.26:2H-1 et al.). "Person with head injury" means a person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social or physical functioning which causes partial or total disability.

COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED

Shall mean any community residential facility licensed pursuant to P.L. 1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community, and shall

include, but not be limited to: group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c.136 (C.26:2H-1 et al.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Addiction Services of the Department of Human Services (NJ DHS). As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P.L. 1977, c.448 (C.30:11B-2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in C.30:11B-2, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

COMMUNITY RESIDENCE FOR THE TERMINALLY III

Shall mean any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under such supervision as required, to not more than 15 terminally ill persons.

COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE

Shall mean any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services (NJ DHS), pursuant to P.L. 1979, c.337 (C.30:14-1 et seq.), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

COMMUNITY-SUPPORTED FARMS

(See "Urban Farm").

COMPOSTING

Shall mean combining organic waste in proper ratios into rodent-resistant containers, adding moisture and bulking agents to accelerate the breakdown of organic materials to create compost, the organic materials that can be used as soil amendment or as a medium to grow plants.

CONDITIONAL USE

Shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance and upon the issuance of an authorization therefor by the Central Planning Board. Where, however, the applicant fails to meet one or more of the conditions set forth in the ordinance, the application must be to the Zoning Board of Adjustment in accordance with the provisions of NJSA 40:55D-70d(3).

CONSIGNMENT STORE

Shall mean a retail sales establishment where previously-owned merchandise, such as clothing, jewelry or other apparel and accessories is consigned to a dealer who collects a fee and pays the seller after the merchandise is sold, but shall not include stores selling used furniture, appliances, vehicles, auto parts, scrap or waste. Consignment shops shall not include any provisions for after-hours drop-off of merchandise such as outdoor donation bins. (See also "Resale or Thrift Shop.")

CONSUMER REPAIR SERVICES

Shall mean and include the provision of repair services directly to the consumer which shall include, but not be limited to, appliance repair; locksmiths; shoe and apparel repair including tailors; jewelry, watch and clock repair; bicycle repair; musical instrument repair; and other closely-related uses as determined by the Zoning Officer. This use shall not include automobile paint and body repair, automobile repair. Dry cleaning and laundry establishment, laundromats, or a commercial/wholesale laundry facility are defined herein.

CONVENIENCE RETAIL

Shall mean a retail sales establishment offering prepackaged food products, toiletries, household items, tobacco products, newspapers and magazines, flower arrangements, and freshly prepared foods for off-site consumption. Such use includes bodegas. Such uses do not include take-out restaurants, as defined herein, or any other establishment where the primary use is the retail sale of food. Convenience retail establishments shall not include any commercial cooking appliances for heating or cooking food which produce grease vapors, steam, fumes, smoke, or odors that are required to be removed through an independent exhaust system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers (charbroilers); ovens; barbecues; rotisseries; and similar appliances.

COUNTY

Shall mean County of Essex, New Jersey.

COUNTY MASTER PLAN

Shall mean a composite of the master plan for the physical development of Essex County with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the County Planning Board pursuant to NJSA 40:27-2 and NJSA 40:27-4.

COUNTY PLANNING BOARD

Shall mean the Essex County Planning Board.

CO-WORKING, INCUBATOR, SHARED OFFICE

Shall mean a flexible space offering one or more of the following: common and/or private work space, meeting rooms, shared amenities and equipment, business support and development services, package and mail facilities, office management services, or flexible working areas. The space shall not be restricted to use by a single entity and shall provide subscription-based, short-term, daily, or time-based rental options for a diverse set of clients.

CREMATORIUM, ANIMAL

Shall mean a stand-alone facility dedicated to the disposition of dead animal remains by means of cremation.

CREMATORIUM, HUMAN

Shall mean a structure containing cremation chambers used to cremate human remains.

CUMMA

Shall mean the New Jersey Compassionate Use Medical Marijuana Act, P.L. 2009, c. 307 (approved January 18, 2010, codified at N.J.S.A. 24:6I-1 et seq.)

CURB LEVEL

Shall mean the permanently established grade of the street curb in front of the lot.

DANCE HALLS

(See "Nightclubs, Discotheques & Cabarets").

DANCECLUB

(See "Nightclubs, Discotheques & Cabarets").

DATA CENTER

Shall mean a centralized repository for the storage, management, and dissemination of data and information. It houses critical computer systems and associated components for companies and organizations. Often data centers are referred to as "collection data centers" which means that several businesses may rent space to house their servers in a common location. A data center generally includes environmental controls (air conditioning, fire suppression, etc.), redundant/backup power supplies, redundant data communications connections and high security.

DAY CARE FACILITIES

(See "Child Care Center").

DAYS

Shall mean calendar days.

DENSITY

Shall mean the permitted number of dwelling units per gross area of land to be developed.

DEPARTMENT STORE

Shall mean a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed, and are exhibited and sold directly to the customer for whom the goods and services are furnished. This use shall not include a flea market or bazaar as defined herein.

DEVELOPER

Shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be

included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

Shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill, and any use or change in the use of any building or structure, or land or extension of use of land, for which permission may be required pursuant to this Title.

DEVELOPMENT REGULATION

Shall mean the zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this Title.

DISCOTHEQUES

(See "Nightclubs, Discotheques & Cabarets").

DISTILLERY, MICRO

Shall mean a facility for the manufacture, on-site storage, retail sale, and sampling of distilled alcoholic beverages, licensed per the requirements at N.J.S.A. 33:1-10.3d, and operating per the terms set forth in that act, which prohibit the sale of food on premise.

DONATION BIN

Shall mean any enclosed receptacle or container made of metal, steel, plastic or a similar product and designed or intended for the donation through a slot in the receptacle and the temporary storage of clothing, eyeglasses or other materials.

DORMITORY

Shall mean a building, or portion thereof, containing rooms which are provided as residences or for overnight sleeping for individuals or groups, and includes those residences utilized by fraternities or sororities which are recognized by or owned by a school or institution of higher education, but does not include those residences or multiple dwellings utilized by students which are not recognized by or owned by a school or institution of higher education. A dormitory is not to include a building used primarily to house faculty or a multiple dwelling in which occupancy of each dwelling unit is limited to persons who are members of a single-family group.

DRAINAGE

Shall mean the removal of surface water or ground water from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or

prevention or alleviation of flooding.

DRAINAGE RIGHT-OF-WAY

Shall mean the land required for the installation of storm water sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

DRIVE-THROUGH FACILITY

Shall mean a commercial facility or structure that is designed to allow patrons to order and receive goods and services via a service window or mechanical device, while remaining in their vehicles at all times and the consumption or utilization of which shall be off premises. Such facilities shall include banks, pharmacies, and eating and drinking establishments. Drive-through facilities may be either a principal or accessory use. This use shall not include an automobile car wash or the selling of fuel at a gasoline service station.

DRIVEWAY

Shall mean a private roadway providing access to a street or highway.

DRUG STORE

(See "Retail Sales, General Consumer Goods").

DRY CLEANING AND LAUNDRY ESTABLISHMENT

Shall mean an establishment where on-site dry cleaning is performed. A dry cleaning and laundry establishment does not include a laundry or laundromat which provides self-service type washing and drying for use of retail customers.

DRY CLEANING AND LAUNDRY PICK-UP / DROP-OFF ESTABLISHMENT

Shall mean an establishment where the general public can drop-off and pick-up clothing and accessories for the purpose of having them dry cleaned, laundered, or repaired. No on-site dry cleaning shall be permitted at a location defined as a "pick-up / drop-off" establishment.

DWELLING

Shall mean any building or portion thereof, which is designed for or occupied exclusively for human habitation.

DWELLING, ABOVE THE GROUND FLOOR OF RETAIL, OFFICE OR SERVICE USE

Shall mean and include dwelling units located in multi-story buildings, but only above the ground floor retail, office or service uses.

DWELLING, FOUR-FAMILY

Shall mean and include detached or attached buildings containing four dwelling units, attached either vertically or horizontally.

DWELLING, MULTI-FAMILY/MULTIPLE

Shall mean and include buildings containing more than four dwelling units where each unit is joined to other dwelling units above, adjacent and/or below. "Multifamily dwellings" may include apartment buildings and condominiums, as defined herein.

1. **LOW-RISE MULTI-FAMILY** Shall mean up to five stories or 60 feet, whichever is less.
2. **MID-RISE MULTI-FAMILY** Shall mean up to eight stories or 96 feet, whichever is less.
3. **HIGH-RISE MULTI-FAMILY** Shall mean nine stories or greater or taller than 108 feet.

DWELLING, ROW HOUSE

(See "Dwelling, Town House").

DWELLING, SINGLE-FAMILY

Shall mean and include detached, semi-detached or attached buildings containing only one dwelling unit per tax lot.

DWELLING, SINGLE ROOM OCCUPANCY

Shall mean a dwelling unit consisting of a single-room that is the primary residence of its occupant(s). The unit may contain private sanitary facilities, private food preparation facilities, both, or neither. Where private sanitary or food preparation facilities are not provided, shared facilities shall be provided. (See also "Rooming or Boarding House").

DWELLING, THREE-FAMILY

Shall mean and include detached, semi-detached or attached buildings containing three dwelling units, attached either vertically or horizontally per tax lot.

DWELLING, TOWN HOUSE

Shall mean one, two-, or three-family dwelling buildings in a row of at least three such buildings in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

DWELLING, TWO-FAMILY

Shall mean and include detached, semi-detached or attached buildings containing two dwelling units, attached either vertically or horizontally per tax lot.

EATING AND DRINKING ESTABLISHMENT

Shall mean an establishment whose primary activity is the sale of prepared food or beverages for consumption by the public either on or off its premises. This use shall include sit-down restaurants and take-out restaurants. This use shall not include supermarkets; liquor stores; fresh food markets; fish, meat and poultry markets; or live animal markets; or other food stores with accessory take-out food activity or retail sales uses, including

convenience stores, which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area; nor shall it include cafeterias that are accessory to hospitals, schools or other similar principal uses.

1. **SIT-DOWN RESTAURANT** Shall mean an eating and drinking establishment that does not meet the definition of a take-out restaurant, in which the principal use is the service of preparing food and/or beverages for consumption on the premises. It may have a take-out food use as an incidental use to the primary use. It may provide on-site beer, wine and/or liquor sales for drinking on the premises if the requisite licenses have been obtained from the State of New Jersey Division of Alcoholic Beverage Control. Aside from incidental take-out service, service of prepared food and/or beverages for consumption shall require customers to order at a table, booth, or dining counter with service by the waiter or waitress at said table, booth or dining counter. Restaurants may have a combination of seating options, including indoor and sidewalk cafes as defined herein.
2. **TAKE-OUT RESTAURANT** Shall mean an eating and drinking establishment with or without seating which provides ready-to-eat food prepared on-premises in disposable wrappers or containers, to a high volume of customers, who generally carry out the food for immediate consumption off the premises. A take-out restaurant has a service counter where all customers pay for their ordered items before consumption and may have accessory drive-through windows. A take-out restaurant utilizes commercial cooking appliances for heating or cooking food which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through an independent exhaust system. Such appliances include deep fat fryers, up-right broilers, kettles, ranges, char-broilers, ovens, barbecues, rotisseries, and similar appliances.

ELECTRIC OR GAS POWER DISTRIBUTION

Shall mean a facility which transfers power from the transmission system to the distribution system of an area; the distribution station reduces voltage to a level suitable for local distribution.

ELECTRIC VEHICLE

Shall mean any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

ELECTRIC VEHICLE SUPPLY / SERVICE EQUIPMENT (EVSE)

Shall mean the equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

ELECTRICAL OR TELEPHONE SWITCHING FACILITY

Shall mean a system of electrical equipment that interconnects several electrical transmission lines for the purpose of allowing the transmission lines to be serviced and maintained without disruption of power.

EMERGENCY FOOD DISTRIBUTION CENTER

Shall mean a building or a portion of a building in which an organization or agency provides immediate hunger relief to individuals and families who are in need. This use shall include food pantries and soup kitchens.

ENVIRONMENTAL COMMISSION

Shall mean the Newark Environmental Commission.

EROSION

Shall mean the detachment and movement of soil or rock fragments by water, wind, ice, and gravity.

EVENT SPACE

Shall mean a space in which events can be hosted with food, drink, music, dancing, and other customary activities. Event spaces include banquet halls, catering halls, and other similar multi-purpose spaces that may be rented for private use or to host special events. Event spaces may be accessory to eating and drinking establishments but are distinct as standalone principal uses that do not offer regular food, beverage, or entertainment service to the public.

EXTERMINATOR & PESTICIDE APPLICATION BUSINESS

Shall mean a business or person who either wholly or in part holds himself out to hire to apply pesticides including landscapers, tree services and aerial applicators.

FAMILY

Shall mean one or more persons who live together as a bona fide single nonprofit housekeeping unit. Unless otherwise required by law, this definition of family shall not apply to persons living in a facility or home devoted to treatment or services designated to rehabilitate such persons or to assist them in adjusting to the community or society. This definition shall not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations.

FAMILY DAY CARE HOME

Shall mean the private residence of a family day care provider which is registered as a family day care home pursuant to the "Family Day Care Provider Registration Act," P.L. 1987, c. 27 (C.30:5B-16 et seq.)

FARM STAND

Shall mean a retail outlet normally owned or operated by a producer or farm unit, located on-farm or off-farm selling mainly products produced by the farm, directly to the consumer. Farm stands shall be a permitted accessory use to market gardens and urban farms only.

FARMERS' MARKET

(See "Community Farmers' Market").

FINAL APPROVAL

Shall mean the official action of the Reviewing Board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

**FINANCE, INSURANCE, REAL ESTATE, AND SECURITIES BROKERAGE
CONSUMER SERVICES**

Shall mean consumer service establishments including a commercial bank, savings bank, savings and loan association, credit union, mortgage office, automated teller machine facility, office of tax preparer, securities broker, insurance broker, or real estate broker. This definition is limited to only those establishments which serve the general public. This definition does not include check-cashing, pawnshops or bail bond establishments.

FISH, MEAT AND POULTRY MARKET

Shall mean a retail food store supplying meat, poultry, fish and seafood products intended for home preparation, consumption, and use; and where meat processing is limited to making cuts of meat from preprocessed carcasses. The use shall include butcher shops but shall not include on-site slaughtering. See "Animal Market, Live.")

FITNESS CENTER

Shall mean an enclosed building or structure containing multi-use facilities for conducting recreational activities such as aerobic exercises, running and jogging, exercise equipment, sports courts, and swimming facilities. This use also includes establishments for group fitness instruction such as yoga, Pilates, karate and dance studios, as well as boxing gyms. This use may include accessory saunas, showers, massage rooms and lockers, snack bars providing non-alcoholic drinks and pre-packaged snacks not prepared on the premises, and sports equipment and clothing shops.

FLEA MARKET/BAZAAR

Shall mean an occasional sale or periodic market held indoors or out of doors, where new or used items are sold from individual vendors each operating independently from the other vendors.

FLEX SPACE, LIGHT INDUSTRIAL

Shall mean a facility designed to accommodate multiple tenant spaces that can include a variety of business and light industrial uses. The number and size of units can be altered with interior modification of demising walls. Each tenant space may consist of one or more types of space including office, storage, fabrication, loading, and similar functions designed to support individual tenants, typically contractors and tradespeople. Vehicles larger than SU-30 Box Trucks shall not be stored, parked, or visit flex space facilities on a frequent basis.

FLOOR AREA, GRADE LEVEL

Shall mean the square footage of the floor of the building at grade level which will determine whether the building is: (a) exempt from the Site Plan Review; (b) a Minor Site Plan; (c) a Major Site Plan.

FLOOR AREA, GROSS (GFA)

Shall mean the sum of the gross horizontal areas of all enclosed floors of a building or buildings, including basements, habitable attics, mezzanines, corridors, and lobbies measured from the exterior faces of exterior walls or from the centerline of a common wall separating two buildings. Gross floor area does not include any areas devoted or used solely for off-street parking and loading. Gross floor area does not include cellars, uninhabitable attics, exterior balconies, uncovered steps, or inner courts.

FRESH FOOD MARKET

Shall mean an establishment in which the sale of fresh fruits and vegetables to the general public occupies at least 50% of the gross floor area and is less than 10,000 square feet of gross floor area.

FRONTAGE

Shall mean that side of a lot abutting on a street; a front lot line.

FRONTAGE, PRIMARY

Shall mean the shortest frontage of a corner lot, or the frontage toward which the primary building entrance faces of a through lot or other irregular lot with multiple frontages.

FRONTAGE, SECONDARY

Shall mean the longer frontage(s) of a corner lot, or any frontage other than that toward which the primary building entrance faces of a through lot or other irregular lot with multiple frontages.

FUNERAL HOME OR MORTUARY

Shall mean a building used for the preparation of deceased human beings for burial or internment and for the display of the deceased and ceremonies connected therewith before burial or cremation.

FURNITURE AND APPLIANCE STORES, USED

Shall mean a retail sales establishment in which the proprietor primarily sells used household goods (generally furniture and appliances) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds.

GALLERIES

(See "Retail Sales, General Consumer Goods").

GASOLINE STATION

Shall mean any building, land area or other premises or portion thereof used primarily or intended to be used for the retail dispensing or sales of vehicular fuels and including, as an accessory use, minor repairs and the sale of and installation of lubricants, batteries and similar accessories. A convenience store may be an accessory use to a gasoline station.

GENERAL CONSUMER GOODS RETAIL SALES

(See "Retail Sales, General Consumer Goods").

GO-GO ESTABLISHMENT

Shall mean any establishment which permits persons to perform dancing or other similar entertainment in a lewd, licentious or lascivious manner, with less than completely and opaquely covered human genitals, pubic region, buttocks and/or female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely or opaquely covered, for the benefit of its patrons.

GOVERNING BODY

Means the Municipal Council which acts as the chief legislative body of the City of Newark.

GOVERNMENTAL USE

Shall mean the use of land, buildings or structures by any department, commission, independent agency or instrumentality of the United States, of a state, county, authority, district or other governmental unit other than the City of Newark.

GREENHOUSE

Shall mean a building made of glass, plastic or fiberglass in which plants are cultivated.

GROUND-MOUNTED INSTALLATION

Shall mean solar installations that are freestanding or attached to framework that is at grade.

GUN, AMMUNITION/WEAPONS DEALERS

Shall mean any retail sales establishment engaged in selling, leasing, purchasing, or lending of guns, firearms, or ammunition.

HAZARDOUS MATERIAL

Shall be defined as follows:

1. Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 Code of Federal Regulations, Sections 116.4 and 401.15, as amended; or
2. Any chemical listed as "acutely toxic" in Appendix A of the EPA Chemical Emergency Preparedness Program, interim guidelines; or
3. Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a Class II combustible liquid or a Class III A combustible liquid; or

4. Any material which is listed or defined as explosive, flammable, reactive, or corrosive in the Department of Transportation, 49 Code of Federal Regulations, Section 172.101, as amended.
5. A mixture shall be deemed to be a hazardous material if it contains 1% by volume or more of any material listed above.

HEAVY RETAIL AND SERVICE

Shall mean and include retail and/or service activities that have regular exterior service or storage areas, or partially enclosed structures, including, but not limited to, home improvement centers, equipment rental and leasing, lumber and other building materials, garden centers and greenhouses, landscape construction, and lawn maintenance contractor yard, bulk materials sales and storage, and recreational vehicles and playground equipment sales and rentals. Outdoor storage and outdoor storage display areas are permitted as a conditional accessory use.

HEIGHT OF BUILDING

Shall mean the vertical distance measured from the mean elevation of the finished grade from all exterior walls to the highest point of the roof.

HELIPORT

Shall mean an area used or intended to be used for the landing and take-off of helicopters, and may include any or all areas of the building appropriate to accomplish these functions.

HOME OCCUPATION

Shall mean any lawful occupation not otherwise prohibited by this Title performed in a dwelling and clearly incidental and secondary to the use of the dwelling for dwelling purposes. Home occupations or businesses shall be operated by an owner or legal occupant of the property. Permitted home-based businesses include personal instruction, general, medical or professional office, personal care, art production and display, artisan manufacturing, online commerce and trade, sewing and tailoring, food production such as baking subject to other applicable regulations, and other similar activities.

Home occupation shall not include automobile or other vehicle repair; manufacturing, assembly, or production that involves any noise, odor, smoke, or other detectable nuisance outside a structure; any activity that requires a land use or environmental permit from NJDEP.

HOMELESS SHELTER

Shall mean a building or structure in which a public entity or a private, non-profit organization provides shelter, or food and shelter, for a limited period of time to individuals and families having neither a home nor the means to obtain a home or other temporary lodging.

HOOKAH BAR/LOUNGE

Shall mean a commercial establishment that has water pipes (also known as a hookah, shisha, boory, argileh, nargile, hubble-bubble, goza, meassel, sheesha) for people to share

pipefuls of either tobacco or an herb or a dried fruit or a combination of those which is burnt using coal and becomes smoke, then passes through an ornate water vessel and is inhaled through a hose.

HOOPHOUSE

Shall mean a structure made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape. Section 3.14(b)23ii(4) and 3.24(b)23ii(5) of the New Jersey Uniform Construction Code contain regulations regarding exemption from permitting requirements for hoophouses.

HORTICULTURE NURSERIES

(See "Urban Farm").

HOSPITAL OR MEDICAL INSTITUTION

Shall mean an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as laboratories, medical offices, medical clinics or emergency care facilities.

HOTEL

Shall mean a facility offering short-term lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

HOTEL, BOUTIQUE

Shall mean a subset of hotels offering amenities and short-term lodging accommodations to the general public with no more than 50 rooms. Boutique hotels shall not include conference centers, but may include limited amenities for guests such as food and beverage service, spa, and fitness centers.

HOUSING AND ZONING REGULATIONS

Shall mean those regulations promulgated and published by the Director of the Department of Economic and Housing Development and maintained by the City Clerk of the City of Newark in regard to this zoning ordinance of the City of Newark.

HYBRID/ FLEXIBLE BUSINESSES OR USES

Shall mean a combination of businesses or uses that share a common storefront, leased space, or building. The uses may operate simultaneously within the shared space (i.e. a coffee shop and retail store) or may operate independently at different times of day (i.e. a co-working office space during the day with a restaurant in the evening).

HYDROPONIC FARMS

(See "Urban Farm").

ICE CREAM SERVICE WINDOW

Shall mean a window or doorway for dispensing of ice cream or similar confectionary products in accordance with the requirements of Title XXIX, Streets and Sidewalks, Chapter 26, Sidewalk Cafes of the Revised General Ordinances of the City of Newark. See also "Sidewalk Cafe" and "Outdoor Service Window." This use shall not include outdoor service windows which are part of a drive-through facility.

IMPERVIOUS LOT COVERAGE

Shall mean an area that has been covered by a layer of material that is highly resistant to infiltration by water. Impervious surfaces include concrete, asphalt, driveways, sports courts, pavers, concrete patios, gravel, swimming pools and buildings.

INDOOR GROWING OPERATIONS

(See "Urban Farm").

INSTITUTIONAL

Shall mean a land use category that consists of a facility used by a religious, child care, educational, or public use such as a place of worship, school, library, government building, or university.

INTERESTED PARTY

Shall mean in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this act, or whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this Title.

KENNEL

(see "Animal Boarding or Kennel").

LAND

Shall mean and include improvements and fixtures on, above or below the surface.

LARGE FORMAT RETAIL AND/OR SHOPPING CENTER

Shall mean a single stand-alone store, tenant space or collection of retail uses, developed and/or managed within a single building or shopping center which individually or cumulatively include over 30,000 square feet of retail sales floor area.

LAUNDROMAT

Shall mean an establishment only for the washing and drying of clothing and other fabrics in machines operated by the patron. It shall not include on-site dry cleaning. See also "Dry Cleaning and Laundry Establishment" or "Laundry Facility-Commercial/Wholesale.")

LAUNDRY FACILITY-COMMERCIAL/WHOLESALE

Shall mean an establishment only for the washing, drying, and/or dry cleaning of clothing in

bulk brought in by a commercial customer and in which such washing and drying is performed with the use of mechanical equipment, and for which a fee is charged or a facility where the retail customer brings the laundry to another facility and it is brought to this facility for laundering. A dry cleaning and laundering plant may perform work on the premises for other dry cleaning and laundry services and serve retail customers, and includes linen, diaper, or uniform laundering services. (See also "Laundromat" or "Dry Cleaning and Laundry Establishment.")

LIQUOR STORE

Shall mean a retail sales establishment, duly licensed by the New Jersey Division of Alcoholic Beverage Control, which primarily sells beer, wine, or distilled spirits in original containers to a customer for consumption off the premises.

LIVE ANIMAL MARKET

(See "Animal Market, Live").

LIVE-WORK UNIT (NON-NUISANCE PRODUCING)

Shall mean a dwelling unit where the living space is separated from the work space. The work space shall be located on the street level and the living space may be located on the street level (behind the work component) or on any other level of the building above the basement. A minimum of one residential unit in a building with live-work use shall be occupied by the person operating the street-level business.

The work use shall not be incidental to the dwelling unit, non-resident employees may be present on the premises and customers may be served on site.

Live/work space, includes, but is not limited to: customary home occupations; retail sales; photographic studio; studio for arts, crafts, writing, acting, advertising, industrial design, media facility, architecture, interior design, recording studio; theater, film or video production; gallery, auction house, set shop; lighting, engineering, or musical instrument manufacturing; sheet music printing, framing, arts supply, arts restoration, and neighborhood light manufacturing uses.

LIVING WALL OR GREEN WALL

Shall mean a wall covered with greenery and vegetation that may include a growing medium, such as soil or a substrate.

LOCAL UTILITY

Shall mean any sewerage authority created pursuant to the "sewerage authorities law," P.L. 1946, c. 138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "Municipal and County Utilities Authorities Law," P.L. 1957, c. 183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

LOT COVERAGE BY BUILDING

Shall mean the ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor of all principal building and accessory buildings on a lot to the total lot area.

LOT DEPTH

Shall mean the mean distance between its front street line and its rear line. For corner lots, the greater frontage is its depth, and its lesser frontage, its width.

LOT LINE

Shall mean a line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT

Shall mean the lot line separating a lot from a street right-of-way.

LOT LINE, REAR

Shall mean the lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE

Shall mean any lot line other than a front or rear lot line.

LOT

Shall mean a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT, CORNER

Shall mean a parcel of land abutting on two or more streets at their intersection or on two parts of the same street forming an interior angle of less than 135°.

LOT, INTERIOR

Shall mean a lot other than a corner lot.

LOT, NONCONFORMING

Shall mean a lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

LOT, THROUGH

Shall mean a lot other than a corner lot, with frontage on two streets. On a through lot improved with buildings the front lot line shall be the street frontage lot line closest to the

principal building. On a through lot unimproved with buildings both street lines shall be deemed front lot lines.

LOT, WIDTH

Shall mean the horizontal distance between the side lines of a lot measured at right angles of its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MAINTENANCE BUILDING

Shall mean an accessory building used primarily for the storage of equipment and other supplies used in the maintenance of the principal use.

MAINTENANCE GUARANTEE

Shall mean any security which may be accepted by the City for maintenance of any improvements required by this Title, including, but not limited to surety bonds, letters of credit under the circumstances specified in Section 16 of P.L. 1991, c.256 (C.40:55D-53.5) and cash.

MAJOR SUBDIVISION

Shall mean any subdivision not classified as a minor subdivision.

MAKE-READY PARKING SPACE

Shall mean the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

MAKERS SPACE

Shall mean a building with multiple live-work spaces producing retail goods (NOT services), that may contain a shared retail sales space located on the street level of the building. The building may also contain rooms for common workshop space, containing tools and equipment to be shared among building residents. This common workshop shall not include and must be separate and apart from any residential unit. In the case of a makers space, each live-work unit may combine the "work" and "live" components into a single combination workspace/dwelling unit.

All final sales of goods must be confined to the first-floor retail area. Customers may only be served in this first-floor space. The first floor area may also contain a workshop space where residents of the building can hold demonstration workshops or host other events of an educational nature.

MANUFACTURING, HEAVY

Shall mean the manufacture or compounding process of raw materials. These activities or processes may necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. In this situation, the handling of such materials must be in a controlled environment and have certification from the New Jersey Department of Environmental Protection (NJDEP). Typical heavy manufacturing uses include but are not limited to: concrete batch plants, concrete, tile or brick manufacturing, automobile, truck and tire assembly, ammonia or chlorine manufacturing, metal casting or foundries, gas manufacturing, dye stuffs, grain milling or processing, metal or metal ore production, refining, smelting, or alloying, petroleum or petroleum product refining, boat, pool and spa manufacturing, slaughtering of animals, glass manufacturing, paper manufacturing, and wood or lumber processing. The assembly, fabrication or processing of goods and materials uses processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety. The following processes are not permitted under Heavy Manufacturing: Vitrification, Plasma Gasification, Pyrolysis, Cement Kilns, Automobile Shredder Residue (ASR), Medical Waste Autoclaving and Shredding, Animal Rendering, Electronic De-Manufacturing, Computer & Circuit Board Recycling, Thermal Depolymerization, Sludge Processing and Incineration, Sewage Disposal, Sediment Treatment Plants (i.e. Thermal/Chemical Processing, Cement Lock Technology, Sediment Washing, Biogenesis, Sediment Dewatering, Tire Derived Fuel Plants, Biomass Incineration, Chrome Plating and Metals Plating Facilities, Hazardous or Medical Waste Processing (autoclaving, crushing, preparing, or treating), Outdoor Scrap Metal Yards (shredding, processing, sorting), Oil and Gas Refineries, and Power Plants over 150 megawatts using coal, natural gas, waste or waste byproducts including tires, sludge, cement, and biofuels.

MANUFACTURING, LIGHT

Shall mean the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment of such products, but excluding basic industrial processing and custom manufacturing. Typical light manufacturing uses include but are not limited to: electronic goods, food and bakery products, nonalcoholic beverages, paper imprinting, publishing, household appliances assembly, and clothing apparel. The assembly, fabrication, or processing of goods and materials uses processes that ordinarily do not create noise, fumes, smoke, odors, glare or health and safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building.

MANUFACTURING, MEDIUM

Shall mean the processing and manufacturing of materials or products predominantly from extracted or raw materials. These activities may include outdoor assembly and storage products. Outdoor manufacturing of raw materials into compost, primarily for commercial resale is a medium manufacturing activity. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Typical medium manufacturing uses include but are not limited to: alcoholic beverages, glue, leather products, carpet, porcelain products for bathroom and kitchen fixtures, solar panel manufacture, bio-fuel manufacture, bleaching products,

vegetable gelatin, welding, furniture, and sporting goods.

MARIJUANA

See "Cannabis." [Ord. No. 6PSF-A, 5-1-2019; Ord. No. 6PSF-AB (s), 08-19-2021]

MARKET GARDEN

Shall mean an area less than one acre managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, that is not incidental in nature and to be sold for profit at the lot where the products are grown.

MASSAGE FACILITY

Shall mean an establishment for which the principal use is the provision of massage therapy by a licensed professional in the State of New Jersey pursuant to NJAC 13:37A. The following professions and services shall not be classified as a massage establishment: any duly licensed medical physician, doctor, surgeon, osteopath, chiropractor, acupuncturist, registered nurse, or to other person licensed by the state while engaging in practices as part his or her license.

MASTER PLAN

Shall mean a composite of one or more written or graphic proposals for the development of the City as set forth in and adopted pursuant to the Municipal Land Use Law, Chapter 291, Laws of New Jersey, 1975 (NJS 40:55D-28 et seq.).

MATERIALS SALVAGE OR JUNK FACILITY

Shall mean an enclosed building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A materials salvage or junk facility includes an auto wrecking facility. A materials salvage or junk facility does not include waste-related uses or recycling facilities. Such use shall not be open to the public.

MAUSOLEUM

Shall mean a building or structure for the interment of the dead having a minimum of 20 interments.

MAUSOLEUM, FAMILY

Shall mean a building or structure for the interment of the dead having less than 20 interments.

MAYOR

Shall mean the Mayor of the City of Newark.

MEDICAL CLINIC OR EMERGENCY CARE FACILITY

Shall mean any private or public health clinic, or other similar community health facility providing diagnostic, therapeutic, or preventive medical care, surgical or invasive procedures not requiring inpatient admission, and/or emergency or urgent care to

ambulatory patients on an outpatients basis only, including customary laboratories and pharmacies incidental or necessary to its operation or the service of its patients, but without facilities for inpatient care or surgical procedures that require inpatient admission. A clinic or emergency care facility may also be accessory to a hospital or medical institution.

MEDICAL MARIJUANA ALTERNATIVE TREATMENT CENTER OR ALTERNATIVE TREATMENT CENTER

Shall mean an organization approved by the Department of Health and Community Wellness to perform activities necessary to provide registered qualifying patients with usable marijuana and related paraphernalia in accordance with the provisions of the "New Jersey Compassionate Use Medical Marijuana Act" P.L. 2009, 3 c.307 (C. 24:6I-1 et seq.). This term shall include the organization's officers, directors, board members, and employees.

MEDICAL MARIJUANA CULTIVATION FACILITY

Shall mean a commercial entity licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-1 et seq. that cultivates, dries, trims, or cures marijuana for sale to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. This entity shall hold all required state licenses and permits.

MEDICAL MARIJUANA MANUFACTURING FACILITY

Shall mean a commercial facility licensed under a commercial entity licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-1 et seq. that receives marijuana from a licensed cultivation facility and extracts resin from the marijuana or creates a marijuana-infused product for sale and transfer in packaged form to a medical marijuana center. This entity shall hold all required state licenses and permits.

MEDICAL MARIJUANA SAFETY COMPLIANCE FACILITY

Shall mean a commercial facility licensed under New Jersey Compassionate Use Medical Marijuana Act N.J.S.A. 24:6I-1 et seq. that receives marijuana from a licensed cultivation facility, licensed processing facility, or licensed caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marijuana to the marijuana facility.

MEDICAL OFFICE

Shall mean a building or portion thereof providing diagnostic, therapeutic, or preventive medical, osteopathic, chiropractic, dental, psychological and similar or related treatment by a practitioner or group of practitioners licensed to perform such services to ambulatory patients on an outpatient basis only, and without facilities for inpatient care, major surgical procedures, or emergency and urgent care. A medical office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, physical therapy, medical counseling services, and similar services.

MEDICAL USE OF MARIJUANA

Means the acquisition, possession, transport, or use of marijuana or paraphernalia by a registered qualifying patient as authorized by "New Jersey Controlled Dangerous

Substances Act," P.L.1970, c.226 (C.24:21-2).

METHADONE MAINTENANCE CLINIC

Shall mean a private business which provides outpatient methadone maintenance services to eligible persons, which are licensed by the New Jersey Department of Health (NJDOH) as an ambulatory care facility/outpatient drug program. Said clinic(s) must also meet all applicable Federal and State requirements.

MEZZANINE

An intermediate level or levels between the floor and ceiling of any story. A mezzanine or mezzanines with an aggregate area not greater than one-third of the floor area of that room or space in which they are located shall not contribute to either a calculation of building area nor shall they be considered a "story" as defined herein.

MICROMOBILITY

Shall mean small, low-speed, human- or electric-powered transportation devices including: bicycles, scooters, electric assist bicycles, electric scooters (e-scooters), and other small, lightweight, wheeled conveyances.

MINOR SUBDIVISION

Shall mean any subdivision of land which results in two lots or fewer provided that such subdivision does not involve:

1. A planned development;
2. Any new street; or
3. The extension of any off-tract improvement the cost of which is to be prorated pursuant to Section 30 of P.L. 1975, c.291 (C.40:55D-42).

MONOPOLE TOWER

Shall mean a tower constructed of a single, self-supporting metal tube, anchored to a foundation.

MORTUARY

(See "Funeral Home").

MOTORCYCLE CLUB

(See "Private Club").

MUNICIPAL AGENCY

Shall mean the Municipal Council, Central Planning Board, the Zoning Board of Adjustment of the City of Newark, or any other agency which is created by or responsible to the City of Newark when such agency is acting pursuant to this Title.

MUNICIPAL COUNCIL

Shall mean the Governing Body which acts as the chief legislative body of the City of Newark.

MUNICIPAL USES

Shall mean those facilities necessary for the operation of the City of Newark government or for the provision of City of Newark services not including the following: permanent outdoor storage of materials, manufacturing, gas or fuel supply stations, vehicle repair, vehicle storage, and the storage, treatment or production of hazardous or toxic chemicals.

MUNICIPALITY

Shall mean the City of Newark.

MUSEUM

Shall mean an establishment with at least 20,000 square feet of gross floor area, that has public significance by reason of its architecture or former use or occupancy; or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts for their own use. For "Galleries," see "Retail Sales, General Consumer Goods."

NIGHTCLUBS, DISCOTHEQUES & CABARETS

Shall mean any room, place, space, or premises, other than sexually-oriented businesses, operated as a commercial establishment in which eating and/or drinking may take place and in which there is also provided entertainment and dance areas. Such entertainment may include music by a live musician or musicians, or any mechanical, electronic or other means, or other audio or audiovisual media including disc jockeys. Such establishments shall not include the operation of a motion picture, but shall include any act, play, revue, pantomime, scene, dance act, or song-and-dance act participated in by one or more employees, guests, customers, or any other person or persons. For the purposes of this definition, background piped-in music shall not be considered a form of entertainment. Nightclubs, discotheques and cabarets shall be duly licensed by the New Jersey Division of Alcoholic Beverage Control for the sale and on-premises consumption of alcoholic beverages.

NONCONFORMING LOT

(See "Lot, Nonconforming").

NONCONFORMING STRUCTURE

(See "Structure, Nonconforming").

NONCONFORMING USE

(See "Use, Nonconforming").

NURSING HOME

Shall mean a facility or portion thereof which is licensed by the New Jersey Department of Health (NJDOH) to provide apartment-style housing and congregate dining and to assure that assisted living services are available means a facility that is licensed by the Department to provide health care under medical supervision and continuous nursing care for 24 or more consecutive hours to two or more patients who do not require the degree of care and treatment which a hospital provides and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board.

OFF-SITE

Shall mean located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is part.

OFF-TRACT

Shall mean not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

OFFICE

Shall mean a room or group of rooms used for conducting the affairs of a business, profession, service, industry or government, and generally furnished with desks, tables, files and communication equipment, including offices of general, business, executive, legal, accounting, architect, planning, engineer, real estate, contractor and employment agencies but excluding medical offices. (See also "Medical Office".)

OFFICIAL COUNTY MAP

Shall mean the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of County Commissioners of the county pursuant to NJSA 40:27-5.

OFFICIAL MAP

Shall mean a map adopted pursuant to the Municipal Land Use Law, NJSA 40:55D-32 et seq.

ON-SITE

Shall mean located on the lot in question and excluding any abutting street or right-of-way.

ON-TRACT

Shall mean located on the property which is the subject of a development application or on the closest half of the abutting street or right-of-way.

OPEN SPACE

Shall mean any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other

improvements that are designed to be incidental to the natural openness of the land.

OPERATIONS FACILITY, BUS/TAXICAB/AMBULANCE

Shall mean and include an area and/or building where four or more emergency medical ambulances, buses, taxicabs or other livery vehicles are stored, dispatched and/or loading and unloading is carried on regularly, and where minor maintenance of these vehicles is performed.

OUTDOOR DINING

(See "Sidewalk Cafe").

OUTDOOR DISPLAY AREA

Shall mean the displaying of goods, merchandise or products outdoors such that the items are readily available for sale at retail on the same lot and in conjunction with a principal use which is otherwise operated entirely within a permanent fully enclosed building.

OUTDOOR GROWING OPERATIONS

(See "Urban Farm").

OUTDOOR SERVICE WINDOW

(See "Ice Cream Service Window").

OUTDOOR STORAGE

Shall mean the storing or maintaining, exterior to any permanent, fully enclosed building or structure of goods, merchandise, inventory, equipment or other tangibles for any purpose other than outdoor display. The term outdoor storage shall not include operation facilities for bus/taxicab/ambulance/limousines or truck terminals as defined herein. Goods, merchandise or products stacked on pallets and/or wrapped in packaging materials such that the items are not readily available to the public for immediate retail sale shall be considered outdoor storage and not outdoor display.

OUTDOOR STORAGE, CHEMICAL

Shall mean the outdoor storage of chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, noncommercial, homeowner use of chemicals is not included.

OUTDOOR STORAGE, PORTABLE STORAGE UNIT

Shall mean any portable container, storage unit, shed-like container or other similar structure that can be or is used for the temporary storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements. For the purposes of this ordinance, portable on-demand storage (PODS[®]), the trailer portion of a tractor trailer, boxcars and shipping containers shall also be considered portable storage structures when expressly used for the purposes of on-site storage.

A portable storage unit shall not encroach in any required front or side yards. There shall be

only one unit permitted for every two contiguous acres of property held in common ownership. Outdoor portable storage units shall only be used for storage and shall be removed within 180 days.

OWNER

Shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

PARK: RECREATION PARK, ACTIVE

Shall mean a park or open space which may include one or more of the following: athletic fields, building or structures for recreational activities, swimming pools, golf or rope courses, or sports courts and other intensive recreational uses.

PARK: RECREATION PARK, PASSIVE

Shall mean a park or open space areas consisting primarily of lawns, meadows and other unprogrammed open space. The predominant features of which are landscaped areas, natural areas, ornamental gardens, non-landscaped green space, provided that a private passive park may include certain features such as concession stands, playgrounds, art installations, fountains, walking paths, picnic areas, fields, docks, dog runs and other non-structured recreation facilities.

PARKING AREA

Shall mean any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, parking garages, structured parking, driveways, and legally designated areas of public streets.

PARKING AREA, PRIVATE

Shall mean any land area, being part of the same lot or tract on which it is accessory to an erected building or structure, or being adjacent and contiguous to the lot or tract, designated by the owner, operator or occupant of the building or structure for the parking, without charge, of motor vehicles of occupants, customers or employees in the building or structure and where no customer parking shall be permitted after 11:00 p.m. on any portion of the lot.

PARKING GARAGE, COMMERCIAL VEHICLE

Shall mean any building used for the storage of one or more buses, trucks, tractors, trailers, bulldozers and other heavy motor-driven equipment within a structure, including storage for manufacture, repair, demonstration, sale, rental, painting, adjustment or inspection of the foregoing.

PARKING GARAGE, PRIVATE RESIDENTIAL

Shall mean a structure that is accessory to a single-, two- or three-family dwelling, is used for the parking and storage of vehicles owned and operated by the residents thereof, and is not a separate commercial enterprise available to the general public. The private parking garage may be a detached accessory building, or a portion of the principal structure.

PARKING LOT

Shall mean an off-street, ground-level open area that provides temporary storage for motor vehicles.

PARKING, SHARED

Shall mean the joint utilization of a parking area for more than one use.

PARKING, STRUCTURED

Shall mean a building or structure which may be located above or below ground, with stalls accessed via interior aisles, and used for temporary storage of motor vehicles. Structured parking can be a stand-alone use or a part of a building containing other uses. This use does not include private residential parking garages.

PARKING, SURFACE

Shall mean an off-street, ground-level open area that provides temporary storage for motor vehicles.

PASSIVE RECREATION PARK

(See "Park: Recreation Park, Passive").

PAWN SHOP

Shall mean an establishment wherein the business of a pawn broker is conducted. A pawn broker shall be any person who lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness; or, who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. A pawn shop shall not be deemed a retail sales establishment.

PERFORMANCE GUARANTEE

Shall mean any security, which may be accepted by the City, including but not limited to surety bonds, letters of credit under the circumstances specified in Section 16 of P.L. 1991, c. 256 (C.40:55D-53.5).

PERMANENT MAKE-UP

Shall mean the application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin.

PERSONAL SERVICE ESTABLISHMENT

Shall mean and include the provision of personal services directly to the consumer which shall include, but not be limited to, barber shops, beauty parlors, nail salons, tanning salons, or day spas. Personal service establishments shall not include body art studios or massage facilities.

PET SHOP

Shall mean any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and

companionship rather than for business or research purposes.

PHARMACY

(See "Drug Store").

PHOTOGRAPHIC SIMULATION

Shall mean a photograph of a site as it appears to members of the general public with accurate, detailed depictions of proposed additional features, equipment, hardware or other site improvements drawn onto this photograph.

PHOTOVOLTAIC (PV)

Shall mean a device capable of producing a voltage, usually through photoemission, when exposed to radiant energy, especially light. Collectively used to refer to "solar panels."

PLACE OF WORSHIP

Shall mean a church, synagogue, temple, mosque or other building or group of buildings which by design and construction are intended for the conducting of organized religious services and accessory uses associated therewith including parish houses, convents, classrooms for religious instruction, rectories, and other such customary accessory uses and buildings, but not including parochial schools, day care centers, homeless shelters, or soup kitchens.

PLANNED COMMERCIAL DEVELOPMENT

Shall mean an area of minimum contiguous size as specified by ordinance to be developed according to plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses, or both, and any residential and other uses incidental to the predominant use as may be permitted by ordinance.

PLANNED DEVELOPMENT

Shall mean planned unit development, planned unit residential development, residential cluster, planned commercial development, or planned industrial development.

PLANNED INDUSTRIAL DEVELOPMENT

Shall mean an area of minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

PLANNED UNIT DEVELOPMENT

Shall mean an area with a specified minimum contiguous or noncontiguous acreage of 10 acres or more to be developed as a single entity according to a plan, containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges or ratios of nonresidential uses as shall be specified in the Zoning Ordinance.

PLANNED UNIT RESIDENTIAL DEVELOPMENT

Shall mean an area with a specified minimum contiguous or noncontiguous acreage of five acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial or public or quasi-public uses all primarily for the benefit of the residential development.

PLAT

Shall mean a map or maps of a subdivision or site plan.

PORCH

Shall mean a roofed, open area not more than one story in height which may be screened, attached to or part of a building, and with direct access to or from it. Such use includes piazzas, portico or porte-cocheres.

POWER GENERATION FACILITIES

Shall mean a public utility facility which converts fossil fuels into electrical energy or steam. Solar energy system and wind energy system are defined herein.

PREVAILING SETBACK

Shall mean the shorter front setback of the two closest principle buildings on each site of a site on the same block as the site.

PRIVATE CLUB

Shall mean a building and/or related facilities owned or operated by a corporation, association or organization that caters exclusively to members and their guests primarily for social, recreational, cultural, educational, political, patriotic, benevolent, or religious purpose; and not primarily for profit, and whose members pay dues and meet certain prescribed qualifications for membership. A private club may include dining facilities for members and their guests but shall not include overnight sleeping facilities. A private club does not include fraternity houses affiliated with an institution of higher learning.

PRIVATE EVSE

Shall mean EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

PRIVATE SPORTS COURT

Shall mean an outdoor facility on private property for participant sports, including tennis, basketball, roller hockey, and handball courts. Such courts may be single-purpose accommodating one sport or multi-purpose accommodating a variety of sports.

PUBLIC AREAS

Shall mean: (a) public parks, playgrounds, trails, paths and other recreational areas; (b) other public open spaces; (c) scenic and historic sites; and (d) sites for schools and other public buildings and structures.

PUBLIC DRAINAGE WAY

Shall mean the land reserved or dedicated for the installation of storm water sewers or

drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

PUBLIC UTILITY

Shall mean any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to NJSA 48:2-13.

PUBLICLY_ACCESSIBLE EVSE

Shall mean EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

QUORUM

Shall mean the majority of the full authorized membership of a municipal agency.

RECYCLING CENTER

Shall mean a facility in which recyclable or recoverable materials are collected, sorted, and prepared for transfer to another facility for processing. A transfer recycling center may not process by briquetting, compacting, chipping, flattening, grinding, crushing, shredding, cleaning or altering the materials.

RESALE OR THRIFT SHOP

Shall mean a retail sales establishment in which the proprietor primarily sells used items (generally clothing, household goods and children's items) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds. Some resale/thrift shops are managed by non-profit organizations that use the proceeds to support their charitable operations. (See also "Consignment Store.")

RESEARCH AND DEVELOPMENT

Shall mean an establishment engaged in industrial or scientific research or product design that involves laboratory testing or limited manufacturing, fabricating, processing, assembling, or similar related activities for the production of prototypes. A research and development establishment shall be considered an office use if the work primarily involves the use of computers and other related office equipment in an office setting and no laboratory testing or manufacturing takes place on premises. Residential shall mean a land use category that consists of at least one home, abode, or place of residence where an individual would live at a specific point in time.

RESIDENTIAL CLUSTER

Shall mean a contiguous or noncontiguous area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

RESIDENTIAL DENSITY

Shall mean the number of dwelling units per gross area of land that is the subject of an application for development.

RESTAURANT

(See "Eating and Drinking Establishment").

RESUBDIVISION

Shall mean (a) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or (b) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law but does not include conveyances so as to combine existing lots by deed or other instrument.

RETAIL SALES

Shall mean establishments engaged in the selling or rental of goods or merchandise usually to the general public for personal use or household consumption, although they may also serve business and institutional clients and in rendering services incidental to the sale of such goods.

RETAIL SALES, GENERAL CONSUMER GOODS

Shall mean retail sales establishments involved in the sale, lease, rent, or display of new products or merchandise to the general public for personal use or household consumption, including, but not limited to stores selling apparel, furniture, books, jewelry, shoes, hardware, pet supplies, appliances, arts, crafts, antiques, art and accessories; flower shops; drug stores; gift shops; and other sundries. Retail sales includes art and craft production facilities available for public use that do not produce noxious emissions or high noise levels, as well as dry cleaning and laundry pick-up station where cleaning of garments is not done on-site. Such establishments shall not include the sale of any food products.

RETAIL, FREESTANDING

Shall mean a detached building in which the principal use is retail sales and which does not abut any other building and where all sides of the building are surrounded by yards or open areas within the zoning lot.

REVIEWING BOARD

Shall mean the Newark Central Planning Board or Zoning Board of Adjustment, whichever Board has jurisdiction over the particular application pursuant to NJSA 40:55D-60 et seq.

ROOFTOP GROWING OPERATIONS

(See "Urban Farm").

ROOFTOP MECHANICAL EQUIPMENT

Shall mean elevator penthouses and roof structures for the housing of stairways, tanks, ventilating fans, air-conditioning equipment, dust collectors, solar panels, or similar equipment required to operate and maintain a building.

ROOMING HOUSE AND BOARDING HOUSE

Shall mean, pursuant to P.L. 1979, c. 496 (NJSA 55:13B-1, et seq.), any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by any owner or operator including any residential hotel or congregate living arrangement. A boarding house shall include establishments wherein personal or financial services are provided to the residents, and a rooming house shall include establishments wherein no personal or financial services are provided to the residents. Pursuant to P.L. 1979, c.496 (NJSA 55:13B-1, et seq.), a boarding or room house excludes any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home as defined in Section 1 of P.L. 1962, c. 137 (NJSA 30:4C26.1), any community residence for the developmentally disabled as defined in Section 2 of P.L. 1977, c. 448 (NJSA 30:11B-2), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the New Jersey Commission on Higher Education, and any facility or living arrangement operated by, or under contract with, any state department or agency, upon the written authorization of the Commissioner.

ROTOR RADIUS

Shall mean the distance between the center point of the rotor or the outermost point on the rotor or blade.

ROW HOUSE

(See "Dwelling, Row House").

SATELLITE DISH ANTENNAE

Shall mean a bowl-shaped device used to receive and/or transmit signals relayed by satellite.

SCHOOL, PRIMARY

Shall mean a public, private or parochial school, recognized or approved by the State, providing the first four to eight years of formal education, which may include kindergarten and prekindergarten. This use may include accessory day care centers for children over the age of three.

SCHOOL, SECONDARY

Shall mean a public, private or parochial school, recognized or approved by the State, providing intermediate formal education between primary school and college, inclusive of high schools.

SEDIMENTATION

Shall mean the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as product of erosion and, in wastewater treatment,

the settling out of solids by gravity.

SELF STORAGE

Shall mean a facility consisting of a building or group of buildings in a controlled-access compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the dead storage of customers' goods and wares.

SETBACK

Shall mean the distance between the building and any lot line.

SEXUALLY ORIENTED BUSINESSES

Shall mean business types including, but not limited to, establishments commonly referred to as "Go-Go establishments," "adult video stores," or "adult newsstands or bookstores," which means a commercial establishment which as one of its principal business purposes offers for sale, rental, or display for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, slides or simulated display or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas; or any other type of establishment that can meet the definition of a "sexually oriented business" as defined or described in Federal, State, or local statutes including but not limited to NJSA 2C:33 12.2 et seq. For the purpose of this definition, "principal purpose" means the commercial establishment:

1. Has a substantial portion of its displayed merchandise which consists of said items, or
2. Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
3. Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
4. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or
5. Maintains a substantial section of its interior business space for the sale or rental of said items; or
6. Regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "xxx" or "X-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right-of-way; or
7. Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon

matter exhibiting specified sexual activities or specified anatomical areas.

SHALL

Shall indicate a mandatory requirement; the term "may" shall indicate a permissive action.

SHARED KITCHEN

Shall mean any establishment that is used as a place of business for the exclusive or primary purpose of utilizing, leasing or renting its commercial kitchen space to individuals, or business entities, for food preparation, temporary extra production capacity, menu planning, training, taste testing, product development, food packaging, food storage or any other food-related purpose; and is licensed as per any applicable local, state or federal law.

SHED

(See "Accessory Storage Structure").

SHORT-TERM RENTAL

Shall mean the accessory use of a dwelling unit or part thereof for occupancy by someone other than the unit's owner or permanent resident for a period of 28 or less consecutive days, which unit is regularly used and kept open as such for the lodging of guests. Short term rentals shall be permitted in all dwellings with the exception of dormitories, foster homes, adult family care homes, transitional housing facility, assisted living facilities, community residences for developmentally disabled, persons with head injuries and terminally ill persons, community shelters for victims of domestic violence and nursing homes.

SIDEWALK CAFE

Shall mean a designated outdoor area that is located on the public sidewalk or right-of-way immediately adjacent to the property of an existing retail food establishment and where food and beverages that are normally offered to the public inside the retail food establishment and serviced to the public in the designated outdoor area.

SIGN

Shall mean any fabricated or outdoor display structure including its structure, consisting of any letter, figure, character, mark, point, plane, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever, and displayed in any manner out of doors exclusively for advertising purposes.

SIGN, BANNER

Shall mean a sign or string of one or more signs, usually made of cloth or other lightweight material, which is used to attract attention, whether or not imprinted with words or characters, including, but not limited to, balloons and other inflatables and pennants. Flags shall not be considered banners.

SIGN, BLADE

Shall mean a sign affixed perpendicularly to a building or wall in such a manner that its leading edge extends more than 10 inches beyond the surface of such building or wall.

SIGN, DIGITAL DISPLAY

Shall mean a sign, or portion of a sign made up of internally illuminated components capable of changing the message and image shown on the sign. Digital displays include but are not limited to LCD, LED, or plasma displays.

SIGN, ELECTRONIC MESSAGE CENTER

Shall mean a digital, illuminated sign with changeable message and changeable copy.

SIGN, MONUMENT

Shall mean a free-standing sign in which the entire bottom of the sign or surrounding base is in contact with the ground.

SIGN, WINDOW

Shall mean a sign that is placed within a window or upon the windowpanes or glass and is visible from the exterior of the window.

SINGLE-FAMILY HOUSE

(See "Dwelling, Single-Family").

SIT-DOWN RESTAURANT

(See "Eating and Drinking Establishment").

SITE

Shall mean any contiguous plot, parcel or parcels of land.

SITE PLAN

Shall mean the development plan of one or more lots on which is shown:

1. The existing and proposed conditions of the lot(s) including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes, and waterways;
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and
3. Any other information that may be reasonably required in order to make an informed determination pursuant to this Title requiring review and approval of site plans by the Central Planning Board or Zoning Board of Adjustment.

SOLAR ENERGY SYSTEM (GROUND/ROOF MOUNTED, OVER PARKING LOTS AND STRUCTURED PARKING)

Shall mean any solar collector panel(s), film(s), shingle(s), or other solar energy device(s) or solar structural component(s), mounted on a building or on the ground and including other appurtenant structures and facilities, whose primary purpose is to provide for the

collection, storage, and distribution of solar energy received from the sun and provides power for the principal use of the property whereon said system is located.

SPACING OF BUILDINGS

Shall mean the required minimum horizontal distance between any wall of two or more buildings facing or overlapping each other in any manner either parallel or oblique. Such distance is measured at any given point and any given level by projecting or prolonging vertically and horizontally the perimeter lines of each wall from the lowest habitable floor to the ceiling of the highest habitable floor.

STORY

Shall mean the space between any finished floor of a building and the next finished floor above, excepting that a cellar or basement shall not be considered as a story. A half-story is a portion of a building between a finished floor and the roof construction above, where the space thus enclosed has an average clear height of not more than five feet.

STREET

Shall mean the full width of the area dedicated to public use, extending from the property line on one side to the property line on the other side, including the roadway and sidewalk, of any public street, avenue, road alley, lane, highway, boulevard, concourse, driveway, culvert or bridge. For the purpose of this Title, streets shall be classified as follows:

1. Principal arterial system shall mean streets and highways serving major metropolitan activity centers, the highest traffic volume corridors, the longest trip desires, and a high proportion of total urban area travel on a minimum of mileage. Service to abutting land should be subordinate to the provision of travel service to major traffic movements. This system carries the major portion of trips entering and leaving an urban area, as well as the majority of through movements desiring to bypass the central City, and normally will carry important intraurban as well as intercity bus routes.
2. Minor arterial streets system shall mean streets and highways interconnecting with and augmenting the City's principal arterial system and providing service to trips of moderate length at a somewhat lower level of travel mobility. The system places more emphasis on land access and distributes travel to geographic areas smaller than those identified with the higher system. It includes all arterials not classified as principal.
3. Collector streets system shall mean streets penetrating neighborhoods, collecting traffic from local streets in the neighborhoods, and channeling it into the arterial systems. A minor amount of through traffic may be carried on collector streets, but the system primarily provides land access service and carries local traffic movements within residential neighborhoods, commercial, and industrial areas. It may also serve local bus routes.
4. Local streets system shall mean streets not classified in a higher system, primarily providing direct access to abutting land and access to the higher systems. They offer the lowest level of mobility and usually carry no bus routes. Service to through traffic is deliberately discouraged.

STREET LINE

Shall mean the dividing line between the street and the lot.

STREET WALL OF A BUILDING AT ANY LEVEL

Shall mean the wall or part of the building (other than a one-story open porch), nearest to the street line.

STREET WIDTH

Shall mean the mean of the distance between the street line within a block, where a street borders a public park, or a navigable body of water, the width of such street may be taken as the width of such street, plus the width of such public park or body of water, provided that the maximum width of such street shall not be considered more than 100 feet, measured at right angles to street line.

STRUCTURAL ALTERATION

Shall mean any change or rearrangement in the exterior or interior structural parts of any building.

STRUCTURE SHALL

Mean a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

STRUCTURE, ACCESSORY

Shall mean a building of not more than 1 1/2 stories in height which is subordinate to the main building on a lot and used for the purposes customarily incidental to those of the main building.

STRUCTURE, NONCONFORMING

Shall mean a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

STRUCTURE, TEMPORARY

Shall mean a structure erected for a temporary period of time, typically not to exceed 180 days.

SUBCODE OFFICIAL

Shall mean the Construction Code Official, Chief Plumbing Subcode Official, Chief Electrical Subcode Official and Deputy Chief in charge of Fire Prevention, or their assistants.

SUBDIVISION

Shall mean the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered

subdivision within the meaning of this Chapter, if no new streets are created:

1. Divisions of land found by the Central Planning Board to be for agricultural purposes where all resulting parcels are five acres or larger in size;
2. Divisions of property by testamentary or intestate provisions;
3. Divisions of property upon court order, including but not limited to judgments of foreclosure;
4. Consolidation of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Screening Officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the City of Newark.

The term "subdivision" shall also include the term "resubdivision."

SUBSTANCE ABUSE OUTPATIENT TREATMENT CENTER

Shall mean outpatient substance abuse treatment facilities that are required to obtain licenses pursuant to NJAC 10:161B-1.1 et seq. Standards for Licensure of Outpatient Substance Abuse Treatment Facilities. This definition shall not include substance counseling or support groups that do not require a license and are ancillary or accessory to a community center or place of worship. This definition shall not include inpatient care or treatment.

SUBSTANCE ABUSE TREATMENT CENTER

Shall mean any licensed institution, facility, place, building or agency which supplies care, treatment, services, maintenance, accommodation or board, or any of these services in a group setting primarily or exclusively for individuals having any type of habitation, dependency or addiction to the use of any kind of controlled substance, alcohol, narcotic drug or other type of drug; and which provides guidance, supervision and personal services which enable the drug user, dependent or addict to move into independent living in normal surroundings, but does not provide those services that can be rendered only by a physician or within the confines of a hospital, and does not provide a permanent residence but only a temporary one.

SUPERMARKET

Shall mean a self-service retail sales establishment specializing in food and household merchandise, with at least 10,000 square feet of gross floor area.

SWIMMING POOL, PRIVATE

Shall mean an accessory use on the same lot as the principal use it serves, consisting of a water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used, and maintained for swimming and bathing by the

residents of the lot on which the swimming pool is located or their nonpaying guests.

TAKE-OUT RESTAURANT

(See "Eating and Drinking Establishment").

TAX LOT

Shall mean a parcel of land identified with a unique block and lot number for property tax purposes.

THEATER

Shall mean an indoor facility for public assembly and group entertainment, other than for sporting events, which is used primarily for and designed for the purpose of exhibiting films, live theater, concerts, or similar performances. A theater shall not include a sexually oriented business of any kind.

TOMBSTONE/MONUMENT

Shall mean a tablet, statue, or other marker of stone, metal or another durable substance set up over or adjacent to a grave to commemorate the person interred therein.

TRANSCRIPT

Shall mean a typed or printed verbatim record of the proceedings or reproduction thereof.

TREE

Shall mean any deciduous or coniferous species which has a diameter at breast height (4.5 feet) of four inches or greater.

1. **ORNAMENTAL TREE** Shall mean and include trees which are grown for display or ornamental purposes, rather than functional ones. It generally tends to remain smaller at maturity than a shade tree.
2. **SHADE TREE** Shall mean and include a woody plant, usually deciduous, that normally grows with one main trunk and has a canopy that screens and filters the sun in the summer and winter, respectively.
3. **EVERGREEN TREE** Shall mean and include a plant species with foliage that persists and remains green year round and may be functionally used as a visual separator.

TRUCK TERMINAL

Shall mean and include premises for the fueling, loading and unloading of trucks, where storage of cargo is incidental to the primary function of motor freight shipment, and where minor maintenance and repair of these types of vehicles are performed. Such facilities shall be designed to accommodate five or more trucks.

TRUCK, TRACTOR, TRAILER, AND HEAVY VEHICLE PARKING OR STORAGE

Shall mean the short-term parking or long-term storage of single-unit trucks, tractor units,

semi-trailers, buses, or other similar heavy vehicles. The use may be the principal use of a property or a use that is accessory to warehousing, distribution, manufacturing, and other similar uses when limited in scope. To be considered accessory to a complementary principal use, a maximum of 30% of the gross lot area shall be devoted to the parking or storage of tractors and/or trailers.

Area devoted to circulation aisles, loading docks, and passenger vehicle parking shall not count toward the 30% maximum.

TURBINE HEIGHT

Shall mean the distance between the base of the tower or other supporting structure, whether mounted on the ground or on a rooftop, and the outermost point of the rotor or blade at its maximum vertical extension.

URBAN AGRICULTURE

Shall mean agricultural production that occurs within Newark on large parcels of land, on community gardens, in greenhouses, on rooftops and indoor spaces and that increases the City's local food system. Urban agriculture as defined by the zoning code includes the following:

1. **URBAN FARM** (See "Urban Farm");
2. **COMMUNITY GARDEN** (See "Community Garden");
3. **MARKET GARDEN** (See "Market Garden")

URBAN FARM

Shall mean an establishment one acre or larger where legal plants are grown for the legal sale of the plants or their products, and where the plants or their products are sold at the lot where they are grown or off site, or both, and in which no other items are sold. Examples of plants may include flowers, vegetables, and orchards. Urban farms may include, but are not limited to:

1. **AQUACULTURE FARMS** in which food fish, shellfish or other marine foods, aquatic plants, or aquatic animals are cultured or grown in fresh or salt waters in order to sell them or the products they produce;
2. **AQUAPONIC FARMS** in which the symbiotic propagation of plants and fish in an indoor, constructed and re-circulating environment takes place;
3. **COMMUNITY-SUPPORTED FARMS** in which an area of land managed and maintained by a group of individuals to grow and harvest food crops or non-food crops such as flowers, for shareholder consumption or donation. Shareholders arrange to work on the farm in exchange for a share of the food and/or horticulture products grown on the property and or pay for a portion of the food and/or horticultural products in advance;

4. HORTICULTURE NURSERIES in which plants are propagated and grown in containers or in the ground for wholesale or retail sales and distribution;
5. HYDROPONIC FARMS in which plants are propagated using a mechanical system designed to circulate a solution of minerals in water with limited use of growing media;
6. INDOOR GROWING OPERATIONS in which all allowed activities must be conducted within completely enclosed buildings. Typical operations include greenhouses, vertical farming, hydroponic systems and aquaponic systems;
7. OUTDOOR GROWING OPERATIONS in which all allowed activities are conducted in unenclosed areas or partially enclosed structures. Typical operations include growing beds, growing fields, hoop houses and orchards;
8. ROOFTOP GROWING OPERATIONS in which all allowed activities occur on the roof of a principal building as a principal use or accessory use. Typical operations include growing beds and growing trays;
9. VERTICAL FARMS in which plants or animals are cultivated on vertically inclined surfaces.

USABLE ROOF AREA

Shall mean the roof area excluding roof area covered by heating, electric and mechanical equipment, solar energy panels, skylights and any other similar appurtenances.

USE, ACCESSORY

Shall mean a use of land or of a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot as the principal use.

USE, NONCONFORMING

Shall mean a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

USE, PRINCIPAL

Shall mean the primary or predominant use of any lot or parcel on a permanent basis.

USE, TEMPORARY

Shall mean the primary or predominant use of any lot or parcel on a temporary basis for a period not to exceed 180 days.

UTILITY SUBSTATION

Shall mean a structure or facility which collects, processes and/or distributes a public utility commodity, as defined in NJSA 48:2-13 and regulated by the New Jersey Board of Public Utilities, but not including wireless telecommunications services.

VARIANCE

Shall mean permission to depart from the literal requirements of a zoning ordinance pursuant to NJSA Sections 40:55D-40b, 40:55D-60 and 40:55D-70c and d of the Municipal Land Use Law.

VEHICLE TOWING FACILITY

Shall mean a building, property or activity, the principal use of which is the retrieval of towed motor vehicles. The vehicle towing facility shall have the proper and valid markers and license plates for Tow Trucks issued by the State (NJSA 39:3-84.7) in order to operate.

VEHICLE-RELATED SERVICES

(See "Automobile" for more services and businesses related to vehicles).

VERTICAL FARMS

(See "Urban Farm").

VETERINARY CLINIC OR OFFICE

Shall mean a commercial facility where animals are brought in for medical treatment but are not kept overnight. Where a veterinary clinic or office exceeds 3,500 square feet in floor area, it shall be considered a veterinary hospital.

VETERINARY HOSPITAL

Shall mean a commercial facility where animals are brought in for medical treatment and may remain overnight for observation, further medical treatment or recuperation.

WAIVER

Shall mean permission from the approving agency to depart from the design standards set forth in Chapter 16, Additional Zoning and Design Standards, of this Title.

WAREHOUSING AND DISTRIBUTION

Shall mean and include structures, or a major portion thereof, used principally for the storage, sales or distribution of nonhazardous goods and merchandise to retailers, non-residential users, or to wholesalers. This use shall also include uses devoted to archives and records. This use shall not include truck terminals, truck repair or "manufacturing, heavy, medium, or light" as defined herein. Warehousing facilities are differentiated into the following sub-categories:

1. Cold Storage Facilities

Shall mean a specialized warehousing, wholesaling, and distribution facility with large-capacity coolers and freezers to store food or other temperature-sensitive items. Refrigerated shipping units are used for inbound and outbound shipping, and loading docks are equipped with seals and insulation to maintain product integrity.

2. Distribution Centers / Break-Bulk Facilities

Shall mean a facility used for regional and/or interstate distribution to businesses and fulfillment centers, not to end users or consumers. Items stored and distributed through these facilities generally do not require finishing or individual packaging. These facilities perform transloading functions where the consolidation, transferring, and distribution of pallets, equipment, and other shipments are made between locations using more than one mode for transportation. Distribution Centers / Break-Bulk Facilities exceed 200,000 square feet in floor area.

3. High Cube and Automated Warehousing

Shall mean a highly automated warehouse or distribution center used for the storage and/or consolidation of manufactured goods. The automated nature of the facilities allows higher stacking and more efficient retrieval and movement of goods, which can increase capacity and truck movements to and from the site. High Cube and Automated Warehousing facilities exceed 200,000 square feet in floor area and 50 feet in height.

4. Last-Mile Fulfillment Centers

Shall mean a facility with the primary purpose of temporary storage, sorting, and redistribution of goods to fulfill e-commerce or direct consumer orders by receiving shipments of goods from one mode of transport and redistributing those goods via a delivery vehicle. Last-mile fulfillment centers range in floor area, but typically have significantly higher demand for van or passenger vehicle parking with fewer exterior loading docks and tractor / trailer parking spaces.

5. Micro Fulfillment Centers

Shall mean a facility with a gross floor area under 20,000 square feet that provides short-term storage of goods intended to be distributed to end users via home delivery or other similar means.

6. Traditional Warehousing

Shall mean any establishment primarily used for the indoor long-term storage, loading, unloading and/or distribution of goods, products, or materials, which may include accessory consolidation, repacking and value-added services. Such facilities may include accessory parking and storage of trucks and trailers, and accessory maintenance of trucks owned by the facility. This definition shall not include truck terminals or container storage.

WASTE TRANSFER STATION

Shall mean and include waste transfer facilities where wastes are handled for transshipment to a disposal facility. This use includes trash compaction and transfer stations, but shall not include "materials salvage yard" as defined herein.

WHOLESALE BAKERY

Shall mean establishments or places of businesses primarily engaged in the production, preparation, processing, manufacture, packing, storage or handling of bakery products for sale or distribution to any other person other than the ultimate consumer including other retailers, industrial, commercial, institutional, or professional business users, other than wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WHOLESALE TRADE

Establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers; industrial, commercial, institutional, or professional business users; and other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND ENERGY SYSTEM, LARGE

Shall mean a wind energy system of one or more wind towers and turbines that has a nameplate capacity of more than 25 kilowatts and is used to generate energy for commercial sale.

WIND ENERGY SYSTEM, SMALL

Shall mean a wind energy system of one or more wind towers and turbines that has a nameplate capacity 25 kilowatts or less and is primarily used to generate energy for use by the landowner. Solar energy system and power generation facilities are defined herein.

WIND TURBINE

Shall mean a wind energy conversion system that converts wind energy into electricity through use of a wind turbine generator and includes such elements as a wind turbine generator hub, blade or rotor, tower and transformer.

WIND TURBINE HUB

Shall mean an electric power generator to which the blade or rotor of a wind turbine is attached.

YARD

Shall mean an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as provided in Section **41:4-1** et seq. of this Title. In measuring a yard for purposes of determining the required width of a side yard, the required depth of a front yard or the required depth of a rear yard, the minimum horizontal distance between the lot line and the principal structure shall be used.

YARD, FRONT

Shall mean a yard extending across the street side of a lot measured between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than steps, unenclosed balconies and unenclosed porches, except as otherwise provided in this Title.

A through lot unimproved with buildings shall have a front yard on each of the opposing

streets. A through lot improved with buildings shall consider the street frontage lot line closest to the principal building the front yard.

On corner lots, each lot line abutting a street shall be considered a front yard. The yard between the structure and the shorter street lot line shall be the primary front yard and the yard between the structure and the longer street lot line shall be the secondary front yard.

YARD, REAR

Shall mean a yard extending across the full width of a rear lot line measured between the rear lot line and the rear of the main building, or any projection thereof, other than steps, unenclosed balconies or unenclosed porches except as otherwise provided in this Title. The rear yard shall be at the opposite ends of the lot from the primary front yard. A through lot or corner lot is not required to have a rear yard.

YARD, SIDE

Shall mean a yard that extends along a side lot line from the required front yard, or from the front lot line if no front yard is required, to the required rear yard, or to the rear lot line if no rear yard is required. In the case of a corner lot, any yard that is not a front yard is considered a side yard.

ZONING BOARD OF ADJUSTMENT

Shall mean the administrative board of the City of Newark established pursuant to NJSA 40:55D-1 et seq.

ZONING OFFICER

Shall mean the administrative officer designated to administer the zoning ordinance and issue zoning permits.

Chapter 41:3

Zoning Districts

§ 41:3-1 Establishment of Zoning Districts.

For the purpose of limiting and restricting to specified districts, and regulating therein buildings and structures according to their construction and the nature and extent of their use, and the nature and extent of the use of land, and to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use and extent of use of buildings and structures and land, for trade, industry, residence or other purposes excluding municipally owned and operated or municipally operated buildings and related premises used for governmental purposes, the City of Newark is hereby divided into districts, of which there shall be 22 in number, as more specifically set forth in the Zoning Maps which can be found in the appendix to Title XLI:

R-1	Detached Single-Family Residential
R-2	One- to Three-Family Residential
R-3	One- to Four-Family and Town House Residential
R-4	Low-Rise Multifamily Residential
R-5	Mid-Rise Multifamily Residential
R-6	High-Rise Multifamily Residential
C-1	Neighborhood Commercial and Residential
C-2	Community Commercial and Residential
C-3	Regional Commercial
I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial
MX-1	Mixed Use, Residential/Commercial
MX-2	Mixed Use, Residential/Commercial/Industrial

MX-3	Mixed Use, Residential/Commercial (High Density)
EWR	Airport
EWR-S	Airport Support
PORT	Port
INST	Institutional
PARK	Park
CEM	Cemetery
RDV/SD	Redevelopment Zones and Special Districts

§ 41:3-2 Zoning maps.

The boundaries of the districts set forth above shall be as shown and delineated on the "Newark Zoning Maps," declared to be part of this Chapter.

§ 41:3-3 Interpretation of zoning district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Title, the following rules shall apply:

§ 41:3-3-1 Boundaries on streets or alleys.

Where the district boundaries are either streets or alleys, unless otherwise shown, and where the districts designated on the map accompanying and made a part of this Title are bounded approximately by streets or alley lines, the center line of the street or alley shall be construed to be the boundary of such district.

§ 41:3-3-2 Boundaries on parcel lines.

The district boundaries are, unless otherwise indicated, either street lines or parcel lines. Where a parcel consolidated, subdivided, or otherwise altered to be split between zoning districts, the portions of the parcel in each zone shall be subject to the applicable controls. Where uncertainty exists about the extent of the zone within a parcel, the zoning officer shall make a determination as to the appropriate location of the zone line.

§ 41:3-4 General compliance conditions.

Except as otherwise provided in this Title:

§ 41:3-4-1 Compliance required.

No building, structure or land shall be used for, nor shall any building or structure be erected, converted, enlarged, reconstructed, or structurally altered for any use which does not comply with all district regulations established by this Title for the district in which the building, structure, or land is located.

§ 41:3-4-2 Yard and lot area.

The yard regulations and the lot area per unit provisions required by this Title shall be considered minimum regulations for each and every building or structure existing on the effective date of the zoning ordinance and for any building or structure thereafter erected or structurally altered. No land required for yards, or lot area per unit provisions for any building or structure hereafter erected or structurally altered, shall be considered as a yard or for a lot area for any other building or structure.

§ 41:3-4-3 Extraneous living spaces.

Any indoor living space that could be converted to an additional dwelling unit shall be considered as an additional dwelling unit for all zoning, building, or land development regulation purposes. Such an indoor space shall be defined as having 250 or more square feet and having direct access to the structure's common stairwell, hallway, or lot. Such spaces are typically labeled as recreation rooms, storage rooms, home offices, dens, or a combination of such rooms. If, however, this space contains the dwelling unit's only entranceway, or consists of a dwelling unit's only living room, dining room, or kitchen, it shall not be considered an additional dwelling unit. If this space consists of a commercial or live/work area required because it fronts on a commercial row or is proposed as permitted commercial space, it shall not be considered an additional dwelling unit.

§ 41:3-5 New territory.

Whenever lands or territory shall hereafter be acquired by annexation, the lands or territory shall be deemed to be zoned as it was prior to annexation in the municipality from which it was acquired.

§ 41:3-6 Existing Undersized Residential Lots

Any parcel of land that existed at the time of adoption of this Ordinance in the R-1, R-2, R-3, or R-4 Zone having an area or width less than the minimum required for the smallest permitted building type in the zone shall be considered an existing undersized residential lot, if at the time of, and since the adoption of this Ordinance, the owner did not own any adjoining property.

When a property qualifies as an existing undersized residential lot, variance relief for insufficient lot width or lot area shall not be required in the following circumstances:

1. In the R-1 Zone, a one-family building may be constructed without need for variance relief on a qualifying undersized lot with an area less than 5,000 square feet and/or a width less than 50 feet if all zoning and bulk requirements other than lot area and lot width can be met.
2. In the R-2, R-3, or R-4 Zone, a one- or two-family building may be constructed without need for variance relief on a qualifying undersized lot with an area less than 2,500 square feet and/or a width less than 25 feet if all zoning and bulk requirements other than lot area and lot width can be met.

Chapter 41:4

Permitted Uses by District

§ 41:4-0 Use categories.

The following list groups all Principal Uses listed in the Use Charts that follow into Use Categories in order to ease identification of which Principal Use applies to a specific proposed development. Each Use Category (listed in bold type) contains a variety of similar and related Principal Uses (listed in non-bold type).

Each Principal Use listed has a specific definition found in Chapter 2.

Use Categories – Principal Uses

Animals (Pets)

Animal Boarding or Kennel, Pet Shop, Animal Shelter, Pound

Animal Grooming & Animal Daycare

Veterinary Clinic, Office & Veterinary Hospital

Antennas

Commercial Antenna & Microwave Dishes

Automotive Services, Sales and Repair

Automobile Repair & Tire Repair Automobile Paint & Body Repair Automobile Sales and Rentals

Automobile Car Wash

Commercial, Industrial Truck & Bus Services Gasoline Station

Operation Facilities for Bus/Taxicab/Ambulance/Limousine Truck Terminal

Vehicle Towing Facility

Aviation

Airport

Heliport

Use Categories – Principal Uses**Community Facilities**

Community Center

Places of Worship

Day Care Facilities

Child Care Centers

Education & Cultural

Business, Specialized or Vocational Schools Colleges & Universities

(Galleries included under Retail Sales, General)

Museum

Primary & Secondary Schools

Entertainment & Nightlife

Banquet Hall / Catering Hall / Event Space

Bars, Cigar/Hookah

Bars, Taverns & Lounges

Nightclubs, Discotheques & Cabarets

Private Clubs (including Motorcycle Clubs)

Sexually Oriented Businesses

Food & Drink

Animal Cafe

Brewery

Convenience Retail

Distillery

Use Categories – Principal Uses

Emergency Food Distribution Center, Food Pantry,

Soup Kitchen

Fish, Meat and Poultry Market

Fresh Food Market

Liquor Store

Live Animal Market

Supermarket

Take-Out Restaurant

Sit-Down Restaurant

Wholesale Bakeries

Funeral

Cemeteries

Crematorium, Animal

Funeral Home/Mortuaries

Government Uses

Governmental (Non-Municipal Uses)

Municipal Uses

Manufacturing

Artist Live/Work Studio (Nuisance Producing)

Cannabis Manufacturer

Flex Space, Light Industrial

Laundry Facility, Commercial/Wholesale

Use Categories – Principal Uses

Manufacturing, Light

Manufacturing, Heavy

Manufacturing, Medium

Research & Development

Medical & Social Service

Emergency Food Distribution Center, Food Pantry,

Homeless Shelter

Hospital/Medical Institution

Medical Clinic or Emergency Care Facility

Methadone Maintenance Clinic

Soup Kitchen Medical Offices

Substance Abuse Treatment Centers (does not include Methadone Maintenance clinics)

Office

Co-Working, Incubator, Shared Office

Office

Outdoor Storage

Materials Salvage or Junk Facility

Outdoor Storage

Outdoor Storage, Chemical

Parking

Parking Garage, Commercial Vehicle

Personal Services

Use Categories – Principal Uses

Body Art Studio

Personal Service Establishment

Massage Facility

Recreational

Fitness Centers

Passive Recreation Park

Active Recreation Park

Theater

Residences & Lodging

Single-Family Dwelling

Two-Family Dwellings

Three-Family Dwelling

Town Houses

Low-rise Multi-Family Dwellings

Mid-rise Multi-Family Dwellings

High-rise Multi-Family Dwellings

Dwelling above certain ground floor retail, offices and personal services

Adult Family Care Home

Artist Live/Work Space (Nuisance Producing)

Assisted Living Facilities

Community Residences for Developmentally Disabled, Persons with Head Injuries and Terminally Ill Persons, and Community Shelters for Victims of Domestic Violence

Use Categories – Principal Uses

Dormitories

Hotels

Nursing Homes

Rooming and Boarding House / Single Room Occupancy

Short-Term Rental

Retail (no food)

Cannabis Retailer / Microbusiness / Delivery

Check-Cashing Establishments & Bail Bond Agencies

Cigar / Tobacco / Vape Retail Sales

Consumer Repair

Consignment Stores

Department Store

Dry Cleaning and Laundry Establishment

Financial, Insurance, Real Estate, or Securities Brokerage Consumer Services

Exterminator/Pesticide Application Business

Furniture and Appliance Stores, Used

Gun, Ammunition/Weapons Dealers

Heavy Retail and Service

Laundromat

Large Format Retail and/or Shopping Center

Pawn Shops

Pet Shop

Use Categories – Principal Uses

Resale or Thrift Shops

Retail Sales, General Consumer Goods

Signage

Billboards

Utilities

Electrical or Gas Switching Facility, Power Distribution, or Substation

Power Generation Facilities

Solar Energy System (ground mounted, roof mounted, over parking lots and structured parking)

Telephone Switching Facility

Wind Energy System, Large

Urban Agriculture

Cannabis Cultivator

Community Garden

Market Garden

Urban Farm

Warehousing & Distribution

Data Center

Cannabis Distributor

Self Storage

Truck Terminal

Truck, Tractor, Trailer, and Heavy Vehicle Parking or Storage

Warehousing, Wholesaling & Distribution Categories

Use Categories – Principal Uses

Waste & Recycling

Materials Salvage or Junk Facility

Recycling Center

Waste Transfer Station

§ 41:4-1 Permitted Uses in Residential Districts.

Table 4-1: Residential Districts P = Permitted - = Not Permitted C = Conditionally Permitted						
Any use not listed below is also prohibited, unless the Zoning Officer determines it is sufficiently similar to a listed use to be permitted. Multiple principal uses shall be permitted within a mixed-use building or buildings where permitted.						
Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6
Single-Family Dwelling	P	P	P	P	-	-
Two-Family Dwelling	-	P	P	P	-	-
Three-Family Dwelling	-	P	P	P	-	-
Four-Family Dwelling	-	-	P	P	-	-
Town House, Dwelling	-	-	P	P	-	-
Low-Rise Multi-Family Dwellings	-	-	C	P	P	P
Mid-Rise Multi-Family Dwellings	-	-	-	-	P	P
High-Rise Multi-Family Dwellings	-	-	-	-	-	P
Active Recreation Park	P	P	P	P	P	P
Assisted Living Facilities & Nursing Homes	-	-	-	C	C	C
Child Care Center, Standalone	-	C	C	C	C	C
Commercial Antennas and Microwave Dishes, Collocation	P	P	P	P	P	P
Community Centers	-	P	P	P	P	P
Community Gardens	P	P	P	P	P	P
Community Residences for the Developmentally Disabled, Persons with Head Injuries and Terminally III Persons and Community Shelters for Victims of Domestic Violence, Adult Family Care Home	P	P	P	P	P	P

Ground Floor Use in a mixed-use building for Child Care Center; Community Center; Commercial Recreation (Small Scale); Convenience Retail; Dry Cleaning and Laundry Pick-Up/Drop-Off Establishment; Finance, Insurance Real Estate, or Securities Brokerage; Gallery; Consumer Services; Fresh Food Market; Governmental (Non-Municipal) Use; Medical Office; Municipal Use; Offices; Personal Services Establishment; Shared Kitchen; Sit-Down Restaurant; Take-Out Restaurant; or General Consumer Goods Retail Sales.	-	-	C	P	P	P
Municipal Uses	P	P	P	P	P	P
Passive Recreation Park	P	P	P	P	P	P
Places of Worship	C	C	C	C	C	C
Primary and Secondary Schools	C	C	C	C	C	C
Urban Farm (See Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Accessory Uses	R-1	R-2	R-3	R-4	R-5	R-6
Accessory Dwelling Unit	C	-	-	-	-	-
Automotive Lifts (see Section 41:4-6, Additional Standards)	-	-	P	P	P	P
Cold frame	P	P	P	P	P	P
Commercial Antennas & Microwave Dishes , Building-Mounted	-	-	-	-	-	C
Composting (See Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Family Day Care Homes (see Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Greenhouse	P	P	P	P	P	P
Home Occupation (see Section 41:1-6, Additional Standards)	P	P	P	P	P	P
Hoop house	P	P	P	P	P	P
Outdoor Storage, Portable Storage Units	P	P	P	P	P	P
Parking, Structured	-	-	-	P	P	P

Parking Garage, Private Residential	P	P	P	P	P	P
Private Sports Courts (see Section 41:4-6 Additional Standards)	P	P	P	P	P	P
Sheds and Other Accessory Storage Structures (See Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Short-Term Housing (see Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Solar Energy Systems	P	P	P	P	P	P
Swimming Pools, Private	P	P	P	P	P	P
Wind Energy Systems, Small	C	C	C	C	C	C

§ 41:4-2 Permitted Uses in Commercial & Mixed-Use Districts.

Table 4-2: Commercial & Mixed-Use Districts P = Permitted - = Not Permitted C = Conditionally Permitted						
Any use not listed below is also prohibited, unless the Zoning Officer determines it is sufficiently similar to a listed use to be permitted. Multiple principal uses shall be permitted within a mixed-use building or buildings where permitted.						
Principal Uses	C-1	C-2	C-3	MX-1	MX-2	MX-3
Single-Family Dwelling	-	-	-	P	P	-
Two-Family Dwelling	-	-	-	P	P	-
Three-Family Dwelling	-	-	-	P	P	P
Town House, Dwelling	-	-	-	P	P	-
Low-Rise Multi-Family Dwellings	P	-	-	P	P	P
Mid-Rise Multi-Family Dwellings	-	-	-	-	C	P
High-Rise Multi-Family Dwellings	-	-	-	-	-	P
Mixed-Use Buildings with Multi-Family Dwellings and Non-Residential Uses	P	P	P	P	P	P
Mixed-Use Buildings with Multi-Family Dwellings and Non-Residential Uses exceeding 5 stories / 60 feet in height	-	C	P	-	C	P
Mixed-Use Buildings with Multi-Family Dwellings and Non-residential Uses exceeding 8 stories / 96 feet in height	-	-	-	-	-	C
Single Room Occupancy Dwellings / Boarding / Rooming House	P	P	P	P	P	-
Active Recreation Park	P	P	P	P	P	P
Animal Boarding, Kennel	-	-	C	-	C	-
Animal Café	-	P	P	-	P	P
Animal Daycare, Animal Grooming	-	P	P	-	P	P
Artisan and Craft Workspace	P	P	P	P	P	P
Artist Live/Work Studio (Nuisance Producing)	-	-	-	-	C	-
Automobile Car Wash	-	-	C	-	-	-
Automobile Rentals	-	-	C	-	-	-

Automobile Repair and Tire Repair	-	-	C	-	C	-
Automobile Sales	-	-	C	-	-	-
Bail Bond Agency	-	P	P	-	-	-
Bar/Lounge, Cigar or Hookah (See Section 41:4-6, Additional Standards)	-	P	P	-	P	P
Bars, Taverns, Lounges	-	P	P	-	P	P
Billboards	-	-	-	-	-	-
Body Art Studio	-	P	P	-	P	P
Brewery, Limited	-	P	P	-	P	P
Brewery, Restricted	-	P	P	P	P	P
Business, Specialized or Vocational Schools	P	P	P	P	P	P
Cannabis Delivery	C	C	C	C	C	C
Cannabis Retailer	C	C	C	C	C	C
Cannabis Microbusiness	C	C	C	-	-	-
Check-Cashing Establishments	-	-	P	-	-	-
Child Care / Adult Daycare Center	P	P	P	P	P	P
Cigar/Tobacco/Vape Retail Sales Establishment (See Section 41:4-6, Additional Standards)	-	P	P	-	P	P
Commercial Antennas and Microwave Dishes, Collocation	P	P	P	P	P	P
Commercial Antennas & Microwave Dishes, Building Mounted	C	C	C	C	C	C
Commercial Recreation, Large Scale	-	-	P	-	P	P
Commercial Recreation, Small Scale	P	P	P	P	P	P
Community Centers	P	P	P	P	P	P
Community Gardens	P	P	P	P	P	-
Consumer Repair Services	P	P	P	P	P	P
Convenience Retail	P	P	P	P	P	P
Co-Working, Incubator, or Shared Office	P	P	P	P	P	P
Department Store	-	-	P	-	-	-
Dry Cleaning and Laundry Pick-Up / Drop-Off Establishment without on-site dry cleaning	P	P	P	P	P	P
Dry Cleaning and Laundry Establishment	-	-	-	-	-	-
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	-	P	P	-	P	-
Event Space	-	P	P	-	P	P
Finance, Insurance, Real Estate, or Securities Brokerage Consumer Services	P	P	P	P	P	P
Fish, Meat and Poultry Markets	-	P	P	P	P	P
Fitness Center	P	P	P	P	P	P
Flex Space, Light Industrial	-	-	-	-	P	-
Fresh Food Market	P	P	P	P	P	P
Funeral Home or Mortuary	-	C	C	-	C	-
Gasoline Station	-	-	C	-	-	-
Governmental (Non-Municipal) Uses	P	P	P	P	P	P
Gun, Ammunition/Weapons Dealers	-	-	-	-	-	-

Homeless Shelter	-	C	C	-	C	-
Hotels (See Section 41:4-6, Additional Standards)	-	-	P	-	-	P
Hotels, Boutique	-	P	P	P	P	P
Hybrid / Flexible Businesses or Uses (Comprising any combination of permitted uses)	P	P	P	P	P	P
Large Format Retail and/or Shopping Centers	-	-	P	-	-	-
Laundromat	P	P	P	P	P	P
Liquor Stores	-	C	C	-	C	C
Live-Work Space (Non-Nuisance Producing)	P	P	P	P	P	P
Makers Space	-	-	P	P	P	P
Market Gardens	P	P	P	P	P	-
Massage Facility	-	C	C	C	C	C
Medical Clinic or Emergency Care Facility	-	P	P	-	P	P
Medical Marijuana Alternative Treatment Center	-	-	C	-	-	-
Medical Marijuana Safety Compliance Facility	-	-	C	-	-	-
Medical Marijuana Manufacturing Facility	-	-	C	-	-	-
Medical Marijuana Cultivation Facility	-	-	-	-	-	-
Medical Offices	P	P	P	P	P	P
Methadone Maintenance Clinic	-	-	C	-	C	-
Municipal Uses	P	P	P	P	P	P
Museums	-	P	P	-	P	P
Nightclubs, Discotheques & Cabarets	-	C	C	-	-	-
Offices	P	P	P	P	P	P
Pawn Shops	-	-	P	-	-	-
Personal Service Establishment	P	P	P	P	P	P
Pet Shop (See Section 41:4-6, Additional Standards)	-	-	P	-	P	-
Places of Worship	C	C	C	C	C	C
Primary & Secondary Schools	C	C	C	C	C	C
Private Clubs (See Section 41:4-6, Additional Standards)	-	P	P	P	P	P
Research and Development	-	-	-	-	P	P
Retail Sales, General Consumer Goods	P	P	P	P	P	P
Shared Kitchen	-	-	P	P	P	P
Sit-Down Restaurant	P	P	P	P	P	P
Substance Abuse Treatment Center	-	-	C	-	C	-
Supermarket	P	P	P	P	P	P
Take-Out Restaurant	P	P	P	P	P	P
Theaters	-	P	P	-	P	P
Urban Farm (See Section 41:6, Additional Standards)	P	P	P	P	P	-
Veterinary Clinic or Office	P	P	P	P	P	P
Veterinary Hospital	-	-	P	-	-	-
Warehousing, Micro-Fulfillment	-	-	-	-	C	-

Wholesale Bakeries	-	C	C	-	P	-
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Accessory Uses	C-1	C-2	C-3	MX-1	MX-2	MX-3
Automotive Lifts (See Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Child Care / Adult Daycare Center	P	P	P	P	P	P
Coldframe	P	P	P	P	P	-
Composting (See Section 41:4-6, Additional Standards)	P	P	P	P	P	-
Donation Bin (See Section 41:4-6, Additional Standards)	P	P	P	P	P	-
Drive-Through Facilities	-	-	C	-	-	-
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	P	P	P	P	P	P
Farm Stand	P	P	P	P	P	-
Greenhouse	P	P	P	P	P	-
Home Occupation (See Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Hoophouse	P	P	P	P	P	-
Indoor Cannabis Consumption Area with Licensed Cannabis Retailer	P	P	P	-	P	P
Massage Facilities	C	C	C	C	C	C
Offices	P	P	P	P	P	P
Outdoor Display Area	P	P	P	P	P	P
Outdoor Storage, Portable Storage Units	-	-	P	-	P	-
Parking, Garage, Private Residential	-	-	-	P	P	-
Parking, Structured	P	P	P	P	P	P
Sidewalk Cafe (accessory to permitted restaurant only, see Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Solar Energy Systems	P	P	P	P	P	P
Wind Energy Systems, Small	C	C	C	C	C	C

§ 41:4-3 Permitted Uses in Industrial, Airport, and Port Area Districts.

<p>Table 4-3: Industrial, Airport, and Port Area Districts P = Permitted - = Not Permitted C = Conditionally Permitted</p> <p>Any use not listed below is also prohibited, unless the Zoning Officer determines it is sufficiently similar to a listed use to be permitted. Multiple principal uses shall be permitted within a mixed-use building or buildings where permitted.</p>						
Principal Uses	I-1	I-2	I-3	EWR	EWR-S	PORT
Airport	-	-	-	P	-	-
Animal Boarding or Kennel, Animal Shelter, Pound	C	C	-	-	-	-

Animal Daycare, Animal Grooming	P	-	-	-	-	-
Artisan and Craft Workspace	P	-	-	-	-	-
Artist Live/Work Studio (Nuisance Producing)	C	-	-	-	-	-
Automobile Paint and Body Repair	-	C	C	-	C	-
Automobile Rentals	C	C	-	-	P	-
Automobile Repair and Tire Repair	C	C	C	-	C	-
Automobile Sales	C	C	-	-	C	-
Automobile Car Wash	C	C	-	-	C	-
Bail Bond Agency	P	-	-	-	-	-
Billboards	-	-	C	-	C	-
Cannabis Cultivator	C	C	C	C	C	C
Cannabis Delivery	C	C	C	C	C	C
Cannabis Distributor	C	C	C	C	C	C
Cannabis Manufacturer	C	C	C	C	C	C
Cannabis Wholesaler	C	C	C	C	C	C
Check-Cashing Establishment	P	P	-	-	-	-
Child Care Center	-	-	-	-	P	-
Commercial, Industrial Truck and Bus Services	-	C	C	-	C	-
Commercial Antennas & Microwave Dishes, Building Mounted	C	C	C	C	C	C
Commercial Antennas and Microwave Dishes, Collocation	P	P	P	P	P	P
Commercial Antennas & Microwave Dishes, Monopole / Dedicated Structure	-	C	C	-	C	C
Commercial Recreation , Large Scale	P	P	-	-	P	-
Commercial Recreation, Small Scale	P	-	-	-	-	-
Community Center	P	-	-	-	-	-
Convenience Retail	P	P	P	P	P	-
Co-Working, Incubator, or Shared Office	P	-	-	-	P	-
Crematorium, Animal	-	-	C	-	-	-
Data Center	P	P	P	P	P	P
Dry Cleaning & Laundry Establishment	C	C	C	-	C	-
Electrical or Gas Switching Facility, Power Distribution or Substation	-	-	P	P	-	P
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	P	P		-	-	-
Exterminator/Pesticide Application Business	C	C	C	-	-C	-
Finance, Insurance, Real Estate, or Securities Brokerage Consumer Services	P	-	-	-	P	-
Fish, Meat and Poultry Markets	P	-	-	-	-	-
Fitness Center	P	P	-	-	P	-
Flex Space, Light Industrial	P	P	-	-	P	-
Gasoline Station	C	C	C	C	C	C
Governmental (Non-Municipal) Uses	P	P	P	P	P	P
Heavy Retail and Service	P	P	-	-	P	-
Heliport	-	-	-	P	-	-
Homeless Shelter	P	-	-	-	-	-

Hotels (See Section 41:4-6, Additional Standards)	P	-	-	P	P	-
Laundry Facility-Commercial/Wholesale	P	P	P	-	P	-
Live Animal Market	C	C	C	-	-	-
Manufacturing, Heavy	-	-	P	-	-	P
Manufacturing, Light	P	P	P	-	P	P
Manufacturing, Medium	-	P	P	-	-	P
Materials Salvage or Junk Facility	-	-	C	-	-	-
Medical Marijuana Alternative Treatment Center	C	-	-	-	-	-
Medical Marijuana Safety Compliance Facility	C	C	C	-	-	-
Medical Marijuana Manufacturing Facility	C	C	C	-	-	-
Medical Marijuana Cultivation Facility	C	C	C	-	-	-
Methadone Maintenance Clinic	C	-	-	-	-	-
Municipal Uses	P	P	P	P	P	P
Nightclubs, Discotheques & Cabarets	P	P	-	-	P	-
Operation Facilities for Bus/Taxicab/Ambulance/Limousine	P	P	P	P	P	-
Outdoor Storage	-	-	C	-	-	P
Outdoor Storage, Chemical	-	-	C	-	-	P
Parking Garage, Commercial Vehicle	-	P	P	-	P	-
Places of Worship	C	-	-	-	-	-
Power Generation Facilities	-	-	C	-	-	-
Recycling Center	-	C	C	-	-	-
Research and Development	P	P	P	-	P	-
Self Storage	P	P	-	-	-	-
Sexually Oriented Businesses	-	C	-	-	-	-
Shipping Container Storage (see Section 41:22)	P	P	P	P	P	P
Sit-Down Restaurant	P	-	-	-	-	-
Solar Energy System	P	P	P	P	P	P
Substance Abuse Treatment Centers	C	-	-	-	-	-
Take-Out Restaurant	P	-	-	-	-	-
Telephone Switching Facility	P	P	P	-	P	-
Truck Terminal	-	C	C	-	-	-
Truck, Tractor, Trailer, and Heavy Vehicle Parking or Storage	-	-	C	C	-	C
Vehicle Towing Facility	-	P	P	-	P	-
Veterinary Clinic or Office	P	-	-	-	-	-
Veterinary Hospital	P	-	-	-	-	-
Warehousing, Cold Storage	-	C	C	C	C	C
Warehousing, Distribution (aka Bulk Break)	-	C	C	C	C	C
Warehousing, High Cube	-	-	C	C	-	C
Warehousing, Last-Mile Fulfillment	-	-	C	C	-	C
Warehousing, Micro-Fulfillment	C	C	C	C	C	C
Warehousing, Traditional	C	C	C	C	C	C
Waste Transfer Station	-	-	-	-	-	-
Wholesale Bakeries	P	P	P	-	P	-
Wholesale Trade	P	P	P	P	P	P

Accessory Uses	I-1	I-2	I-3	EWR	EWR-S	PORT
Automotive Lifts (see Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Childcare Center	P	-	-	-	P	-
Commercial, Industrial Truck and Bus Wash	-	C	C	-	C	-
Composting (see Section 41:4-6, Additional Standards)	P	P	P	P	P	P
Parking Area, Private	P	P	P	P	P	P
Donation Bin (See Section 41:4-6, Additional Standards)	P	P	P	-	P	-
Drive-Through Facilities	C	-	-	-	C	C
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	P	-	-	-	-	-
Offices	P	P	P	P	P	P
Outdoor Display Area	P	P	P	P	P	P
Outdoor Storage	C	C	C	C	C	C
Outdoor Storage, Chemical	-	C	C	C	C	C
Outdoor Storage, Portable Storage Units	C	C	C	C	C	C
Parking, Structured	P	P	P	P	P	P
Power Plant	-	-	C	-	-	-
Solar Energy Systems	P	P	P	P	P	P
Wind Energy Systems, Small	C	C	C	C	C	C

§ 41:4-4 Permitted Uses in Other Districts.

Table 4-4: Other Districts			
P = Permitted - = Not Permitted C = Conditionally Permitted			
Any use not listed below is also prohibited, unless the Zoning Officer determines it is sufficiently similar to a listed use to be permitted. Multiple principal uses shall be permitted within a mixed-use building or buildings where permitted.			
Principal Uses	INST	PARK	CEM
Single-Family Dwelling	-	-	-
Two-Family Dwelling	-	-	-
Three-Family Dwelling	-	-	-
Town House, Dwelling	P	-	-
Low-Rise Multi-Family Dwellings	P	-	-
Mid-Rise Multi-Family Dwellings	P	-	-
High-Rise Multi-Family Dwellings	P	-	-
Single Room Occupancy Dwellings (See Section 41:4-6, Additional Standards)	P	-	-
Dwellings in a mixed-use building	P	-	-

Active Recreation Park	P	P	-
Animal Café	-	-	-
Animal Daycare, Animal Grooming	-	-	-
Artisan and Craft Workspace	P	-	-
Bar/Lounge, Cigar or Hookah (See Section 41:4-6, Additional Standards)	-	-	-
Body Art Studio	-	-	-
Brewery, Limited	-	-	-
Brewery, Restricted	-	-	-
Business, Specialized or Vocational Schools	P	-	-
Cannabis Delivery	C	-	-
Cannabis Retailer	C	-	-
Cemeteries	-	-	P
Child Care / Adult Daycare Center	P	-	-
Colleges and Universities	P	-	-
Commercial Antennas & Microwave Dishes, Building Mounted	C	-	-
Commercial Antennas & Microwave Dishes, Collocation	P		
Commercial Recreation, Large Scale	P	-	-
Commercial Recreation, Small Scale	P	-	-
Community Centers	P	P	-
Community Gardens	P	P	-
Consumer Repair Services	P	-	-
Convenience Retail	P	-	-
Co-Working, Incubator, or Shared Office	P	-	-
Dormitory	P	-	-
Dry Cleaning and Laundry Pick-Up / Drop-Off Establishment without on-site dry cleaning	P		
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	P	-	-
Event Space	P	-	-
Fitness Center	P	-	-
Fresh Food Market	P	-	-
Funeral Home or Mortuary	-	-	P
Governmental (Non-Municipal) Uses	P	P	P
Homeless Shelter	C	-	-
Hotels (See Section 41:4-6, Additional Standards)	P	-	-
Human Crematorium	-	-	P
Hybrid / Flexible Businesses or Uses (Comprising any combination of permitted uses)	P	-	-
Laundromat	P	-	-
Live-Work Space (Non-Nuisance Producing)	P	-	-
Makers Space	P	-	-
Market Gardens	P	P	-
Medical Clinic or Emergency Care Facility	P	-	-
Medical Marijuana Alternative Treatment Center	C	-	-
Medical Marijuana Safety Compliance Facility	C	-	-
Medical Offices	P	-	-
Municipal Uses	P	P	P
Museums	P	-	-
Offices	P	-	-

Passive Recreation Park	P	P	P
Personal Service Establishment	P	-	-
Places of Worship	C	-	C
Primary & Secondary Schools	C	-	-
Research and Development	P	-	-
Retail Sales, General Consumer Goods	P	-	-
Shared Kitchen	P	-	-
Sit-Down Restaurant	P	-	-
Take-Out Restaurant	P	-	-
Theaters	P	-	-
Accessory Uses			
Automotive Lifts (See Section 41:4-6, Additional Standards)	P	-	-
Child Care / Adult Daycare Center	P	-	-
Coldframe	P	P	-
Columbarium	-	-	P
Composting (See Section 41:4-6, Additional Standards)	P	P	-
Crematorium (Animal or Human)	-	-	C
Donation Bin (See Section 41:4-6, Additional Standards)	P	-	-
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	P	-	-
Farm Stand	P	P	-
Greenhouse	P	P	-
Home Occupation (See Section 41:4-6, Additional Standards)	P	-	-
Hoophouse	P	P	-
Indoor Cannabis Consumption Area with Licensed Cannabis Retailer	P	-	-
Maintenance Buildings	P	P	P
Massage Facilities	C	-	-
Mausoleum	-	-	P
Offices	P	P	P
Outdoor Storage, Portable Storage Units	P	-	P
Parking, Structured	P	-	-
Place of Worship	-	-	P
SidewICafe (accessory to permitted restaurant only, see Section 41:4-6, Additional Standards)	P	-	-
Solar Energy Systems	P	P	P
Tombstones and Monuments	-	-	P
Wind Energy Systems, Small	C	C	C

§ 41:4-5 **Nonconforming Uses.**

§ 41:4-5-1 **Continuation.**

Any lawful nonconforming use or structure existing on the effective date of the zoning ordinance, or at the time of the effective date of any amendment or supplement thereto making it a nonconforming use or structure, may be continued upon the lot or in the building so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof, in accordance with this Title, except that any lawful nonconforming use subject to condition or conditions or limitation as to term of duration, shall continue subject to any condition or conditions, and only for and to the end of the term or duration for which such nonconforming use

was granted.

§ 41:4-5-2 Variance Provisions.

No existing building or premises devoted to a nonconforming use as permitted by this Title, shall be enlarged, extended, reconstructed or structurally altered, unless a variance for such expansion has been granted by the Zoning Board of Adjustment pursuant to NJSA 40:55D-70d(2).

§ 41:4-5-3 Discontinued Use.

No nonconforming use which shall have been discontinued for a period exceeding 12 months shall be resumed, nor shall it be replaced by any other nonconforming use.

§ 41:4-5-4 Partial Destruction.

1. Partial destruction shall be defined as damage to a building, structure or property such that at least 50% of the structure remains as calculated either by area, volume, or value.
2. In the event of a partial destruction, of a structure devoted to a nonconforming use, the owner shall, within 90 days after such event, give notice in writing to the Uniform Construction Code Official of his/her intention to restore or repair the structure, and within 90 days after date of notice, commence and diligently proceed to the completion of the work.

§ 41:4-5-5 Provisions Concerning Definitions.

In the construction of any definition in this Title, in its application to a nonconforming use, the definition shall be deemed a clarification of the applicable definition heretofore contained in any preexisting ordinance.

§ 41:4-5-6 Exceptions.

Non-conforming one-, two-, and three-family residential structures shall be permitted to continue in any zone. Any expansion or modification of such use that can be undertaken in conformance with the applicable bulk standards shall be permitted without variance relief. Any expansion not in conformance with zoning requirements shall be considered an expansion of a non-conforming use.

§ 41:4-6 Additional Standards.

The following standards shall apply to certain permitted uses and buildings as indicated. Each of the standards enumerated in this section shall be considered a zoning requirement. Deviations from these standards shall require variance relief pursuant to N.J.S.A. 40:55D-70.c.

§ 41:4-6-1 Automotive Lifts.

1. General Automotive Lift Standards.
 - a. Automotive lifts shall be used only as expressly provided in this Section and as part of an approved site plan.
 - b. Automotive lifts shall comply with the applicable automotive lift requirements of

the New Jersey Uniform Construction Code (NJAC 5:23).

- c. The applicant shall certify that any permitted automotive lift shall comply with the most current ANSI/ALI ALOIM "Safety Requirements for the Operation, Inspection, and Maintenance of Automotive Lifts" and provide a plan for ongoing operation, inspection and maintenance.
 - d. Automotive lifts shall comply with noise limitations set forth in Title XX, Chapter 3 of the Revised General Ordinances of the City of Newark, known as the "Noise Control Ordinance of the City of Newark."
 - e. Automotive lifts shall be exempt from the parking dimension requirements of Chapter 8, Requirements for Off Street Parking and Loading Areas.
2. Usage Standards.
- a. Automotive lift usage in residential buildings or mixed-use buildings with a residential component.
 - i. Automotive lifts shall not be permitted in in conjunction with any exclusively residential building or mixed-use building with a residential component containing six or fewer residential dwelling units.
 - ii. Exterior automotive lifts shall not be permitted as part of any development that contains residential units.
 - b. Automotive lift usage in non-residential buildings or nonresidential use in mixed-use buildings.
 - i. Automotive lifts may be in used in conjunction with permitted non-residential buildings for any parking required or permitted in the building or at the site.
 - ii. Exterior automotive lifts shall only be permitted in the I-1, I-2, I-3, EWR, EWR-S, PORT, and INST Districts.
 - c. Exterior automotive lifts shall be operated only by a valet or an attendant employed by the owner or tenant of the building / facility.
 - d. Interior automotive lifts shall be permitted to be operated without a valet using a mobile app, kiosk, or other similar device. Where a valet or attendant is not present at all times, an emergency back-up power system shall be provided, and a service contact shall be available 24/7.
 - e. Where permitted, automotive lifts proposed to serve any use in a historic district shall only be located within a fully enclosed building.
3. Exterior parking lifts shall not exceed 24 feet in height.

§ 41:4-6-2 Cemeteries.

1. Within a cemetery, the following activities, structures, and buildings shall be permitted:
 - a. Internment of the dead and related activities associated therewith.
 - b. Places of worship as an accessory use.
 - c. An office strictly related to activities of the cemetery or a residence to be used exclusively for an employee involved in caretaking, security or other activities of the cemetery.
 - d. Erection of tombstones and monuments.
 - e. Accessory maintenance buildings related to the operation of the cemetery not to exceed a height of 20 feet.
 - f. Mausoleums and columbaria subject to the following requirements:
 - i. There shall be only one mausoleum and one columbarium per cemetery;
 - ii. Family mausoleums shall not be limited in number.
 - iii. All mausoleums and columbaria must be constructed in accordance with the requirements of Federal, State and local building codes, including fire prevention and health codes.
 - iv. No mausoleum or columbarium shall be constructed without written approval from the New Jersey Department of Community Affairs of plans and specifications and without a building permit from the City Construction Official.
 - g. Crematories are subject to the conditional use requirements at 41:6-2-19.
2. All permanent structures in a cemetery shall adhere to the following area and bulk restrictions:
 - a. Maximum height: 20 feet.
 - b. Minimum front yard setback: 30 feet.
 - c. Minimum side yard setback: 15 feet.
 - d. Minimum rear yard setback: 30 feet.

§ 41:4-6-3 Cigar Bars/Lounge and Cigar/Tobacco/Vape Retail Establishments.

1. Cigar bars and cigar lounges are regulated pursuant to NJSA 26:3D-55 et seq., "New Jersey Smoke-Free Air Act" and NJAC 8:6 et seq. which states that smoking is

prohibited in an indoor public place or workplace including cigar bars and cigar lounges.

2. A cigar bar or cigar lounge is exempt from the provisions of the New Jersey Smoke Free Air Act if the following conditions are met:
 - a. The cigar bar or cigar lounge in the calendar year ending December 31, 2004, generated 15% or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines; and
 - b. The cigar bar or cigar lounge is registered with the local Board of Health in the City of Newark in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if:
 - i. In the preceding calendar year, the cigar bar or lounge generated 15 or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and
 - ii. The cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004.

§ 41:4-6-4 Commercial Antennas and Microwave Dishes – Collocation

1. An application to collocate wireless communications equipment on a wireless communications support structure or in an existing equipment compound shall not be subject to site plan review provided the application meets the following requirements:
 - a. The wireless communications support structure (either building-mounted or free-standing) shall have been previously granted all necessary approvals by the city;
 - b. The proposed collocation shall not increase:
 - i. The overall height of the wireless communications support structure by more than 10 percent of the original height of the wireless communications support structure
 - ii. The width of the wireless communications support structure
 - iii. The square footage of an existing equipment compound to an area greater than 2,500 square feet.
 - c. The proposed collocation complies with the final approval of the wireless communications support structure and all conditions attached thereto, including the integrity of any screening or camouflaging measures, and does not create a condition for which variance relief would be required.

§ 41:4-6-5 Composting (accessory use).

1. No compost area may exceed five cubic yards in size. Any compost area must be placed at least three feet from any property line.
2. Organic waste must be generated on site.
3. All compost must be used on site.
4. Compost and raw materials shall not produce odor or attract mosquitos.
5. A rat, insect, rodent, bird and/or pest control such as screening or netting must be provided.
6. Surface water control to prevent composting materials from sitting in ponded surface water must be provided.
7. Compost must be turned at regular intervals to aid in physical breakdown until composting is complete.
8. Compost material shall not contain sewage.

§ 41:4-6-6 Donation Bin (accessory use).

The placement and/or use of a clothing bin shall be regulated, and the use and location of bins shall be subject to the following requirements:

1. Donation bins shall only be located in nonresidential zoning districts. Exempt from this requirement shall be fire departments or divisions, first aid rescue squads, houses of worship, many of which are located in residential zones, provided that no clothing bin located on any fire, first aid squad facility, place of worship or school property shall be closer than 250 feet from an adjacent residential dwelling.
2. Donation bins shall not be in the public right-of-way.
3. The location of donation bins on real property shall be consistent with any existing site plan approval for the premises. If it is not, the applicant shall be required to obtain a waiver of site plan approval. If a site plan waiver is not obtained, then the applicant shall apply for a revised site plan to the appropriate Land Use Board.
4. No more than two receptacles shall be located within any complex.
5. Each donation bin shall not exceed six feet in depth, eight feet in width and six feet in height.
6. The clothing bin shall be located in such a manner that it will not interfere with pedestrian and/or vehicular traffic circulation or otherwise cause a traffic hazard by virtue of any obstruction that it may create by its placement.

7. The receptacles shall be located in a clearly visible and well-lighted area to permit inspection and enforcement.
8. The donation bin may be placed in parking stalls only if the site exceeds its minimum parking requirement.
9. No donation bin shall be placed in a required buffer area or within three feet of a property line, or in a sight triangle or fire zone.
10. No donation bin shall be placed in a parking space designated as handicapped parking or for EVSE.
11. No clothes shall be stored outside the donation bin.
12. The person placing, using or employing a donation bin shall maintain the bin and the area surrounding the bin such that there shall be no accumulation of clothing or other donations outside the bin.
13. The bin shall be emptied no less than once a week and the area immediately surrounding shall be maintained in a clean and sanitary condition, and the clothing bin should remain in good working order and painted.

§ 41:4-6-7 Family Day Care Home.

1. The use shall be registered with the New Jersey Department of Children and Families as a family day care home and for which a certificate of registration has been issued pursuant to the "Family Day Care Provider Registration Act, "P.L. 1987, c. 27 (C.30:5B- 16 et seq.). The facility shall be in compliance with all State and City regulations including Chapter 126, Manual of Requirements for Family Child Care Registration (NJAC 10:126-1 et seq.) issued by the State of New Jersey Department of Children and Families.
2. The family day care provider shall be a resident of the home in which the service is to be provided.
3. There shall be no change in the appearance of the dwelling or premises, or any visible evidence of the conduct of a family day care home.
4. There shall be no storage of equipment, vehicles or supplies associated with the family day care home outside the dwelling.

§ 41:4-6-8 Home Occupations.

1. Home occupations shall be conducted entirely within the principal dwelling unit or an accessory structure.
2. A maximum of one home occupation shall be permitted per dwelling unit.
3. The area of the principal structure associated with the operation of a home occupation

shall not exceed 20% of the gross floor area of the dwelling unit.

4. Applicants for home occupation zoning permits shall be the owner of the property or a tenant resident with notarized consent of the property owner to make the application.
5. A maximum of one employee, who does not reside at the property, shall be permitted to work at the home occupation location.
6. Any vehicle associated with the operation of a home occupation shall have a designated on-site parking space in a driveway or garage.
7. No truck deliveries or pick-ups, except for public or private parcel services (i.e. USPS, UPS, FedEx) shall be permitted.
8. A home occupation shall not produce noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, glare, humidity, fumes, electrical interference, waste run-off, or other nuisance outside the dwelling unit or accessory structure.
9. No outdoor storage of goods or material shall be permitted.
10. There shall be no change in the appearance of the dwelling or premises, or any visible evidence of the conduct of a home occupation including any artificial light.
11. Plans with sufficient detail to confirm compliance with the standards herein shall be submitted for review by the Administrative Officer.

§ 41:4-6-9 **Hotels.**

1. A hotel shall not be a permanent or primary residence for its users.
2. A hotel shall not contain a self-service guest laundry.
3. Minimum rental period for each non-meeting room shall be 24 hours, maximum period shall be 11 months.
4. All rooms shall only have access by way of a common lobby and hallway. There can be no direct access to a room from a parking space by way of an outside doorway at the room or direct access to a garage. "Motels" or "motor hotels" shall not be permitted.
5. Outdoor recreational facilities such as swimming pools and tennis courts may be permitted but shall be no closer than 25 feet to the property boundary of a residential use or residential zone boundary, and shall comply with Section **41:16-3**, Buffer Areas.
6. No outdoor public address or music system shall be used.

§ 41:4-6-10 **Pet Shops.**

1. Applicants wishing to operate a pet store shall obtain a license from the City of

Newark pursuant to Title VI Animals and Fowl, Chapter 2 Other Animals, Fowl, Article 2 Bird Stores or Pet Shops, of the Revised General Ordinances of the City of Newark.

2. Applicants shall comply with the applicable requirements of NJAC 8:23A-1.1 et seq. Sanitary Operation of Kennels, Pet Shops, Shelters and Pounds.

§ 41:4-6-11 **Private Clubs.**

1. Applicants wishing to operate a social club shall obtain a license from the City of Newark and operate and maintain the social club in accordance with the regulations of Title V, Amusements and Amusement Businesses, Chapter 12 Social Clubs, of the Revised General Ordinances of the City of Newark.
2. Motorcycle clubs shall designate an area where motorcycles shall be parked. All motorcycles shall be parked onsite. All activities shall be internal to the building.

§ 41:4-6-12 **Sidewalk Cafes.**

1. Eating and drinking establishments wishing to operate an accessory sidewalk cafe shall obtain a license from the City of Newark and operate and maintain the sidewalk cafe in accordance with the regulations of Title XXIX Streets and Sidewalks, Chapter 26 Sidewalk Cafes, of the Revised General Ordinances of the City of Newark.
2. No outdoor public address or outdoor music system shall be used.

§ 41:4-6-13 **Urban Farms.**

1. Urban farms must provide a water source from on- site or off-site source.
2. Green houses and hoop houses shall not exceed 15 feet in height and shall be located at least three feet from side and rear property lines.
3. Equipment used for farming and selling shall be kept in enclosed structures.
4. The only animals permitted to live on-site is fowl and rabbits, except for roosters and any animals that make sounds. No fowl or rabbits shall be allowed, under any circumstances, to run at large. They shall be kept confined in a suitable house or coop with an enclosed runway.
5. Compost may be collected on site and may be sold or given away to the public on-site.
6. A 10 square foot sign is permitted to be attached to a building, wall or a fence.

§ 41:4-6-14 **Short Term Rental.**

1. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit in which the short-term rental activity occurs.
2. All short term rentals must comply with all applicable rules, regulations, and ordinances of

the City of Newark and all applicable rules, regulations, and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable.

3. Any unit to be used for short-term rentals shall obtain a Short-Term Rental Permit and rental Certificate of Occupancy from the City of Newark, Department of Engineering before renting or advertising for rent any short-term rental property.
4. Any unit to be used for short-term rentals shall be registered on an annual basis with the City and shall be required to submit proof of current homeowners' or renters' insurance, as applicable, and a satisfactory inspection report from the Department of Engineering, Office of Code Enforcement certifying that the unit is substantially compliant with State and Municipal fire safety regulations and applicable standards of habitability. The Inspection certificate shall be framed and prominently displayed within the unit on or shall be framed and prominently displayed within the unit on or near the entrance door. Short-term rentals shall not be permitted in a unit with outstanding building code and/or fire code violations.
5. The Department of Engineering, Office of Code Enforcement shall develop a fee schedule for the registration and inspection certification of a unit to be used for short-term rentals. This fee shall be applied to the cost of inspection and administration of the City database of short-term rental units.
6. Any unit used for short-term rentals shall be subject to the applicable City and State lodging and occupancy taxes.
7. No unit shall be rented for more than a cumulative total of 60 days in any one calendar year. This maximum shall be in addition to the restriction of short-term rental stays for no more than 28 consecutive days at any one time.
8. No individual or legal entity shall be permitted to rent more than five units as short-term rentals at any one time.
9. Short-term rental agreements for rent controlled units must be in compliance with the standards and regulations required under the Rent Control ordinance of the City of Newark.
10. Units owned, managed and operated by the City of Newark Housing Authority may not be used for short-term rentals. Tenants receiving U.S. Department of Housing and Urban Development ("HUD") housing vouchers may not engage in short-term rentals.

Chapter 41:5

Building Bulk and Design Requirements

The Newark Zoning and Land Use Ordinance provides the rules for the bulk and design of buildings organized by building types such as single-family house, apartment building, and houses of worship. Once you understand the zone for a particular lot in the city and the uses that are permitted for that lot, this Chapter provides the rules for which building types are permitted to contain those uses, and the rules for the physical layout and shape of the building.

Table 5-1 indicates which building types are permitted in which zones.

Tables 5-2 provides the specific bulk and design standards for each building type. Following that, graphic illustrations depict the rules for building type. In case of conflict or ambiguity, bulk and design standards provided in the tables shall prevail.

§ 41:5-1 Permitted Building Types by Zoning District.

Table 5-1 indicates which building types are permitted in which zones.

Building Type	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	C-3	I-1	I-2	I-3	MX-1	MX-2	MX-3	INS T	EWR/EWR-S
Residential																	
One-Family	P	P	P	P									P	P			
Two-Family		P	P	P									P	P			
Three-Family		P	P	P									P	P			
Four-Family			P	P									P	P			
Townhouse			P	P									P	P			
Low-rise multi-family			C	P	P	P	P						P	P	P	P	
Mid-rise multi-family					P	P								C	P	P	
High-rise multi-family						P									P	P	
Mixed-use buildings with residential and non-residential uses							P	P	P				P	P	P	P	
Detached Commercial									P	P			P	P			P

Industrial											P	P	P								P
Civic/Institutional																					
University																				P	
Hospital or Medical Institution																				P	
Schools (Elementary, Middle, High Schools)	P	P	P	P	P	P	P	P	P	P				P	P					P	
Place of Worship	P	P	P	P	P	P	P	P	P				P	P						P	
Community Center, Stand-alone Daycare or Preschool, and other Civic / Miscellaneous Buildings			P	P	P	P	P	P	P	P	P			P	P	P	P	P	P	P	P

§ 41:5-2 General Bulk and Design Standards.

Table 5-2 General Bulk and Design Standards

§ 41:5-4 Illustrated Bulk and Design Requirements.

§ 41:5-4-1 Single-Family House in R-1 Zone.

Lot Size

Minimum lot size for subdivision is 5000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height is three stories and 35 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be 15 feet

For houses on through lots, the setback must match the smaller setback of its neighbors and a front yard be provided at each street

On corner lots, one setback must match the smaller of its neighbors and a front yard be provided at each street

Side and Rear Setback

One side yard must be 10% of lot width minimum and the other side must be 20% of lot width minimum

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

40%

Maximum Impervious Lot Coverage

60%

One driveway no wider than ten feet permitted in front yard

Minimum Building Transparency

Front 30%

Street-Facing Side and Rear 20%

Non-Street-Facing Side and Rear 10%

Primary street-facing facade must include primary entrance at front setback

Corner lots must include two entrances, one on each street-facing facade

§ 41:5-4-2 Single-Family House.

Lot Size

Minimum lot size for subdivision is 2,500 square feet

Minimum lot width for subdivision is 25 feet

Height

Maximum building height is three stories and 36 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

For houses on through lots, the setback must match the smaller setback of its neighbors and a front yard be provided at each street

On corner lots, one setback must match the smaller of its neighbors and a front yard be provided at each street

Side and Rear Setback

Side setback is three feet minimum

... or, can be zero feet if neighbor has a side setback of three feet or more ...

... or, can be zero feet if the neighbor has a side setback of zero feet

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

50%

Maximum Impervious Lot Coverage

65%

One driveway no wider than ten feet permitted in front yard.

Driveways are not permitted on lots with less than 25 feet of width.

Minimum Building Transparency

Primary Front 30%

Street-Facing other than Primary Front 20%

Non-Street Facing 10%

Primary street-facing facade must include primary entrance at front setback

Corner lots must include two entrances, one on each street-facing facade

§ 41:5-4-3 2-Family House.

Lot Size

Minimum lot size for subdivision is 2,500 square feet

Minimum lot width for subdivision is 25 feet

Height

Maximum building height is three stories and 36 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

For houses on through lots, the setback must match the smaller setback of its neighbors and a front yard be provided at each street

On corner lots, one setback must match the smaller of its neighbors and a front yard be provided at each street

Side and Rear Setback

Side setback is three feet minimum

... or, can be zero feet if neighbor has a side setback of three feet or more ...

... or, can be zero feet if the neighbor has a side setback of zero feet

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

50%

Maximum Impervious Lot Coverage

65%

One driveway no wider than ten feet permitted in front yard.

Lot Size

Driveways are not permitted on lots with less than 25 feet of width.

Minimum Building Transparency

Primary Front 30%

Street-Facing other than primary front 20%

Non-Street-Facing 10%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-4 3-Family House.**Lot Size**

Minimum lot size for subdivision is 2,500 square feet

Minimum lot width for subdivision is 25 feet

Height

Maximum building height is three stories and 36 feet.

Front Setback

Front setback must match the smaller setback of its neighbors.

On undeveloped blocks, setback must be six feet.

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard.

On corner lots, one setback must match the smaller of its neighbors and the other must be six feet or less.

Side and Rear Setback

Side setback is three feet minimum.

... or can be zero feet if neighbor has a side setback of three feet or more ...

... or can be zero feet if the neighbor has a side setback of zero feet.

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

55%

Maximum Impervious Lot Coverage

70%

One driveway no wider than ten feet permitted in front yard.

Driveways are not permitted on lots with less than 25 feet of width.

Minimum Building Transparency

Primary Front 30%

Non-Street-Facing 10%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-5 4-Family House.

Lot Size

Minimum lot size for subdivision is 3,500 square feet

Minimum lot width for subdivision is 35 feet

Height

Maximum building height is three stories and 36 feet.

Front Setback

Front setback must match the smaller setback of its neighbors.

On undeveloped blocks, setback must be six feet.

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard.

On corner lots, one setback must match the smaller of its neighbors and the other must be six feet or less.

Side and Rear Setback

Side setback is three feet minimum.

... or can be zero feet if neighbor has a side setback of three feet or more ...

... or can be zero feet if the neighbor has a side setback of zero feet.

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

55%

Maximum Impervious Lot Coverage

70%

One driveway no wider than ten feet permitted in front yard.

Driveways are not permitted on lots with less than 25 feet of width.

Minimum Building Transparency

Primary Front 30%

Street-Facing other than primary front 20%

Non-Street-Facing 10%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-6 **Townhouse.**

Lot Size

Minimum lot size for subdivision is 5,000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height is three stories and 36 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard

On corner lots, one setback must match the smaller of its neighbors and the other must be six feet or less

Side and Rear Setback

Side setback is three feet minimum

... or can be zero feet if neighbor has a side setback of three feet or more ...

... or can be zero feet if the neighbor has a side setback of zero feet

Rear yard setback must be 30% of the lot depth or 30 feet minimum, whichever is lesser.

Maximum Lot Coverage by Building

60%

Maximum Impervious Lot Coverage

70%

Minimum Building Transparency

Primary Front 30%

Street-Facing other than primary front 20%

Non-Street-Facing 10%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-7 **Low-Rise Multifamily Dwellings.**

Lot Size

Minimum lot size for subdivision is 5,000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height is five stories and 60 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard

On corner lots, one setback must match the smaller of its neighbors and the other must be six feet or less

Side and Rear Setback

Side setback is 5 feet minimum

... or can be zero feet if neighbor has a side setback of 5 feet or more ...

... or can be zero feet if the neighbor has a side setback of zero feet

Rear yard setback must be 30 feet minimum.

Min. Lot Area per Dwelling

375 square feet

In the R-3 Zone, where conditionally permitted per Section 41:6-2-25, a minimum of 500 square feet per dwelling.

Maximum Lot Coverage by Building

70%

Maximum Impervious Lot Coverage

75%

Minimum Building Transparency

Primary Front 35%

Street-Facing other than primary front 25%

Non-Street-Facing 20%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-8 Mid-Rise Multifamily.

Lot Size

Minimum lot size for subdivision is 7,500 square feet

Minimum lot width for subdivision is 75 feet

Height

Maximum building height in the R-5, R-6, or MX-3 Zone is eight stories and 96 feet

Maximum building height in MX-2 Zone of eight stories and 96 feet is conditionally permitted

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard

Side and Rear Setback

Side setback is 5 feet minimum

... or can be zero feet if neighbor has a side setback of 5 feet or more ...

... or can be zero feet if the neighbor has a side setback of zero feet

Rear yard setback must be 30 feet minimum.

Min. Lot Area per Dwelling

200 square feet

Maximum Lot Coverage by Building

70%

Maximum Impervious Lot Coverage

75%

Minimum Building Transparency

Street-Facing other than primary front 25%

Non-Street-Facing 20%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-9 High-Rise Multifamily.

Lot Size

Minimum lot size for subdivision is 10,000 square feet

Minimum lot width for subdivision is 100 feet

Height

Maximum building height is ten stories and 120 feet

An additional one story and 12 feet of height is permitted for each additional 1,000 square feet of lot area up to 20,000 square feet, for a maximum height of 20 stories and 243 feet

Front Setback

Front setback must match the smaller setback of its neighbors

On undeveloped blocks, setback must be six feet

On through lots, the setback must match the smallest front setback of any neighbor, and adjacent street frontage must be the front yard

Side and Rear Setback

Side setback shall be ten feet minimum

Rear yard setback must be 30 feet minimum.

Min. Lot Area per Dwelling

200 square feet

Maximum Lot Coverage by Building

70%

Maximum Impervious Lot Coverage

75%

Minimum Building Transparency

Primary Front 35%

Street-Facing other than the primary front 25%

Non-Street-Facing 20%

Primary street-facing facade must include primary entrance at front setback

All units must be accessible from front or side facade

Rear primary entrances are prohibited

§ 41:5-4-10 Mixed-use buildings with residential and non-residential uses**Lot Size**

Minimum lot size for subdivision is 3,500 square feet; 10,000 square feet in the MX-3 Zone

Minimum lot width for subdivision is 35 feet; 100 feet in the MX-3 Zone

Height

Maximum building height in C-1 or MX-1, is five stories and 60 feet

Maximum building height in C-2 or MX-2 is five stories and 60 feet, with up to eight stories and 96 feet conditionally permitted.

Maximum building height in C-3 or INST is eight stories and 96 feet

Maximum building height in MX-3 is eight stories and 96 feet with up to 145 feet conditionally permitted.

No portion of any building within 100 feet of Ferry Street shall exceed 60 feet in height.

Front Setback

Front setback must be between zero and five feet

In the MX-3 Zone front setback shall match the shorter front setback of the 2 closest principal buildings on each side of the project site on the same block as the site or 6 feet if no prevailing setback

Side Setback

Side setback must be zero feet along interior side yards

Side setback must be ten feet on the side yard with the longer frontage on a corner lot

Side setback in the MX-3 Zone shall be five feet minimum for buildings up to eight stories and 10 feet minimum for buildings greater than 8 stories.

Rear Setback

Rear yard setback must be 25 feet minimum if abutting a residential use.

Rear setback must be 20 feet minimum if abutting non-residential or mixed-use

Min. Lot Area per Dwelling

In the C-1 or MX-1 Zone – 300 square feet

In the C-2, C-3, MX-2, MX-3, or INST Zone – 200 square feet

In the C-2, MX-2, or MX-3 Zone 150 square feet conditionally permitted.

Maximum Lot Coverage by Building

80%

Maximum Impervious Lot Coverage

85%

Minimum Building Transparency

Primary Front (above 14 feet in height) 40%

Primary Front (below 14 feet in height) 60%

Street-Facing other than primary front 35%

Non-Street 20%

Primary street-facing facade must include primary entrance at front setback. Entries to non-residential uses must have separate primary entrances

§ 41:5-4-11 Detached commercial.

Lot Size

Minimum lot size for subdivision is 5,000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height in MX-1 is six stories and 72 feet

Maximum building height in C-3, MX-2, I-1 and EWR-S is eight stories and 96 feet

Ground floor height must be 14 feet minimum

No portion of any building within 100 feet of Ferry Street shall exceed 60 feet in height.

Front Setback

Front setback must be five feet minimum

Side Setback

Side setback must be five feet minimum

... or zero feet

Rear Setback

Rear yard setback must be 25 feet minimum, if abutting a residential use.

Rear setback must be 20 feet minimum, if abutting non-residential or mixed-use

Maximum Lot Coverage by Building

85%

Maximum Impervious Lot Coverage

85%

Minimum Building Transparency

Front (above 14 feet in height) 40%

Front (below 14 feet in height) 65%

Street-Facing Side and Rear 35%

Non-Street-Facing Side and Rear 20%

Primary street-facing facade must include primary entrance at front setback. Entries to non-residential uses must have separate primary entrances

Building may have more than one principal facade and/or entry

§ 41:5-4-12 Industrial.

Lot Size

Minimum lot size for subdivision is 5,000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height is eight stories and 96 feet

Front Setback

Front setback must be ten feet minimum

Side Setback

Side setback must be five feet minimum

Rear Setback

Rear yard setback must be 50 feet minimum abutting a residential use.

Rear setback must be 20 feet minimum if abutting non-residential or mixed-use

Maximum Lot Coverage by Building

85%

Maximum Impervious Lot Coverage

85%

Minimum Building Transparency

Front 15%

Primary street-facing facade must include primary entrance at front setback

§ 41:5-4-13 University, Hospital or Medical Institution

Lot Size

Minimum lot size for subdivision is 10,000 square feet

Minimum lot width for subdivision is 100 feet

Height

Maximum building height in is 20 stories and 210 feet

Front Setback

Front setback must be between five and ten feet

Side Setback

Side setback must be five feet

Rear Setback

Rear yard setback must be 30 feet minimum.

Maximum Lot Coverage by Building

80%

Maximum Impervious Lot Coverage

85%

Minimum Building Transparency

Front 50%

Street-Facing Facades 35%

Non-Street-Facing Facades 25%

Primary street-facing facade must include primary entrance at front setback

Rear Primary entrances are prohibited

§ 41:5-4-14 Schools (elementary, middle and high schools).

Lot Size

Minimum lot size for subdivision is 10,000 square feet

Minimum lot width for subdivision is 100 feet

Height

Maximum building height is five stories and 60 feet.

Front Setback

Front setback must be between five and ten feet.

Side Setback

Side setback must be five feet.

Rear Setback

Rear yard setback must be 30 feet minimum.

Maximum Lot Coverage by Building

Maximum lot coverage by building is 65%

Maximum Impervious Lot Coverage

80%

Minimum Building Transparency

Front 35%

Street-Facing 25%

Non-Street-Facing 15%

Primary street-facing facade must include primary entrance at front setback

Rear primary entrances are prohibited

§ 41:5-4-15 Place of Worship.

Lot Size

Minimum lot size for subdivision is 10,000 square feet

Minimum lot width for subdivision is 100 feet

Height

Maximum building height is two stories and 30 feet

Architectural elements such as steeples, towers and cupolas may break this limit but not by greater than 30 feet

Front Setback

Front setback must be between five and ten feet

Side Setback

Side setback must be five feet

Rear Setback

Rear yard setback must be 30 feet minimum.

Maximum Lot Coverage by Building

65%

Maximum Impervious Lot Coverage

85%

Minimum Building Transparency

Front 35%

Street-Facing 25%

Non-Street-Facing 15%

Primary street-facing facade must include primary entrance at front setback

Rear primary entrances are prohibited

§ 41:5-4-16 Community Center, Stand-Alone Daycare or Preschool, or other Civic / Miscellaneous Building

Lot Size

Minimum lot size for subdivision is 5000 square feet

Minimum lot width for subdivision is 50 feet

Height

Maximum building height is three stories and 36 feet.

Front Setback

Front setback must be between five and ten feet

Side Setback

Side setback must be five feet

Rear Setback

Rear yard setback must be 30 feet minimum.

Maximum Lot Coverage by Building

65%

Maximum Impervious Lot Coverage

75%

Minimum Building Transparency

Front 35%

Street-Facing Side and Rear 25%

Non-Street-Facing 15%

Primary street-facing facade must include primary entrance at front setback

Rear primary entrances are prohibited

§ 41:5-5 General Bulk Standards and Exceptions.**§ 41:5-5-1 Height Exceptions**

1. For buildings three stories or taller, architectural elements such as towers and cupolas may exceed the permitted height limit by up to 6 feet.
2. For buildings four stories or taller, rooftop appurtenances such as mechanical equipment, penthouses, elevator overruns, stair towers, amenity spaces, and other similar items may exceed the height limit by up to 10 feet provided the appurtenance is set back a distance from any roof edge greater than or equal to its height, and further provided that the cumulative area covered by such appurtenances does not exceed 20% of the roof area. Mechanical units and solar panels shall not count toward the 20% limit.

§ 41:5-5-2 Setback Exceptions

1. Bay windows (with no wall section greater than 6 feet in width), balconies, porches and stoops are permitted to encroach into the front setback area with a maximum depth of 5 feet.
2. Balconies shall be permitted to encroach into the right-of-way subject to compliance with

building code and approval from the City.

3. An open or lattice enclosed fire-escape, fireproof outside stairway, or solid-floored balcony to a fire tower may project not more than 4 feet into a required rear yard, except that an open lattice-enclosed fire-escape may project not more than 8 feet into a rear yard, when it does not occupy more than 20% of the area of the yard.
4. The area required in a yard at any given level shall be open from such level to the sky unobstructed, except for the following:
 - a. Parapets, cornices, and other ornamental features may extend into a yard no greater than 18 inches.
 - b. Windowsills and belt courses may extend into a yard no greater than 4 inches.
 - c. Upper story balconies may extend into a rear yard area no greater than five feet.
 - d. Chimneys or flues may extend into a secondary front, side or rear yard provided they do not project more than 2 feet and not within 3 feet of any fenestration on a neighboring structure.
5. In computing the depth of a rear yard when the rear yard opens onto a public alley, ½ of the width of the alley may be considered to be a portion of the rear yard.

§ 41:5-6 Accessory Building and Structure Bulk and Zoning Standards.

§ 41:5-6-1 Accessory Buildings and Structures in R-1, R-2, and R-3 Zones

1. No accessory building or structure shall be permitted in any front yard area, except for the secondary front yard area associated with a through-lot or other irregular lot having multiple street frontages.
2. Accessory buildings and structures shall be setback a minimum of 10 feet from a secondary front lot line and 3.5 feet from any other property line.
3. Accessory buildings and structures shall not exceed 20 feet in height.
4. Accessory buildings and structures shall not have a footprint greater than 40% of the footprint of the principal structure.

§ 41:5-6-2 Accessory Buildings and Structures in R-4, R-5, R-6, C-1, C-2, MX-1, and MX-2 Zones

1. No accessory building or structure shall be permitted in any front yard area, except for the secondary front yard area associated with a through-lot or other irregular lot having multiple street frontages.
2. Accessory buildings and structures shall be setback a minimum of 10 feet from a secondary front yard and 3.5 feet from any other property line.
3. Accessory buildings and structures shall not exceed 20 feet in height.
4. Accessory buildings and structures shall not have a footprint greater than 1,000 square feet or 20% of the footprint of the principal structure, whichever is lesser.

§ 41:5-6-3 Accessory Buildings and Structures in the C-3, I-1, I-2, I-3, INST, and EWR / EWR-S Zones

1. Accessory buildings and structures shall have the same required front yard setback as the principal structure.
2. Accessory buildings and structures shall be setback a minimum of 5 feet from any property line.
3. Accessory structures shall not exceed 18 feet in height in commercial zones and 30 feet in height in industrial zones.

Chapter 41:6

Conditional Use Standards

§ 41:6-1 Enumerated; Applications; Procedure.

The following are conditional use regulations, and they shall be governed as provided below. Since the uses below may be inimical to the public safety and general welfare if located without due consideration of conditions and surroundings, no permit therefore shall be issued unless an application is first made to the Central Planning Board, which is directed to hear the same in the same manner and under the same procedures as set forth in Section 54 of the Municipal Land Use Law (C.40:55D-67). No application for a conditional use shall be granted by the Central Planning Board if in its judgment such use will be detrimental to the health, safety and general welfare of the community.

§ 41:6-2 Standards for Conditional Uses.

§ 41:6-2-1 Accessory Dwelling Units.

1. Only one ADU structure allowed per property, detached or attached to the principal residence.
2. ADU shall be subject to review by the Landmarks and Historic Preservation Commission where such review is otherwise required.
3. ADU shall not be permitted in a basement, cellar, or attic.
4. The conversion of an existing garage into an ADU shall not be permitted.
5. ADU shall not be used for short-term rental. The minimum lease duration shall be six (6) months.
6. Subdivision shall not be allowed to separate ADU from the principal residence.
7. Common ownership (principal dwelling and ADU) and owner occupancy (principal dwelling or ADU) shall be required.
8. One off-street parking space shall be required.
9. A minimum lot area of 5,000 SF shall be required.
10. Minimum ADU floor area 400 SF or 25% of the floor area of the principal dwelling, but not to exceed 600 SF.
11. Detached accessory dwelling unit bulk standards:
 - a. Shall have a minimum primary façade transparency of 20%. Primary façade shall be defined as the façade where the primary entrance is located.

- b. Shall have the following minimum setbacks:
 - i. 10 feet from one side and 5 feet from the other side
 - ii. 5 feet from the rear property line.
 - iii. 5 feet from the principal building.
 - iv. 5 feet from any other accessory structure.
 - c. Shall not exceed 20 feet in height
 - d. Shall not be located in the front yard, beyond the front façade of the principal building.
12. ADU shall generally match the architectural style, appearance and character of the principal building through the use of similar materials, window, façade and roof design, or to complement the principal building through use of materials and design of equal or better quality.
13. No trees shall be removed for the construction of ADU.
14. All other bulk standards (coverage, etc.) in the zone apply.

§ 41:6-2-2 Animal Boarding or Kennel, Pound or Shelter.

- 1. Location. Outdoor facilities:
 - a. Shall be located a minimum of 200 feet from any residential use.
 - b. Shall not be located in areas used for required parking.
 - c. Shall be located in a side or rear yard but shall not encroach into any required setbacks of the zone in which it is located.
- 2. Buffers and Fences. Outdoor facilities shall be enclosed within a fence meeting the following requirements:
 - a. The fence shall be a minimum of 6 feet in height.
 - b. The fence shall be opaque and shall be comprised of wood stockade, PVC vinyl or similar material.
 - c. The fence shall not be made of chain link.
- 3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to

demonstrate compliance with these standards.

4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
 - a. Obtain a license and comply with all applicable regulations pursuant to Title VI, Animals and Fowl, Chapter 1, Domestic Animals, Article 3, Establishments for Dogs, of the Revised General Ordinances of the City of Newark, and NJSA 4:19 15.1 et seq. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
 - b. Comply with the applicable requirements of NJAC 8:23A-1.1 et seq. Sanitary Operation of Kennels, Pet Shops, Shelters and Pounds.
 - c. Provide a suitable Operation and Maintenance Plan to operate the facility in a clean and sanitary manner, including daily removal of waste and odor and pest control.
 - d. Obtain licenses as a Commercial Pesticide Applicator from the State of New Jersey Department of Environmental Protection (NJDEP) pursuant to NJAC 7:30-1.1 et seq. if the facility engages in the use of pesticides to control pests including but not limited to fleas, ticks, or mites.

§ 41:6-2-3 Animal Crematorium.

1. Location. No animal crematorium shall be permitted within 1,000 feet of a residential use.
2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
 - a. Be associated with a veterinarian licensed in the state of New Jersey.
 - b. Screen from public view through fencing, landscaping or buildings, all activity relating to the deceased animals, including delivery and storage of the corpse.
 - c. Not store deceased animals outside the facility.
 - d. Limit the storage of deceased animals to no more than 48 hours.
 - e. Place solid waste associated with the animal crematorium on an impervious area and store in a covered container within the building.
 - f. Shall restrict activities to the preparation and cremation of small animals only. No animals that were used for research or were not considered a pet will be allowed.

§ 41:6-2-4 Artist Live/Work Studio (Nuisance Producing).

1. Location. No live/work studio shall be situated on a higher floor than a non-live/work residential unit.
2. Bulk/Building Requirements.

- a. The minimum average unit size for both living and work space shall not be less than 900 square feet.
- b. Not more than 50% of the floor area of each live/work unit shall be devoted to living areas.
3. All odors, vibrations, and noise generated must be contained within the individual live/work unit.
4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed studio shall comply with all applicable municipal, County, State and Federal safety and environmental regulations.
5. Additional Requirements. A list of hazardous materials to be utilized in the live/work studio area shall be submitted to the approving board at the time of application. Such list shall be made available to any other tenants of the building upon their request.

§ 41:6-2-5 Assisted Living Facilities and Nursing Homes.

1. Location. Assisted living facilities and nursing homes shall be located on a collector or arterial street.
2. Bulk/Building Requirements. Such facilities shall meet the dimensional requirements according to the most appropriate residential building type based on building height (i.e. Low-Rise Residential, Mid-Rise Residential, etc.). The corresponding building type must be permitted in the zone in which the facility is proposed.
3. Buffers and Fences. A buffer shall be provided in accordance with Section **41:16-3** and Section **41:16-5** of the Newark Zoning and Land Use Regulations.
4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
 - a. Obtain a certificate of need pursuant to NJAC 8:33H-1.1 et seq. and maintain and operate the facility in accordance with the regulations therein;
 - b. Obtain all required licenses from the appropriate City, State and Federal agencies which regulate assisted living facilities and nursing homes.
 - c. A copy of all licenses and certificates shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

§ 41:6-2-6 Automobile Car Washes.

1. Bulk/Building Requirements. A car wash shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning. Final hand drying operations are permitted to take place in an unenclosed area.
2. Buffers and Fences. A car wash shall comply with the following requirements for buffers and fences:

- a. A fence of five feet maximum shall be provided along all property boundary lines except within the front yard.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. A car wash shall comply with the following outdoor storage requirements:
- a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.
4. On-Site Circulation. A car wash shall comply with the following on-site circulation requirements:
- a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of 10 spaces if the conveyor line is 120 feet or less in length. Such spaces shall be increased by one space for each additional 10 feet or part thereof that the conveyor line exceeds 120 feet.
 - b. The building exit for vehicles that have completed the washing process shall be at least 50 feet from the nearest point of the public sidewalk of the adjacent street.
 - c. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 24 feet.
 - d. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.
 - e. Car stacking and drying in the public right-of-way is prohibited.

§ 41:6-2-7 Automobile Paint and Body Repair.

1. Location. Spray booths are not permitted at any facility located within 1,000 feet of a property used for residential use.
2. Bulk/Building Requirements. An automobile paint and autobody repair establishment shall be completely enclosed for all operations in a building which meets the bulk standards of the industrial building type.
3. Buffers and Fences. An automobile paint and autobody repair establishment shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum shall be provided along all property boundary lines except within the front yard.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3**, Buffer Areas, of the Newark Zoning and Land Use Regulations.

4. Outdoor Storage. An automobile paint and autobody repair establishment shall comply with the following outdoor storage requirements:
 - a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.
 - b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six feet high.
 - c. Outdoor storage areas shall not be permitted in any required front or side yard.
5. On-Site Circulation. An automobile paint and autobody repair establishment shall comply with the following on-site circulation requirements:
 - a. There shall be sufficient area on site for all vehicle maneuvering and repositioning of inventory.
 - b. No vehicles shall stand or be parked in the public right-of-way.
 - c. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 24 feet.
 - d. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.
6. Odor Control. No odors should be noticeable past the property line.

§ 41:6-2-8 Automobile Rental.

1. Buffers and Fences. An automobile rental establishment shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum shall be provided along all property boundary lines except along public street frontages.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
2. Outdoor Storage. An automobile rental establishment shall comply with the following outdoor storage requirements:
 - a. Vehicles which are stored on-site shall not be stacked in rows of more than two vehicles head-to-head without the provision of driveway aisles.
 - b. Outdoor storage areas shall not be permitted in any required front or side yard.
3. On-Site Circulation. An automobile rental establishment shall comply with the following on-site circulation requirements:
 - a. Adequate access and egress with appropriate turning radii to the site shall be provided

as well as adequate queuing and turnaround space on the site so that at no time is street traffic disrupted or blocked by vehicles entering or leaving the site, or maneuvering to park on the site.

- b. No vehicles shall stand or be parked in the public right-of-way.
- c. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 24 feet.
- d. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.

§ 41:6-2-9 Automobile Repair & Tire Repair.

1. Bulk/Building Requirements. An automobile repair shop shall be completely enclosed for all operations in a building which meets the dimensions of the detached commercial building type when in a commercial or mixed-use zone or industrial building type when in an industrial zone.
2. Buffers and Fences. An automobile repair shop shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum shall be provided along all property boundary lines except within the front yard.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. An automobile repair shop shall comply with the following requirements for outdoor storage:
 - a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.
 - b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six feet high. Such fence shall be least 15 feet from the right-of-way and property.
 - c. Outdoor storage areas shall not be permitted in any required yard.
4. On-site Circulation. An automobile repair shop shall comply with the following requirements for on-site circulation:
 - a. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 24 feet.
 - b. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.

- c. There shall be sufficient area on site for all vehicle maneuvering.
- d. Cars shall not be maneuvered or repositioned in the public right-of-way.

§ 41:6-2-10 **Automobile Sales.**

1. **Bulk/Building Requirements.** All such establishments shall have a fully enclosed sales building which meets the dimensions of the detached commercial building type when in a commercial or mixed-use zone or industrial building type when in an industrial zone with a showroom area accommodating at least three automobiles. Vehicle service or repair may be performed as an accessory use, but only within a totally enclosed building.
2. **Buffers and Fences.** An automobile sales establishment shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum shall be provide along all property boundary lines except within the front yard.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
3. **Outdoor Storage.** An automobile sales establishment shall comply with the following requirements for outdoor storage:
 - a. All outdoor display and service areas, including driveways and parking facilities, shall be paved.
 - b. Motor vehicles and equipment shall be kept at least 15 feet from the right-of-way and property lines.
4. **On-site circulation.** An automobile sales establishment shall comply with the following requirements for on-site circulation:
 - a. There shall be sufficient area on site for all vehicle maneuvering and repositioning of inventory. No vehicles shall stand or be parked in the public right-of-way. All vehicle service must be performed on-site.
 - b. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 24 feet.
 - c. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.

§ 41:6-2-11 **Billboards.**

1. **Location.** A billboard facility shall comply with the following locational requirements:
 - a. No such billboard facility can be erected such that any part of the structure is in or is positioned to be within the direct line of sight from any school, park, historic district, historic structure, residentially zoned district, or any portion of the City of Newark

within the area bordered by Interstate 280 at the north, Dr. Martin Luther King, Jr. Boulevard at the west, East and West Kinney Streets at the south, the Northeast Corridor Railroad right-of-way and the Passaic River at the east.

- b. No such billboard facility can be erected within 1,000 feet (measured in a straight line) of the border with any facility or district listed above.
 - c. No billboard shall be located closer than 1,000 feet (measured in a straight line) from another such billboard.
2. Bulk/Design Requirements. A billboard facility shall comply with the following bulk/design requirements:
- a. No such billboard facility shall exceed a height of 40 feet from grade at its highest point for a freestanding unit or unit mounted on a building wall. Any billboard mounted on a building rooftop may not project more than 20 feet above the height of the building's roof.
 - b. No such billboard facility shall be allowed to obscure or cover any building's windows, doorways, architectural trim, nor shall it be located within five feet of such a building feature.
 - c. The maximum permitted advertising area showing in one general direction (within 45°) shall not exceed 650 square feet for a single billboard or combination of billboards.
3. Landscaping. A billboard facility shall comply with the following landscaping requirements:
- a. No trees or other landscaping features can be removed or substantially reduced in size in any way to accommodate the visibility of the billboard.
 - b. Visual impact on the surrounding areas shall be minimized through the use of landscaping, berming, and grading at the base of the unit. Dense all-season or evergreen landscaping shall be installed at the base of any freestanding billboard structure, and digital billboards are prohibited.
4. Submission Requirements. Any application for conditional use review for a billboard must include the same information as would be required for a site plan review to be deemed complete.
5. Condition of Approval. A billboard facility shall comply with the following requirements:
- a. The billboard operator or owner shall comply with the Roadside Sign Control and Outdoor Advertising Act as contained in NJSA 27:5-5 et seq. as well as all other regulations, statutes, or laws relating to billboards.
 - b. Condition of Approval. All billboards in the City of Newark must be properly

maintained for safety and aesthetic value. Any billboard facility that has signs of disrepair including, but not limited to, graffiti, rust, peeling paint, rotten wood, broken supports or boards, or other signs of disrepair for a period of more than 30 days is not being properly maintained and is defined to be abandoned. Any billboard that is not in use for more than 120 days is also defined to be abandoned. Any abandoned billboard facility loses its preexisting nonconforming status and must be removed by its owner or operator. The only exception to the preceding sentence applies to billboards within jurisdiction of the Federal Highway Beautification Act (23 USC 131) in which case removal may be required by State and/or Federal transportation authorities.

- c. All billboard operators are required to comply with all other ordinances and regulations that pertain to billboard licenser placement and operations.
6. **Additional Requirements.** Any existing billboard for which structural changes are made must comply with all standards and conditions in this statute or the billboard must be removed. The only exception to the preceding sentence applies to billboards within jurisdiction of the Federal Highway Beautification Act (23 USC 131), in which case removal may be required by State and/or Federal transportation authorities.

§ 41:6-2-12 **Child Care Centers ("Day Care Centers").**

1. **Bulk/Building Requirements.** A child care center shall comply with the following bulk/building requirements:
 - a. A standalone child care center shall conform to the Detached Commercial building bulk and area requirements.
2. **Pick-up and Drop-off.** All such facilities shall provide either one of the following:
 - a. Off-street parking spaces reserved for parents walking their children into and out of the child care facility, sufficient to accommodate the drop-off or pick-up at peak times of use; or
 - b. A safe on-site pickup and delivery area separate from the off-street parking area and access driveway so students leaving vehicles have access to a sidewalk leading into the school without the child having to cross a street, parking lot, loading area, driveway or aisle; or
 - c. An area within the public right-of-way signed and designated for short-term pick-up and drop-off only during peak hours, subject to approval by the Division of Traffic and Signals and/or City Council.
3. **Condition of Approval.** The applicant shall agree as a condition of approval:
 - a. To obtain a license pursuant to N.J.S.A 30:5B-1 et seq. Child Care Center Licensing Act, and Chapter 122 Manual of Requirements for Child Care Centers (NJAC 10:122-1.1 et seq.). A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

- b. To comply with applicable facility requirements pursuant to N.J.S.A 30:5B-1 et seq. Child Care Center Licensing Act, and Chapter 122 Manual of Requirements for Child Care Centers (NJAC 10:122 1.1 et seq.) and applicable provisions of City and State health and construction codes.

§ 41:6-2-13 Commercial Antennas & Microwave Dishes.

1. General Standards.

- a. No permit shall be issued for the erection or installation of a commercial antenna except upon site plan approval unless the installation qualifies as a collocation at an existing site (for Commercial Antennas & Microwave Dishes Collocation see § 41:4-6-5).
- b. The antenna project design is required to be structurally sound. The antenna project is to be certified to not create any hazard to the general public and any inhabitants or occupants of the site in question or any sites in the vicinity thereof.
- c. The antenna project including mountings, wiring, and equipment placed on structures other than buildings shall be camouflaged in the most concealing manner possible and hidden from public view. This includes mountings on billboards or other existing non-building structures.
- d. Any antenna installation on a structure that is or was constructed exclusively for the mounting of antennas, such as a tower, shall meet the following requirements for the antennas and the structure:
 - i. The structure shall not exceed a height of 100 feet unless it can be demonstrated by the applicant, to the satisfaction of the reviewing board, that a higher height is necessary for the proposed installation of the antenna(s) to satisfactorily operate and is necessary for the co-location of at least three other carriers on the tower.
 - ii. The structure and site must be at least 500 feet from any residential district boundary; a school; a Historic District; a public park; or a place of worship. Such structure must also be out of view from any Historic District or landmark.
 - iii. All electronic equipment for such antennas shall be kept inside a structure on the same site as the antenna structure. This housing structure shall be less than 15 feet tall and be clad in wood siding, brick, or other appropriate material.
 - iv. The site must be landscaped with densely planted, mature evergreens that are a minimum of 15 feet tall to screen all structures including equipment storage buildings and tower bases, to the greatest extent possible, from public view and fenced by means of a concealing fence constructed of a long-lasting material, such as PVC pickets, brick wall, or board and batten panels; and the equipment housing structure shall have Less than 360 square feet of floor area per telecommunications operator. Chain link fencing of any form even with privacy slats shall not ever be used.

- v. Structures for elevating antennas above ground level, as well as the antenna units, wiring, mounting devices, and accompanying hardware shall be designed to blend with the surrounding area's architecture, environment, and landscaping through the use of structure coloring and camouflaging to disguise the antenna for the public's aesthetic benefit. Appropriate camouflage could include designing the tower to resemble a tree, church steeple, or other like structure.
 - vi. The structure shall not have any lighting or signage other than safety warnings and lighting that would be required by the FAA. In such case, strobe lighting shall never be used unless specifically required by the FAA.
 - vii. The applicant shall be responsible for all maintenance of its antennas additional hardware, accompanying landscaping, camouflage, paint, cables, cable trays, conduits, and mounting hardware.
- e. Any antennas proposed to be mounted on an existing building or structure not initially constructed for the mounting of antennas shall meet the following requirements:
- i. Antennas may only be mounted on a building that is taller than 55 feet, and they may only be mounted on the part of the building that is higher than 45 feet above grade.
 - ii. No antenna shall be mounted higher than the building parapet, stair or elevator shaft/penthouse, chimney, smokestack or other part of the structure upon which it is being mounted. The only exception to this shall apply when the applicant can provide evidence to the Central Planning Board that appropriate broadcasting and reception service is not possible without a higher mounting configuration such as a mounting on poles or posts. In such cases, the antenna units must be set back at least eight feet from the exterior edge of the part of the building upon which they are being mounted; the antennas and poles must be mounted on a flat surface; and the mountings cannot be more than 12 feet tall measured from the edge of the surface upon which they are being mounted.
 - iii. Wall mounted antennas cannot project horizontally beyond the wall upon which they are being mounted by more than 1.5 feet and they cannot project beyond the site's property line.
 - iv. All antenna units and accompanying infrastructure must be painted to match any vertical surface upon which they are being mounted. Pole mounted units shall be painted light blue. A color sample (six copies) shall be provided as part of the application. The exact color must be approved by the Central Planning Board. The applicant must maintain the painting and pigmentation for the duration of the antenna's existence, and the antenna units must be removed if the appearance of the units is not properly maintained.
 - v. Antennas must be spaced and positioned on the building in such a way as not to interfere with that wall's architectural design or its decorative features. Antennas must be mounted in such a way that they are evenly spaced along the building's

wall and they are evenly spaced from corners or other building features such as windows, brackets or decorative panels. The reviewing board may determine that the antennas are being spaced in a pattern that does not disrupt any repetitive patterns of any wall or parapet's decorative bracketing, paneling, or window placement. All applicants must submit detailed facade drawings and photographs of all building views being affected by the antenna installation. Micro units no larger than two inches in diameter may be placed above the parapet.

- vi. All wiring and/or cable tray devices must be positioned in such a way as not to be visible to the public. The applicant may use external wiring only if it can provide evidence that wiring through the building is not possible for structural reasons. If external wiring is to be used, it can only be mounted on outside walls that are not visible from any public street, park, or plaza. Such wiring and/or wire trays must be painted to match the wall surface upon which they are being mounted, and it must be mounted at an area so as not to interfere with the architectural features of the building. In the instance that the building upon which antenna mounting being proposed does not have any wall area that is not visible from a public street, park, or plaza, wiring must be mounted on the wall that is visible from the street with the least vehicular and pedestrian traffic.
 - vii. All equipment must be kept inside the building where the antenna project is proposed to be conducted. If this is not possible, the applicant must present reasoning for this, and the equipment must then be placed inside a structure to be placed on a flat part of the building's roof. The equipment structure must be no taller than 15 feet, set back at least four feet from all front or side edges of the roof or any other roof edge that fronts directly on a public street, built of an exterior construction material with the same appearance as the exterior walls of the building, and it must have no more than 360 square feet of floor area. If equipment were to be placed outside the building or off the roof, it shall be screened and enclosed according to Section **41:6-2-18**, Subsection 1.d.iii and 1.d.iv of this Chapter.
- f. Approval of a commercial antenna may be granted by the reviewing board upon finding, after a review of all submitted documents, that there is an existing gap in service that can only be closed by the installation of a new or additional antenna project. The applicant shall provide its plan for communications coverage in the C'ty of Newark' The applicant shall further provide a statement to explain how this application shall address any needs identified by that plan and explain why the applicant's proposal is the best possible method to address those needs. The applicant shall make every attempt to use the highest priority site, as listed as follows, in order from highest priority to lowest priority.
- i. The first priority location shall be co-location on an existing wireless telecommunication tower or other similar existing structure in I-2 or I-3 zones.
 - ii. The second priority location shall be an existing building within the C-3 or the I-2 or I-3 zones.

- iii. The third priority location shall be an existing building within the MX-1, MX-2, C-2, or I-1 zones.
 - iv. The fourth priority location shall be a new tower in the I-2 or I-3 zones.
 - g. The review board may deny or limit approval of a commercial antenna if it reasonably concludes that the number, location, size and elevations of the radiating elements are not required for the proposed operation under FCC license, are intended for rental, lease or sale to other persons for unrelated operations, fails to meet FCC regulations, fails to meet any of the above-mentioned criteria, or generally impairs the visual environment.
 - h. Approval of a commercial antenna may be granted upon finding, after a review of the plot plan and all accompanying documents, that:
 - i. There is an existing gap in service that can only be closed by the installation of a new or additional antenna; and
 - ii. That the gap in service cannot be closed by locating an antenna in one of the permitted locations.
2. Submission requirements for all antenna projects whether expressly permitted or only permitted by conditional use approval. All information required in this paragraph shall be provided to the reviewing board staff in advance of any review hearing and shall be required to determine an application to be complete.
- a. The applicant must provide six sets of photographic simulations of the site showing all publicly accessible views of the site as it would appear with the proposed antennas, cable trays, cables, mounting devices, electronic equipment, and accompanying structures and hardware installed.
 - b. The applicant must provide six copies of a block diagram showing all streets and buildings along with their land uses within 500 feet of each antenna. These must include the heights of all structures within this distance.
 - c. The applicant shall provide a certified statement from a licensed New Jersey professional engineer indicating the projected effective radiated power of all transmitted signals, and the probable radiation pattern with an analysis of any potential of reception interference by electronic receiving devices. This statement must attest to the project and facility's compliance with all Federal and State requirements for human or animal exposure to radio frequency emissions.
 - d. The applicant must submit six sets of signed and sealed surveys and plot plans, which shall include appropriate engineering and architectural drawings indicating the number, location, size, and height (with elevations) of all radiating elements and corresponding hardware as they are intended to be mounted on the site and/or building. Drawings shall also provide detailed depictions of all building features, landscaping, and all other property elements affected by the application. The drawings shall also include all

views/elevations of the structure upon which the antenna is to be mounted.

- e. The applicant shall provide a statement from a licensed New Jersey professional engineer certifying to the structural integrity of all mounting hardware.
 - f. The applicant may be required to submit a fee in escrow to cover the cost of an independent review of any engineering claims made by the applicant.
3. Removal.
- a. The applicant shall agree to remove any antenna units and accompanying infrastructure if all or part of any such installation becomes obsolete, is unrepaired for an unreasonable period or ceases to be used for its intended purpose for 12 consecutive months.
 - b. The Central Planning Board or Zoning Board of Adjustment may, at its sole discretion, require the applicant to provide a demolition bond to the City of Newark for the purpose of assuring the removal of any antenna units and accompanying infrastructure in accordance with the provisions of this Section.
 - c. The applicant will be responsible for providing written estimates to the City of Newark for the cost to demolish and/or remove any antenna units and accompanying infrastructure. Such estimates will be used to establish whether any adjustment is required in the amount of the required demolition bond including the cost to stabilize or landscape the vacancy.

§ 41:6-2-14 Commercial, Industrial Truck & Bus Services.

1. Bulk/Building Requirements. A commercial, industrial truck and bus service shall be completely enclosed for all operations in a building which meets the dimensions of the industrial building type. Final hand drying operations are permitted to take place in an unenclosed area.
2. Buffers and Fences. A commercial, industrial truck and bus service shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum height shall be provided along all property boundary lines except along public street frontages.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. A commercial, industrial truck and bus service shall comply with the following outdoor storage requirements:
 - a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times.
 - b. Outdoor storage areas shall not be permitted in any required yard.

4. On-Site Circulation. A commercial, industrial truck and bus service shall comply with the following on-site circulation requirements:
 - a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of three spaces per bay. Stacking spaces shall have a minimum width of 10 feet and a minimum length of 45 feet. Stacking or storage shall be prohibited in the public right-of-way.
 - b. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 35 feet for a two-way driveway and 20 feet for a one-way driveway. Two driveways may be approved if they are each to be one-way.
 - c. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.
 - d. Sufficient area must be provided on-site for all vehicle maneuvering and repositioning. Vehicle maneuvering and reposition is prohibited in the public right-of-way.

§ 41:6-2-15 Commercial, Industrial Truck & Bus Wash.

1. Bulk/Building Requirements. A commercial, industrial truck and bus wash shall be completely enclosed for all operations in a building which meets the dimensions of the industrial building type. Final hand drying operations are permitted to take place in an unenclosed area.
2. Buffers and Fences. A commercial, industrial truck and bus wash shall comply with the following requirements for buffers and fences:
 - a. A fence of six feet minimum shall be provided along all property boundary lines except along public street frontages.
 - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. A commercial, industrial truck and bus wash shall comply with the following outdoor storage requirements:
 - a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.
 - b. Not more than five vehicles shall be stored outdoors overnight.
 - c. Outdoor storage areas shall not be permitted in any required yard.
4. On-Site Circulation. A commercial, industrial truck and bus wash shall comply with the following on-site circulation requirements:

- a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of three spaces per bay. Stacking spaces shall have a minimum width of 10 feet and a minimum length of 45 feet. Stacking shall be prohibited in the public right-of-way.
- b. The building exit for vehicles that have completed the washing process shall be at least 50 feet distant from the nearest point of the public sidewalk of the adjacent street.
- c. Driveways are limited to one driveway per street frontage per 100 linear feet of street frontage and the maximum width of each driveway is 35 feet for a two-way driveway and 20 feet for a one-way driveway. Two driveways may be approved if they are each to be one-way.
- d. Driveways shall be at least 10 feet from any side lot line and 50 feet from the intersection of street lines.
- e. Sufficient area must be provided on-site for all vehicle maneuvering and repositioning. Vehicle maneuvering and reposition is prohibited in the public right-of-way.

§ 41:6-2-16 **Drive-Through Facilities.**

1. Bulk/Building Requirements. A drive-through shall comply with the following bulk/building requirements:
 - a. Drive-through may be an accessory use to a principal bank, pharmacy, or take-out restaurant.
 - b. Drive-through service windows shall only be located on the side or in the rear of properties which are internal to the block.
 - c. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 50 feet of any residential use or zoned property line.
2. Buffers and Fences. Adjacent to residential uses, a buffer shall be provided in accordance with Section **41:16-3** and Section **41:16-5** of the Newark Zoning and Land Use Regulations.
3. On-Site Circulation. A drive-through shall comply with the following requirements for onsite circulation:
 - a. No service shall be rendered, deliveries made, or sales conducted within the front yard. Customers served in vehicles shall be stopped to the side or rear of the drive-through.
 - b. All areas associated with the drive-through, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects, shall be located in the side or rear yard of a property to the maximum extent feasible.
 - c. Stacking Lanes. Stacking lanes with at least 120 feet of length and 10 feet of width shall be provided for any use having a drive-through establishment. Stacking is prohibited in the public right-of-way.

§ 41:6-2-17 **Dry Cleaning and Laundry Establishment.**

1. Any dry cleaning establishment that uses PERC or Hydrocarbon shall not be located in the same structure as residential units.
2. All dry cleaning establishments and plants must meet State and Federal regulations for the handling, storage and disposal of hazardous chemicals.

§ 41:6-2-18 **Exterminator & Pesticide Application Business.**

1. Condition of Approval. The applicant shall agree as a condition of approval:
 - a. Obtain a license from the New Jersey Department of Environmental Protection pursuant to NJAC 7:30 1.1 et seq., the Pesticide Control Code. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
 - b. Comply with all rules and regulations pursuant to NJAC 7:30-1.1 et seq., the Pesticide Control Code.
 - c. All storage shall be located internal to a building.

§ 41:6-2-19 **Funeral Home & Mortuaries.**

1. Location. A funeral home or mortuary shall be located on a collector or arterial street.
2. Bulk/Building Requirements. A funeral home or mortuary shall comply with the following bulk/building requirements:
 - a. The structure shall be designed so that transporting of human bodies or remains into the facility shall be totally enclosed within the structure.
 - b. No other use shall be allowed on the property that is not related to the direct operation of the funeral home or mortuary business.
3. On-Site Circulation. No off-street parking shall be allowed in the front yard area of the premises.
4. Parking. One parking space per 1,000 square feet shall be provided.

§ 41:6-2-20 **Gasoline Stations.**

1. Must comply with NJSA 34:3A-4 et seq. Retail Gasoline Dispensing Safety and NJAC 12:196-1.1 et seq., Safe Dispensing of Retail Gasoline.
2. Gasoline stations may be stand alone uses or may be collocated with automobile repair and tire repair businesses or convenience stores. Gasoline stations with on-site automobile repair and tire repair businesses shall comply with the conditional use standards at 41:6-2-9. If there is conflict between the conditional use standards in that sub-section and this sub-section, this sub-section shall control.

3. Bulk/Building Requirements. Gasoline stations shall comply with the following bulk requirements:
 - a. All pits, racks or lifts shall be indoors and shall not be less than 25 feet from any street line.
 - b. Canopy.
 - i. The minimum setback to any property line of a canopy located above a fueling area shall be 10 feet, except when adjacent to a residential use or zone, such setbacks shall be increased by an additional 10 feet.
 - ii. The maximum height of a canopy shall be 20 feet.
4. Area Requirements: Gasoline stations shall comply with the following area requirements:
 - a. No gasoline filling station shall be built on a corner lot having a width of less than 100 feet and an area of less than 10,000 square feet.
 - b. No gasoline filling station shall be built on an interior lot having a width of less than 150 feet and an area of less than 10,000 square feet.
5. Outdoor Storage.
 - a. Portable signs, outdoor servicing and outdoor storage of tires, automobile parts and accessories shall be prohibited at all times.
 - b. Items including basic auto maintenance supplies shall be permitted for sale within gasoline service islands.
 - c. Propane cylinders shall be permitted for sale provided they are stored within metal cages that meet OSHA and NFPA regulations.
6. On-Site Circulation. Gasoline stations shall comply with the following on-site circulation requirements:
 - a. Driveways shall cross the sidewalk at right angles and shall not be more than 24 feet wide at any point thereof. Driveways must be at least 10 feet from any side lot line and 50 feet from the intersection of street lines. There shall be no more than one driveway on any one street frontage unless the street frontage is in excess of 150 feet. No more than two driveways may be permitted per street frontage.
 - b. A landscape strip planted with shrubs and perennials having a width no less than three feet shall be constructed and maintained in good condition along all street property lines and adjacent to driveway openings.
 - c. The entire area of the station traversed by motor vehicles shall be hard surfaced.

- d. Pump islands shall not be less than 15 feet from any lot line; however, if the gasoline station abuts a residential zone or residential use that distance shall be 25 feet to allow for the provision of a ten-foot landscaped buffer.

7. Convenience Store.

- a. A freestanding convenience store shall be permitted as an accessory use or co-principal use with a service station when there is no automobile repair shop on site.
- b. Minimum setbacks:
 - i. Front yard: 20 feet minimum.
 - ii. Side yard: 10 feet minimum.
 - iii. Rear yard: 10 feet minimum.
 - iv. From a gasoline pump: 15 feet minimum.
- c. Maximum height: 25 feet.

8. Signage

- a. Free-standing signs shall be permitted subject to the following:
 - i. Maximum Height – 15 feet
 - ii. Minimum Setback to any property line – 5 feet
 - iii. Maximum Sign Area – 32 square feet
- b. Fuel Pump Signage shall be exempt per Section 41:9-2.1.f.
- c. Signage shall be permitted on street-facing sides of the fuel pump canopy, not to exceed 18 square feet per side.
- d. Building mounted signage shall be permitted on the primary building façade subject to the following:
 - i. Wall-mounted sign not to exceed 10% of the façade area or 70 square feet, whichever is less.
 - ii. Window signs shall be permitted with an area not to exceed 10% of the area of the window.

§ 41:6-2-21 Homeless Shelters.

1. Location. A homeless shelter shall be located on a collector or arterial street.
2. Bulk/Building Requirements. Each homeless shelter shall provide a lobby or indoor waiting area for the indoor queuing of its clients sufficient to meet its needs.
3. A homeless shelter must comply with the Essex County Homeless Plan.
4. Condition of Approval. The applicant shall agree as a condition of approval to:
 - a. Obtain a license pursuant to NJAC 5:15, Title 5 Community Affairs, Chapter 15 Emergency Shelters for the Homeless. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
 - b. Comply with all of the relevant regulations pursuant to NJAC 5:15, Title 5 Community Affairs, Chapter 15 Emergency Shelters for the Homeless.

§ 41:6-2-22 Human Crematorium.

Human crematoria are only conditionally permitted within the Cemetery Zone (CEM).

1. Location. No human crematorium shall be permitted within 1,000 feet of a residential use.
2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
 - a. Be associated with a funeral director licensed in the state of New Jersey.
 - b. Screen from public view through fencing, landscaping or buildings, all activity relating to deceased humans, including delivery and storage of the corpse.
 - c. Not store deceased humans outside the facility.
 - d. Limit the storage of deceased humans to no more than 48 hours.
 - e. Place solid waste associated with the human crematorium on an impervious area and store in a covered container within the building.

§ 41:6-2-23 Liquor Stores.

1. Location. The applicant shall demonstrate to the approving board compliance with the minimum distance requirements from Title IV, Alcoholic Beverages, of the Revised General Ordinances of the City of Newark.
2. Condition of Approval. As a condition of approval, the applicant shall agree to:
 - a. Obtain a plenary retail distribution license from the Newark Board of Alcoholic

Beverage Control in accordance with Title IV, Alcoholic Beverages, of the Revised General Ordinances of the City of Newark, NJAC 13:2-1.1 et seq. and NJSA 33:1-1 et seq.

- b. Comply with all applicable regulations for a plenary retail distribution licensee listed in Title IV, Alcoholic Beverages, of the Revised General Ordinances of the City of Newark including, but not limited to, restrictions on hours and days of operation, and restrictions on on-site mercantile or commercial activity other than the sale of non-alcoholic beverages, as accessory beverages to alcoholic beverages.
- c. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

§ 41:6-2-24 **Live Animal Market.**

1. Condition of Approval. As a condition of approval, all applications for a live animal market shall agree to the following conditions:
 - a. Comply with all regulations of the United States Department of Agriculture, the State of New Jersey and the City of Newark including Title XIII, Food, Drugs and Cosmetics, Chapter 5, Live Poultry and Certain Live Animals (Goats, etc.): Retail and Wholesale; Chapter 6, Poultry Killing and Dressing Establishments; and Chapter 7, Meat, Meat Products and Meat Establishments, of the Revised General Ordinances of the City of Newark.
 - b. Obtain all necessary Federal, State and City licenses and approvals. Copies of such licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
 - c. Operate and maintain a live animal market according to the following regulations:
 - i. All activities associated with the live animal market must take place within a wholly enclosed building; no outdoor storage of live animals, garbage, or raw materials shall be permitted.
 - ii. All animal slaughter shall take place inside a closed building in a confined area to prevent transmission of sound associated with slaughter to the outside. Animals shall not be heard at the public right-of-way or adjacent properties.
 - iii. All byproducts must be disposed in compliance with all applicable Federal, State and City regulations. This includes, but is not limited to, all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides and bones.
 - iv. Waste shall be disposed of within 48 hours of being produced. Waste shall be stored in airtight containers and shall be confined in fully enclosed structures. Any animal waste from holding areas shall be removed from the site daily and/or stored in a manner to control odor.

- v. A public notice posted by the Health Officer at the public entrance of a premises wherein a live animal market is operated and that results in the immediate closure of the establishment and the discontinuance of all operations, by order of the Health Officer, because of violations of applicable Federal, State, and City regulations, orders, embargos, or quarantines.
- vi. Animals permitted to be stored alive and slaughtered on-site include chickens, ducks, rabbits, goats and similar small animals. No horses, cows, alpacas, llamas or similar large animals are permitted be kept on the property or slaughtered on-site.
- vii. Animals shall be kept on premises no longer than 24 hours.
- viii. No live animal market shall be permitted within 1,500 feet of a residence.
- ix. Live animals shall not be allowed to run at large upon the licensed premises nor at large on streets, sidewalks or any other area off the licensed premises but shall be kept in suitable enclosures such as cages or crates which shall comply with the following standards:
 - x. All animals shall be kept in a clean and sanitary manner at all times. All cages, crates, or enclosures shall be cleaned and disinfected in a manner approved by the Division of Health.
 - xi. Cages, crates, and enclosures shall be raised from the floor at least six inches so as to permit flushing and cleaning underneath the same.
 - xii. All live animal cages, crates, or enclosures shall be in good repair and constructed of easily cleanable, noncorrosive, and nonabsorbent material.
 - xiii. Enclosures shall not be overcrowded with live animals so as to result in injury to the animal or restrict movement of the animal confined therein.
 - xiv. No live animal shall be kept in a place in which water, ventilation, food, or any other similar items are not sufficient for the preservation of the health and safe condition of such animal.
 - xv. Ample supply of food and clean water shall be provided for all live animals. Troughs, bowls, or similar containers used for food and water shall be kept clean, in good repair, and placed in such a manner so as to prevent contamination of food and water kept therein. No animal feed shall be scattered on floors. All spillage of feed shall be promptly removed.
 - xvi. All parts of the premises shall be kept in a sanitary condition at all times.
 - xvii. The flooring of live animal markets shall be composed of material that is impervious to moisture and shall be properly graded to prevent pooling of liquid or waste and permit adequate drainage to floor drains. All floors shall be kept

clean and in good repair.

xviii. Walls and ceilings in animal poultry storage rooms, equipment washing rooms, rooms used for plucking, rooms used for slaughtering, and rest rooms shall be comprised of moisture-proof, and washable material. All walls shall be kept clean and in good repair.

xix. All rooms within the premises shall be properly lighted and ventilated. Mechanical ventilation of sufficient capacity to keep all rooms free of excessive heat and obnoxious odors shall be provided and shall ventilate to open air. Such systems shall be maintained in a clean manner and in good repair and shall be designed and operated so as to prevent noxious odors from entering adjacent properties. No odors shall be permitted beyond the property line or in the public right-of-way.

§ 41:6-2-25 Low-Rise Multi-Family Dwellings in the R-3 Zone.

1. Low-Rise Multi-Family Dwellings in the R-3 Zone shall be located on corner lots.
2. A minimum lot size of 5,000 square feet shall be provided.
3. A minimum of 500 square feet of lot area per dwelling unit shall be provided.
4. Ground floor commercial uses, as indicated in the use table in Chapter 4 shall be permitted in a low-rise multi-family building provided conditions 1 and 2 are met.

§ 41:6-2-26 Massage Facilities.

1. Condition of Approval. Each masseuse shall be certified/licensed by the State of New Jersey pursuant to NJAC 13:37A, Board of Massage and Bodywork Therapy Rules and shall comply with all applicable regulations contained therein. Proof of masseuse certification shall be submitted with conditional use application.
2. Additional Requirements. Accessory massage services shall comply with the following additional requirements:
 - a. The principal use shall be a personal service establishment, medical office, or fitness center; and
 - b. The total area of the establishment devoted to massage services shall cover less than 20% of the gross floor area of the principal use.

§ 41:6-2-27 Material Salvage Facility / Junk Yard

1. All operations must occur within a building.
2. Site shall remain clean of all stray materials.
3. No materials shall contaminate the site.

§ 41:6-2-28 Methadone Maintenance Clinic.

1. Bulk/Building Requirements. A methadone treatment facility shall have an internal waiting area of minimum 250 square feet.
2. Area Requirements. Minimum lot size of 20,000 square feet.
3. Additional Requirements. A methadone maintenance clinic shall comply with the following additional requirements:
 - a. Any proposed methadone treatment facility shall include an operational narrative which accurately describes the nature of medical services to be offered and the names of the medical practitioners providing said services. A licensed physician, an MD or a DO, shall be on duty at the facility during the methadone treatment facility's hours of operation.
 - b. Prior to occupancy, any existing structure proposed for adaptive reuse as a methadone treatment facility shall be brought into compliance with all current building codes and all other applicable City, County, State and Federal regulations for the whole structure.
 - c. A state license to dispense methadone shall be obtained.

§ 41:6-2-29 Mixed-Use Building in the C-2 Zone Exceeding 5 Stories / 60 Feet in Height

Mixed-use buildings in the C-2 Zone shall be permitted up to 8 stories and 96 feet in height, with a minimum lot area of 150 square feet per dwelling unit when the following conditional use standards are met:

1. A green roof equal to 65% or greater of the total Usable Roof Area shall be provided. If solar panels are provided, 50% or greater of the total Usable Roof Area shall be green roof.
2. Outdoor amenity space with an area equal to 100 square feet per dwelling unit shall be provided for tenant use. At least 50% of the required amenity space shall be in common areas. The remainder shall be permitted in private balconies, terraces, patios, or similar areas.

§ 41:6-2-30 Mixed-Use Building in the MX-2 Zone Exceeding 5 Stories / 60 Feet in Height

Mixed-use buildings in the MX-2 Zone shall be permitted up to 8 stories and 96 feet in height, with a minimum lot area of 150 square feet per dwelling unit when the following conditional use standards are met:

1. Minimum lot area of 10,000 square feet.
2. Maximum lot coverage by building of 80%.
3. Maximum lot impervious coverage of 85%.
4. A minimum 10 foot step-back shall be provided from the front façade beginning with the

sixth floor.

5. A green roof equal to 65% or greater of the total Usable Roof Area shall be provided. If solar panels are provided, 50% or greater of the total Usable Roof Area shall be green roof.
6. Outdoor amenity space with an area equal to 100 square feet per dwelling unit shall be provided for tenant use. At least 50% of the required amenity space shall be in common areas. The remainder shall be permitted in private balconies, terraces, patios, or similar areas.
7. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
8. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage.

§ 41:6-2-31 Mid-Rise Multi-Family Building in the MX-2 Zone Exceeding 5 Stories / 60 Feet in Height

Mid-Rise Multi-Family buildings in the MX-2 Zone shall be permitted up to 8 stories and 96 feet in height, with a minimum lot area of 200 square feet per dwelling unit when the following conditional use standards are met:

1. Minimum lot area of 10,000 square feet.
2. Maximum lot coverage by building of 70%.
3. Maximum lot impervious coverage of 75%.
4. A minimum 10 foot step-back shall be provided from the front façade beginning with the sixth floor.
5. A green roof equal to 65% or greater of the total Usable Roof Area shall be provided. If solar panels are provided, 50% or greater of the total Usable Roof Area shall be green roof.
6. Outdoor amenity space with an area equal to 100 square feet per dwelling unit shall be provided for tenant use. At least 50% of the required amenity space shall be in common areas. The remainder shall be permitted in private balconies, terraces, patios, or similar areas.
7. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
8. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage.

§ 41:6-2-32 Mixed-Use Building in the MX-3 Zone Exceeding 8 Stories / 96 Feet in Height

Mixed-use buildings in the MX-3 Zone shall be permitted up to 145 feet in height, with a minimum lot area of 150 square feet per dwelling unit when the following conditional use standards are met:

1. Provide open spaces (greens, squares, plazas, courts and pocket parks/playgrounds) equal to 10% of total lot area with public access directly from the sidewalk at ground level or from the public right of way. Open space must meet landscaping and other design requirements as listed in this ordinance.
2. A green roof equal to 65% or greater of the total Usable Roof Area shall be provided. If solar panels are provided, 50% or greater of the total Usable Roof Area shall be green roof.
3. Outdoor amenity space with an area equal to 100 square feet per dwelling unit shall be provided for tenant use. At least 50% of the required amenity space shall be in common areas. The remainder shall be permitted in private balconies, terraces, patios, or similar areas.
4. A minimum 10 foot step-back from all street-facing facades shall be provided beginning with the eighth floor.
5. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
6. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage.
7. Install appropriate gray water recycling system so that onsite gray water is reused for landscaping maintenance and other non-potable systems.
8. All new electrical or electronic appliances provided by the developer, owner or management Company shall meet ENERGY STAR® compliant requirements.

§ 41:6-2-33 Nightclubs, Discotheques & Cabarets.

1. Location. A nightclub, discotheque or cabaret shall be located on a collector or arterial street.
2. Bulk/Building Requirements. A nightclub, discotheque or cabaret shall comply with the following bulk/building requirements:
 - a. Such uses shall be required to provide vestibules at all entrances and exits used by patrons for other than emergency egress to minimize noise emanating from such an establishment.
 - b. Such uses shall provide adequate ventilation within the building such that doors and/or windows are not left open for such purposes resulting in noise emission from the building.

- c. Such uses shall not have any outdoor public address or outdoor music system.
3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.
4. Condition of Approval. The applicant shall agree as a condition of approval to:
 - a. Obtain a license pursuant to Title V, Amusements and Amusement Business, Chapter 11, Discotheques, of the Revised General Ordinances of the City of Newark; and
 - b. Comply with all the requirements for such a license including restrictions on hours and days of operation pursuant to Title V, Amusements and Amusement Business, Chapter 11, Discotheques of the Revised General Ordinances of the City of Newark.

§ 41:6-2-34 Outdoor Storage.

1. Location. Outdoor storage areas shall not be permitted in any required front or side yard.
2. Buffers and Fencing. Outdoor storage areas shall be enclosed by a wall or fence of minimum six feet in height. Materials stored shall not be visible above fence.
3. Additional Requirements. The regulations of this Section shall not apply to automobile car washes, automobile paint and autobody repair, automobile rental, automobile repair shop, and automobile sales.

§ 41:6-2-35 Outdoor Storage, Chemical.

1. Condition of Approval. The applicant shall agree as a condition of approval to comply with all City, State, and Federal laws, regulations, and ordinances and obtain all necessary permits and licensures shall be secured prior to the start of operation. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
2. Additional Requirements. Outdoor chemical storage shall comply with the following additional requirements:
 - a. A list of substances to be handled at the development must be furnished to the City of Newark Code Enforcement Officer, Fire Division, Police Division and any local emergency response teams that may be called upon to provide emergency service.
 - b. An emergency response plan shall be submitted to the City of Newark Police Division, Fire Division and the Office of City Planning for review and inclusion in department files for the proposed property. Information shall include spill prevention and clean up, taking into account topography and runoff.
 - c. A spill containment system must be employed as required by State and Federal law.

- d. Plans showing any underground piping, storage facilities, and related appurtenances as they involve chemical or petroleum products must be submitted.
- e. Any above-ground piping must be designed to prevent line breakage due to collision.
- f. All containers and piping must be constructed of corrosion resistant materials.
- g. The emission of odorous matter from any property in such concentrations at any point along the boundaries of said property or in such concentrations as to create a public nuisance or hazard beyond such boundaries is prohibited.
- h. No chemicals or other hazardous materials or wastes shall be deposited upon a parcel in any zoning district in such form or manner that they may be transferred off the parcel by natural causes or forces.
- i. No containers shall be visible from the public right-of-way and shall be screened from view.

§ 41:6-2-36 Places of Worship.

1. Location. A place of worship shall be located on a collector or arterial street. Places of worship are not permitted on ground floors in mixed-use buildings in C-1, C-2, or C-3 zones.
2. Buffers and Fencing. No off-street parking facility, including a driveway or other circulation aisle, shall be located closer than 15 feet to any residential property line or residential zoning district boundary to allow for the provision of a ten-foot wide landscaped buffer that shall have a height at planting of no less than six feet.
3. Permitted Accessory Uses. The following are permitted accessory uses to places of worship:
 - a. Banquet halls, cafeteria or kitchen facilities, classrooms, libraries, youth services, and other similar uses which are customarily accessory to places of worship are permitted accessory uses;
 - b. With the exception of housing for clergy, no housing or dormitories, whether for temporary or permanent occupancy, shall be permitted as accessory uses.

§ 41:6-2-37 Power Generation Facilities.

1. Prior to an application being deemed complete, the applicant shall abide by the application requirements of the NJDEP Environmental Justice Rules as outlined in N.J.A.C. 7:1C and complete the public participation process outlined in N.J.A.C. 7:1C-4.
2. The applicant shall provide a summary of the public hearing held in the City of Newark pursuant to N.J.A.C. 7:1C-4 and a record of comments received during the 60-day public comment period.
3. The applicant shall provide the Board with a response to each comment received during the public participation process.

4. As a condition of approval, the applicant shall comply with all NJDEP permitting requirements, including the Environmental Justice Permit per N.J.A.C. 7:1C.

§ 41:6-2-38 **Primary and Secondary Schools.**

1. Outdoor Storage. Buses, vans and other delivery vehicles shall be garaged during nighttime hours.
2. Pick-up and Drop-off. All such facilities shall provide either one of the following:
 - a. Off-street parking spaces reserved for parents walking their children into and out of the child care facility, sufficient to accommodate the drop-off or pick-up at peak times of use; or
 - b. A safe on-site pickup and delivery area separate from the off-street parking area and access driveway so students leaving vehicles have access to a sidewalk leading into the school without the child having to cross a street, parking lot, loading area, driveway or aisle; or
 - c. An area within the public right-of-way signed and designated for short-term pick-up and drop-off only during peak hours, subject to approval by the Division of Traffic and Signals and/or City Council.
 - d. No driveway shall open into a street or road within 50 feet of an intersection of such street or road with another street or road.

§ 41:6-2-39 **Recycling Center.**

1. All operations must occur within a building.
2. Site shall remain clean of all stray materials.
3. No materials shall contaminate the site.

§ 41:6-2-28 **Sexually-Oriented Businesses.**

1. The term "sexually-oriented businesses" refers to business types including, but not limited to, establishments commonly referred to as a "Go-Go Establishment," "Go-Go Bar," "adult video store," "adult DVD store," "adult newsstand," or "adult bookstore." This term also refers to a commercial establishment which as one of its principal business purposes offers for sale, rental, or display for any form of consideration any one or more of the following: performances, books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, slides or simulated display or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" as defined in NJSA 2C:33-12.2 et seq. or "specified anatomical areas" as defined in NJSA 2C:33-12.2 et seq.; or any other type of establishment that can meet the definition of a "sexually-oriented business" as defined or described in Federal, State or local statutes including, but not limited to, NJSA 2C:33-12.2 et seq. For the purposes of this

definition, "principal purpose" means the commercial establishment:

- a. Has at least 10% of its merchandise in inventory consisting of said items; or
 - b. Has at least 20% of the wholesale value of its displayed merchandise consisting of said items; or
 - c. Has at least 20% of the retail value of its displayed merchandise consisting of said items; or
 - d. Maintains at least 10% of its interior business space for the sale or rental of said items; or Regularly features of said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "xxx" or "X-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right-of-way; or
 - e. Regularly features performances where "specified sexual activities" or "specified anatomical areas" as defined in this paragraph are displayed; or
 - f. Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.
2. No sexually-oriented business shall be permitted unless it complied with all Federal, State, or local statutes including but not limited to NJSA 2C:33-12.2 et seq. and NJSA 2C:34-7 et seq.; is entirely in the Second Industrial Zoning District or Third Industrial Zoning District; and is not located within 1,000 feet, measured in a straight line from the property line of the site of the sexually-oriented business, of:
- a. Another sexually-oriented business;
 - b. A hospital;
 - c. Any building or structure used partially or wholly for residential purposes, provided that the area is zoned for residential purposes;
 - d. A nursing home;
 - e. A place of worship including a church or cemetery;
 - f. A school;
 - g. A daycare or child care center;

- h. Any parcel zoned for residential use.
3. Signage Requirements. A sexually oriented business shall comply with the following signage requirements:
- a. Furthermore, no sexually oriented business can have outdoor signage other than a single wall mounted sign on one and only one facade of the structure used by said sexually-oriented business with the following limitations for the entire sign including its text area, logo area, surface area, and area for mounting hardware.
 - b. No sign area shall have more than two feet of height;
 - c. The top of the sign shall be no more than 16 feet above the average grade at the base of the wall upon which the sign is mounted, and the top of the sign shall be below the first floor cornice line of the structure;
 - d. No sign area shall be more than 25 square feet and shall not extend beyond the width of the building;
 - e. No sign shall cover more than 10% of the surface area of the wall upon which it is mounted;
 - f. No sign shall project more than six inches from the wall surface upon which it is mounted, nor shall such sign project into any public right-of-way area;
 - g. Internal illumination is prohibited for the sign;
 - h. No sign shall be within the line of site of a Federal or State highway.

§ 41:6-2-41 Substance Abuse Treatment Facilities.

- 1. Location. Outpatient substance abuse treatment facilities shall only be located on collector or arterial roads.
- 2. Bulk/Building Requirements.
 - a. Each outpatient substance abuse treatment facility shall provide a lobby or indoor waiting area for the indoor queuing of its clients sufficient to meet its needs.
 - b. Must follow the bulk regulations and design of the zone of which it is located.
- 3. Condition of Approval. The applicant shall agree as a condition of approval to:
 - a. Obtain any required licenses pursuant to NJAC 10:161B-1.1 et seq. Standards for Licensure of Outpatient Substance Abuse Treatment Facilities. A copy of the licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
 - b. Comply with all maintenance and operation standards for such a facility pursuant to

NJAC 10:161B-1.1 et seq.

- c. Operate the facility a maximum of eight hours per day between the hours of 7:00 a.m. and 7:00 p.m. from Monday through Friday. The facility hours of operation on Saturday, Sunday and holidays shall be a maximum five hours per day between the hours of 9:00 a.m. and 2:00 p.m.

§ 41:6-2-42 **Truck Terminal**

1. The Environmental Justice and Cumulative Impacts Statement Full Form shall be submitted for review by the Environmental Commission and Board.
2. If a building is constructed on site:
 - a. A minimum of 65% of the total Usable Roof Area of both principal and accessory structures shall include a green roof.
 - b. A rainwater capture/harvesting system for irrigation of the green roof, onsite landscaping maintenance, and/or other non-potable uses shall be provided.
3. Where yard trucks / yard jockeys / spotter trucks / terminal tractors or other similar on-site vehicles are used to move goods or trailers around the site, they shall be zero-emission or electric vehicles.
4. Where abutting a residential district, a landscape buffer shall be provided along the boundary with the adjoining residential district. Such buffer shall contain deciduous and evergreen trees or shrubs sufficient to create a year-round barrier with a minimum width of 30 feet.
5. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
6. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage. Plantings within a required buffer strip shall count toward the required number of trees. Upon a submission of documentation from the New Jersey Department of Environmental Protection that demonstrates there are environmental conditions, including but not limited to a physical cap, on the site that will prevent trees from being planted, this conditional use requirement can be waived if 100% of the total Usable Roof Area includes a green roof.

§ 41:6-2-43 **Truck, Tractor, Trailer, and Heavy Vehicle Parking / Storage**

1. Truck, Tractor and Trailer Parking or Storage lots, where permitted, shall conform with the following standards.
 - a. A Minimum Lot Size of 10,000-SF is required.
 - b. Lots are to be paved and striped, with each stall clearly demarked.
2. The Environmental Justice and Cumulative Impacts Statement Full Form shall be submitted for review by the Environmental Commission and Board.

3. If a building is constructed on site:
 - a. A minimum of 65% of the total Usable Roof Area of both principal and accessory structures shall include a green roof.
 - b. A rainwater capture/harvesting system for irrigation of the green roof, onsite landscaping maintenance, and/or other non-potable uses shall be provided.
4. Where yard trucks / yard jockeys / spotter trucks / terminal tractors or other similar on-site vehicles are used to move goods or trailers around the site, they shall be zero-emission or electric vehicles.
5. On-Site Circulation. A Truck, Tractor, And Trailer Parking or Storage facilities shall comply with the following on-site circulation requirements:
 - a. Stacking spaces. The number of required onsite stacking spaces shall be a minimum of three (3) spaces per bay. Stacking spaces shall have a minimum width of ten (10) feet and a minimum length of forty-five (45) feet. Stacking or storage shall be prohibited in the public right-of-way.
 - b. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is thirty-five (35) feet for a two-way driveway and twenty (20) feet for a one-way driveway. Two (2) driveways may be approved if they are each to be one-way.
 - c. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.
 - d. Sufficient area must be provided on-site for all vehicle maneuvering and repositioning. Vehicle maneuvering and repositioning is prohibited in the public right-of-way.
6. Buffers and Fences. A truck, tractor and trailer parking lots shall be shielded to protect motorists on the adjacent or adjoining residential properties from resulting glare. Parking lots shall comply with the following requirements for buffers and fences:
 - a. A fence of five (5) feet maximum shall be provided along all property boundary lines, including along public street frontages where only decorative fencing not to exceed five (5) feet in height may be used.
 - b. Buffer areas shall be provided along the entire linear footage of lot lines where a non-residential use or district line abuts a residential use except that where a new residential use is proposed on a lot adjoining an existing non-residential use or district line, the proposed residential use shall provide the buffer.
 - c. Buffer areas shall be planted with a combination of evergreens, deciduous trees and shrubs of such species and sizes which will produce within two (2) growing seasons a living screen at least six (6) feet in height. Buffers shall be of a density so as to

obscure throughout the full course of the year the glare of automobile headlights or other bright sources of illumination emanating from the premises.

- d. Buffer areas shall be placed so that at maturity they will not protrude across any street or property line and so that a clear sight triangle shall be maintained at off-street intersections and at all points where private accessways intersect a public street.
7. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
8. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage. Plantings within a required buffer strip shall count toward the required number of trees. Upon a submission of documentation from the New Jersey Department of Environmental Protection that demonstrates there are environmental conditions, including but not limited to a physical cap, on the site that will prevent trees from being planted, this conditional use requirement can be waived if 100% of the total Usable Roof Area includes a green roof.
9. Outdoor Storage. No outdoor storage of materials, parking of vehicles or other related activity shall be permitted in the buffer area except for access driveways, directional signs, and permitted signs.

§ 41:6-2-44 Wholesale Trade, Warehousing and Distribution – Including Cold Storage, Distribution (aka Bulk Break), High Cube, Last-Mile Fulfillment, Micro-Fulfillment, and Traditional

1. The Environmental Justice and Cumulative Impacts Statement Full Form shall be submitted for review by the Environmental Commission and Board.
2. A minimum of 65% of the total Usable Roof Area of both principal and accessory structures shall include a green roof.
3. A rainwater capture/harvesting system for irrigation of the green roof, onsite landscaping maintenance, and/or other non-potable uses shall be provided.
4. Where yard trucks / yard jockeys / spotter trucks / terminal tractors or other similar on-site vehicles are used to move goods or trailers around the site, they shall be zero-emission or electric vehicles.
5. The site shall be equipped with electric vehicle charging infrastructure for passenger vehicles in accordance with the state model ordinance and all loading docks shall be equipped with electric service equipment for docked vehicle and future electric vehicle charging.
6. Where abutting a residential district, a landscape buffer shall be provided along the boundary with the adjoining residential district. Such buffer shall contain deciduous and evergreen trees or shrubs sufficient to create a year-round barrier with a minimum width of 30 feet.

7. One shade tree shall be planted within the right-of-way for every 35 feet of property frontage.
8. One tree shall be planted on-site for every 25 feet of lot width along the primary lot frontage. Plantings within a required buffer strip shall count toward the required number of trees. Upon a submission of documentation from the New Jersey Department of Environmental Protection that demonstrates there are environmental conditions, including but not limited to a physical cap, on the site that will prevent trees from being planted, this conditional use requirement can be waived if 100% of the total Usable Roof Area includes a green roof.
9. In the I-1 Zone, Traditional Warehouses shall not exceed 50,000 square feet in floor area.

§ 41:6-2-45 **Wholesale Bakeries.**

1. Such facilities must receive all required State, County and City licenses.
2. Such facilities shall be within completely enclosed buildings.
3. Lot and Bulk/Building Requirements:
 - a. Minimum required lot area: 5,000 square feet.
 - b. Minimum required front yard: zero feet.
 - c. Minimum required rear yard: 25 feet.
 - d. Minimum required side yard: 15 feet.
 - e. Minimum distance between any two buildings, other than an accessory building, on the same lot: either 20 feet or a distance equal to not less than 1/3 the combined height of the two walls facing each other, whichever is greater.
4. Outdoor storage. No structure or storage of materials shall be permitted in any required yard.
5. Landscaping. Required yards shall be maintained and kept clear of all debris, rubbish, weeds and tall grass.
6. Accessory use. Accessory retail sales and office space shall not exceed 30% of the gross floor area of the principal and any accessory buildings combined.

§ 41:6-2-46 **Wind Energy Systems, Small.**

1. Location, Setbacks and Height.
 - a. Ground-Mounted Wind Turbines.

- i. General. A ground-mounted wind turbine shall be set back from all property lines, street right-of-way lines, and overhead utility lines a minimum distance equal to 1.1 times the height of the wind turbine. Turbine setbacks shall be measured from the center of the wind turbine base. With respect to an overhead utility line that provides service only to a single building or a single parcel of land, the setback requirement shall be met if the turbine is placed so that no portion of a rotor blade extends closer than five feet to the utility line.
 - ii. Residential. With respect to proximity to residential district lines, a wind turbine, including a wind turbine located in a residential district, shall be set back from residential district lines of adjoining or nearby properties a minimum distance equal to two times the height of the wind turbine in the case of a wind turbine that does not exceed 35 feet in height and is located in a residential district, the wind turbine shall be set back at least 15 feet from all property lines, and no portion of a rotor blade shall extend closer than five feet to any lot line.
 - iii. Height. The height of a ground-mounted wind turbine shall be limited by the setback requirements of this Section. The height of a rooftop or other building-mounted wind turbine shall not exceed the maximum permitted building height for the property by more than 20%. For a rooftop or other building-mounted wind turbine that exceeds the maximum permitted building height by more than 20%, the reviewing board, after a public hearing, may approve a greater height if the board determines that the placement of the turbine and context of the turbine site will mitigate any significant negative visual or safety impacts on nearby properties.
- b. Lighting, Design and Noise.
- i. Lighting. Wind turbines shall not be illuminated except as required by the Federal Aviation Administration or other applicable authority or by the provisions of Section **41:16-6**, Lighting, of the Land Use and Zoning Regulations. If lighting is required, a design that minimizes disturbances to nearby residences shall be utilized.
 - ii. Structural Design. Wind turbines shall be designed to meet all requirements of the Building Code of the City of Newark and all applicable State and Federal regulations.
 - iii. Aesthetic Design. Wind turbines shall be designed in a manner that makes them as visually unobtrusive as possible, while meeting safety requirements. To this end, towers shall be monopole rather than lattice design, wherever feasible. With respect to color, wind turbines, shall be white or off-white or unpainted metal, unless other colors are required by Federal regulations or unless another color is approved by the reviewing board as being more effective or more appropriate in a particular instance.
 - iv. Signs. No signs shall be located on or around a wind turbine except for necessary

warning signs or informational signs located at or near ground level. Such signs may include information of an educational nature or information identifying the manufacturer or installer of the wind turbine but shall not include any off-premise advertising or any advertising for businesses or other activities located on the premises. No more than two permitted signs shall be located on or around each wind turbine. The total area of such signs shall not exceed 20 square feet, except that no sign shall exceed four square feet if located on a property in a Residential District, unless that property is occupied by a community facility use, in accordance with the regulations of Chapter 9. Signs. Free-standing signs shall not exceed a height of five feet, and the setback of such signs shall be in accordance with the regulations of Chapter 9. Signs for the zoning district in which the turbine is located.

- v. Noise. No wind turbine shall produce noise that unreasonably disturbs the quiet, comfort or repose of neighboring inhabitant above that permitted for a residential district.
- c. Application and Approval Process.
- i. Submission of Application. An application to construct or alter a wind energy facility subject to the regulations of this Chapter shall be submitted to the Department of Engineering.
 - ii. Determination of Compliance. The Department of Engineering shall determine if the application conforms to requirements of this Chapter and other applicable regulations of the City of Newark, except for those provisions that require a determination by the Central Planning Board under provisions of this Chapter.
 - iii. Referral to Central Planning Board. For proposals subject to approval by the Central Planning Board, the Department of Engineering shall refer the application to the Central Planning Board for review and approval.
 - iv. Central Planning Board Action. The Central Planning Board shall review any application subject to its approval under provisions of this Chapter and shall determine whether the proposal meets all applicable standards established in this Chapter to ensure appropriate appearance and compatibility with surrounding uses. The Central Planning Board shall take action on the application at a public meeting. The Board may require modifications to the proposal as a condition of approval. The Board may disapprove an application if it determines that the proposed location does not meet the standards set forth in this Chapter and that a suitable alternative location is available.
 - v. Permit Issuance. The Department of Engineering shall issue the required permits if it determines that the application conforms to requirements of this Chapter and other applicable regulations of the City of Newark, and if it has been approved by the Central Planning Board where such approval is required.
- d. Contents of Application. All applications subject to the provisions of this Chapter shall

be accompanied by the following information, as applicable, in addition to information required for all Building Permit applications.

- i. Ground-Mounted Wind Turbines. In addition to information required by other provisions of the Zoning and Land Use Regulations, the following information shall be submitted with an application for a ground-mounted wind turbine and accessory structures to demonstrate compliance with the provisions of this Chapter.
 - A. A site plan of the subject property showing adjoining streets, the proposed turbine and any proposed and existing buildings, fencing, structures, landscaping, driveways, parking, and curb cuts on the subject property, including specifications for all proposed landscaping.
 - B. An elevation drawing showing the proposed wind turbine and all structures and landscaping shown on the required site plan, indicating the height, color and materials of the tower and all proposed fencing and other structures.
 - C. Where lighting of the wind turbine is proposed, a lighting plan for the proposed wind turbine, indicating the location, color and intensity of the lighting, both as it will appear in daylight and at night, and indicating any mechanisms to prevent glare on adjacent properties and streets and to shield the lighting from residences, to the maximum extent feasible.
 - D. For any wind turbine that will exceed the height limit for buildings on the subject property, a vicinity map showing the subject property and the proposed wind turbine and fencing in the context of all property located within a distance from the turbine equal to three times the height of the turbine, showing within this area, all streets and existing buildings and significant structures and indicating the residential use of any buildings and any property zoned in Residential or Landmarks Districts, such map being marked with topographic contours at five foot intervals.
 - E. For any wind turbine that will exceed the height limit for buildings on the subject property, color photographs showing the current view of the wind turbine site from any adjoining public street or any other street within 200 feet of the proposed wind turbine and from the closest groupings of residential buildings located within an area from the proposed wind turbine equal to three times the height of the proposed structure, plus a second set of color photographs showing the same views with the proposed wind turbine superimposed onto the photographs.
 - F. A statement by an engineer licensed in the State of New Jersey certifying that the proposed wind turbine will meet the noise standard of the Zoning Land Use Regulations with respect to impacts on properties in nearby residential zoning districts.
- ii. Rooftop-Mounted Wind Turbines. In addition to information required by other

provisions of the Revised General Ordinances, the following information shall be submitted with an application for a wind turbine proposed to be attached to the roof of a building or to another structure and subject to approval by the Central Planning Board under provisions of this Chapter.

- A. An elevation drawing of the building or structure to which the proposed wind turbine will be attached, showing the placement of the wind turbine and indicating the color of the structure and in any enclosures in relation to the color of the surface to which it will be attached and showing the projection of the wind turbine from the structure, marked with all necessary dimensions.
 - B. Color photographs of the building or structure to which the proposed wind turbine will be attached, with the proposed wind turbine superimposed onto such photographs, showing various perspectives from which the wind turbine will be viewed.
 - C. A statement by an engineer licensed in the State of New Jersey certifying that the proposed wind turbine will meet this noise standard of this ordinance with respect to impacts on properties in nearby residential zoning districts.
 - D. Placement and installation shall not interfere with architectural elements of a parapet, cornice, facade, or slate roof.
- iii. Maintenance.
- A. Maintenance and Monitoring. All buildings, structures, fences, and property used in connection with a wind energy facility shall be maintained in good condition and in safe working order. On each biennial anniversary of the issuance of the Certificate of Occupancy for a wind turbine, or not more than 90 days prior to that date, the permit holder for such wind energy facility shall submit to the Director of Engineering an affidavit that verifies continued operation of the wind turbine use and compliance with all requirements of this Chapter and other applicable governmental regulations.

§ 41:6-2-47 Medical Marijuana Uses (Medical Marijuana Alternative Treatment Center, Medical Marijuana Safety Compliance Facility, Medical Marijuana Manufacturing Facility, Medical Marijuana Cultivation Facility).

1. All medical marijuana uses shall be duly licensed by the State of New Jersey in accordance with the CUMMA, its implementing rules, and/or any successor legislation.
2. All facilities must be designed and operated to prevent pesticides, fertilizers, nutrients, marijuana, and other potential contaminants from being discharged into the public

wastewater and/or storm water systems.

3. A list of all pesticides fertilizers, and any other hazardous materials that are expected to be used in the cultivation process shall be provided with an application and maintained on site.
4. All facilities must submit an odor management plan with details that demonstrates the mechanism for treating the air with odor absorbing ventilation and exhaust systems such that odors generated in the facility are not detectable by a person of reasonable sensitivity outside the building or in any other unit in the same building if the use only occupies a portion of a building.
5. All facilities must maintain a secure closed clean environment in the room where marijuana is to be stored; grown, processed, or tested, in order to prevent outside contamination and prevent the inadvertent and for unauthorized removal of marijuana from the facility. All facilities must provide shower and locker room facilities for employees to ensure the provision of a clean environment.
6. All drying, soil mixing, testing, processing and other non-growing activities must take place in a separate room from any growing activities.
7. All facilities must provide at least one State Certified Security Officer (or more if required by the State) at all times the facility is open to the public. At the time of application for conditional use permit, the applicant must provide an affidavit indicating intention to comply with this provision.
8. All facilities must be equipped with security cameras covering exterior parking and loading areas, all points of ingress and egress, portions of the building open to the public or used for the storage, cultivation, or processing of marijuana.
9. All facilities shall install maintain in good working order, and operate a safety and security alarm system that includes a battery backup or generator system in the event of power outage.
10. The outside areas of the accordance with the following specific standards:
 - a. A minimum of 3.0 foot-candles of illumination shall be maintained at all building entrances.
 - b. A minimum of 1.0 foot-candles of illumination shall be maintained throughout the property.
11. No Medical Marijuana Center, Medical Marijuana Alternative Treatment Center (ATC) Medical Marijuana Safety Compliance Center, Medical Marijuana Manufacturing Facility or Medical Marijuana Cultivation Facility shall be located within the following distances from the specified land uses listed below:
 - a. Two hundred feet from primary and secondary schools (K-12 including vocational programs, playgrounds, parks State licensed daycare facilities;

- b. Two hundred feet from adult and juvenile correctional facilities college or university either public or private, halfway house or correctional facility, group homes serving persons aged 18 and under a halfway house, transitional housing and state licensed substance use treatment facility;
 - c. Marijuana facilities shall not be located within a drug-free school zone.
12. All medical marijuana uses shall comply with the following signage rules:
- a. External signage shall be limited to black text on a white background.
 - b. One wall mounted sign per building facade shall be permitted not to exceed 20 square feet in area.
 - c. Signage shall not be illuminated at any time.
 - d. Signage shall not displace advertisements for marijuana or a brand name except for purposes of identifying the building by the permitted name.
 - e. The price of marijuana shall not be advertised.

§ 41:6-2-48 Licensed Cannabis Businesses (Cultivator, Manufacturer, Distributor, Wholesaler, Retailer, Delivery).

1. Purpose. The purpose of this Chapter is to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls in compliance with State law and federal enforcement guidelines, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment in the City of Newark by establishing minimum land use requirements for cannabis activities. This Chapter recognizes that cannabis activities require land use controls due to the unique federal and State legal regulations applicable to cannabis activity, and the potential environmental and social impacts associated with cannabis activity.
2. Standards applicable to all licensed cannabis businesses.
 - a. Applicants shall submit a completed, pending, or approved State license application.
 - b. Applicants shall submit a security management plan that complies with applicable State standards and demonstrates at minimum:
 - i. A safety and security alarm system that includes a battery backup or generator system to provide uninterrupted service in the event of a power outage.
 - ii. Security cameras that provide coverage for all points of building ingress and egress, portions of the interior open to the public or used for the storage, cultivation, or processing of cannabis, and entire exterior of the premises with an off-site backup recording system and battery backup or generator system.
 - iii. Any other information required as part of the State or City licensing application.

Where State regulations are more restrictive than the standards in this section, the State regulations shall apply.

- c. Applicants shall submit an odor management plan with details that demonstrate the mechanism for treating the air with odor absorbing ventilation and exhaust systems such that odors generated in the facility are not detectable by a person of reasonable sensitivity outside the building or in any other unit in the same building if the use only occupies a portion of the building.
- d. Applicants shall submit a neighborhood compatibility map showing all land uses within 1,000 feet of the proposed licensed premises that specifically identifies any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility. Distance shall be measured from the nearest point of the property line of the site that contains the licensed facility to the nearest point of the property line of the enumerated use using a direct straight-line measurement.
- e. Applicants shall submit a waste management plan showing the location of interior and exterior waste storage areas, including any specialized holding areas required for the disposal of cannabis products.
- f. The licensed cannabis business premises shall be illuminated to the following minimum standards:
 - i. A minimum of 3.0 foot-candles of illumination shall be maintained within 10 feet of all building entrances.
 - ii. A minimum of 1.0 foot-candle of illumination shall be maintained throughout the property.
- g. No licensed cannabis business shall be located within the following distances from the specified land uses listed below:
 - i. 500 feet from primary and secondary schools (K-12), playgrounds, parks State licensed daycare facilities.
 - ii. 200 feet from adult and juvenile correctional facilities, colleges or universities, either public or private, halfway houses or correctional facilities, group homes serving persons age 18 and under, halfway houses, transitional housing and State licensed substance use treatment facilities.
 - iii. 500 feet from another marijuana business.
- h. Signage shall comply with the following standards:
 - i. External signage shall be limited to black text on a white background.
 - ii. One wall mounted sign shall be permitted on the facade where the main entrance

is located, not to exceed twenty (20) square feet in area.

- iii. Signage shall not display advertisements for cannabis products or brand names.
 - iv. The price of cannabis products shall not be advertised.
3. Standards applicable to cannabis cultivation businesses.
 - a. Applicants shall provide a statement outlining any pesticides, fertilizers, or other potentially hazardous materials that are expected to be used in the cultivation process.
 - b. A statement and supporting documentation shall be provided showing that all cultivation facilities shall be designed and operated to prevent pesticides, fertilizers, cannabis, and other potential contaminants from being discharged into the public wastewater and/or storm water systems.
 4. Hours of Operation: All cannabis establishments must comply with R.O. Section **14:2-4**.
 5. Redevelopment Districts. All redevelopment plans in effect in the City of Newark on the date of adoption of this Ordinance shall conditionally permit licensed cannabis businesses as follows:
 - a. Cannabis Cultivator, Cannabis Distributor, Cannabis Manufacturer, and Cannabis Wholesaler shall be permitted in any redevelopment district or sub-district that permits light manufacturing, warehousing, or uses with similar industrial character, subject to the applicable conditional use standards at Section **41:6-2-48**.
 - b. Cannabis Delivery and Cannabis Retailers, with Indoor Accessory Consumption Areas, and Cannabis Microbusinesses shall be permitted in any redevelopment district or sub-district that permits retail uses, subject to the applicable conditional use standards at Section **41:6-2-48**.

Chapter 41:7

Off-Street Parking and Loading

§ 41:7-1 **Applicability.**

§ 41:7-1-1 **Requirements Applicable.**

The parking and loading requirements of this Chapter are applicable to:

1. Any new construction except in C-2 Commercial Zone.
2. Any change of use that requires more parking and loading spaces than the existing use as set forth by this Title, except in the C-2 Commercial Zone.
3. Expansion of an existing structure in excess of 10,000 square feet, except in C-2 Commercial Zone.

§ 41:7-1-2 **Nonapplicability.**

The minimum parking and loading requirements of this Chapter do not apply to any change of use within a structure constructed before the effective date of this Title, provided that the change is to a permitted use for the zoning district where the lot is located.

§ 41:7-2 **Requirements for Off-Street Parking.**

§ 41:7-2-1 **Residential Uses.**

All residential uses, including in mixed-use buildings or structures, shall be provided with off-street parking spaces as specified in Table 7-1: Parking Requirements for Residential Uses.

§ 41:7-2-2 **Nonresidential Uses.**

All nonresidential uses, including in mixed-use buildings or structures, shall be provided with off-street parking spaces as specified in Table 7-2: Parking Requirements for Nonresidential Uses.

§ 41:7-2-3 **Commercial Vehicle Parking.**

The garaging, storing or parking of commercial vehicles on any properties within the boundaries of any residential district is prohibited.

§ 41:7-2-4 **Use of Required Parking Areas for Parking Only.**

Required off-street parking spaces in any district shall not be used for open storage, sale, or rental of goods, or storage of inoperable vehicles, unless otherwise permitted in this Title.

§ 41:7-2-5 **Rules of Parking Measurement.**

1. All area-based parking standards must be computed on the basis of gross floor area.
2. Whenever the calculations of required or maximum off-street parking spaces result in a fraction of a parking space, and the fraction is equal to or greater than 1/2, the number of required or maximum spaces shall be rounded up to the next whole number.

If the calculation results in a fraction less than 1/2, the fractional portion of the requirement or maximum shall be ignored.

§ 41:7-2-6 **Using the Parking Tables.**

1. Parking requirements are listed by the use categories of Tables 7-1 and 7-2.
2. Where a specific use is not listed here, the general parking requirement for a similar use shall be applicable subject to approval by the approving board.
3. Tables 7-1 and 7-2 do not indicate that the uses listed are permitted in specific zoning districts.

Table 7-1: Minimum Parking Requirements for Residential Uses.

Principal Use	Parking Requirement
Residential Units in residential or mixed-use buildings	1 space per unit
Rooming House or Boarding House	1 space for every 5 beds or units
Family Day Care Homes	1 space per employee
Community Residences	1 space for every 5 beds or units
Assisted Living Facilities	1 space for every 8 beds
Nursing Homes	1 space for every 8 beds

Accessory Uses

No additional parking required above requirements for principal use

Note: No parking for any use is required is 1) Lot has an area of less than 5,000 square feet and has frontage exclusively on a collector or arterial street; or 2) Lot is within 1,200-foot radius of a light rail, PATH train, or NJ Transit Station

Table 7-2: Minimum Parking Requirements for Nonresidential Uses.

Principal Use	Parking Requirement
Airport	No requirement
Animal Boarding or Kennel	0.5 spaces per 1,000 square feet
Animal Daycare & Grooming	1 space per 1,000 square feet, excluding first 3,000 square feet
Automobile Car Wash	4 queuing spaces per bay for automatic wash; 2 queuing spaces per bay for self-service

Automobile Sales	1 space per 2,000 square feet
Automobile Repair & Tire Repair	2 spaces per bay or 300 square feet of repair space, whichever is greater
Automobile Sales and Rentals, Commercial and Personal	0.5 spaces per 1,000 square feet of lot area
Business, Specialized or Vocational Schools	1 space per 500 square feet
Cemeteries	1 space per 4 seats in any viewing room, place of worship, or assembly area
Colleges and Universities	1 space per 5,000 square feet
Commercial Antennas & Microwave Dishes	No requirement
Community Centers	1 space per 500 square feet excluding first 5,000 square feet
Community Gardens	No requirement
Crematorium, Animal	1 space per employee
Data Center	1 space per 1,000 square feet
Day Care Facilities	1 space per employee
Eating and Drinking Establishments (Restaurants, Bars, Taverns, Cafes, Breweries, etc.)	1 space per 1,000 square feet, excluding first 3000 square feet
Event Space	1 space per 500 square feet excluding first 3,000 square feet.
Exterminator & Pesticide Application Business	1 space per 1,000 square feet, excluding first 3,000 square feet
Finance, Insurance, Real Estate or Securities Brokerage Consumer Services	1 space per 300 square feet excluding the first 2,500 square feet
Family Care Home, Adult	1 space per caregiver
Fitness Center	1 per 250 square feet excluding first 5,000 square feet
Funeral Home or Mortuary	1 space per 1,000 square feet
Gasoline Station	2 spaces per service bay or 300 square feet of repair space if no convenience store, if includes convenience store then 2 spaces per 1,000 square feet
Heavy Retail and Service	1 space per 500 square feet
Heliport	1 space per 2,500 square feet

Hospital/Medical Institution	1 space for every 3 hospital rooms or 1 space per 2,000 square feet, whichever is greater
Hotels	0.5 per guestroom plus 4 per 1,000 square feet of ball-room and meeting area
Commercial Recreation	1 space per 500 square feet above first 2,500 square feet; or 1 space per 5 seats, whichever is greater
Industrial and Warehousing (unless otherwise listed)	1 space per 5,000 square feet
Large Format Retail and/or Shopping Center	Minimum of 2 spaces per 1,000 square feet and maximum of 4 per 1,000 square feet
Live Animal Market	1 space per 1,000 square feet, excluding first 5,000 square feet
Massage Facility	1 space per 200 square feet excluding the first 5,000 square feet
Medical Clinic or Emergency Care Facility	0.5 per 1,000 square feet
Medical Offices (Mental and Dental)	0.5 per 1,000 square feet
Mixed/Multiple Permitted Uses on a Lot	Parking is calculated for each component use
Municipal Uses	No requirement
Museums	1 per each 1,000 square feet
Nightclubs, Discotheques & Cabarets	1 space for every 250 square feet
Offices	1 space per 1,000 square feet excluding first 2,500 square feet
Operation Facilities for Bus/Taxicab/Ambulance/Limousine	1 space for employee and 1 space for each vehicle used in operations
Outdoor Storage	1 space per 5,000 square feet
Personal Service Establishment	1 space per 1,000 square feet, exclude the first 3,000 square feet
Places of Worship	1 space per 10 seats or 1 per 1,000 square feet, whichever is greater
Primary and Secondary Schools	1 space per classroom
Private Clubs	1 space per 500 square feet excluding first 2,500 square feet
Public Parks, Playgrounds, Gardens, and Open Space	No requirement
Research and Development	1 space per 5,000 square feet

Retail and Personal Services (food and no food, unless otherwise listed)	1 space per 1,000 square feet, excluding first 3000 square feet
Self Storage	1 space for 5,000 square feet
Sexually Oriented Businesses	1 space per 1,000 square feet
Substance Abuse Treatment Centers	5 spaces per 1,000 square feet, excluding first 2,000 square feet
Taxi/Limousine Parking Staging Facilities	1 space for employee and 1 space for each vehicle used in operations
Theaters — Movie, Cinema, Performing Arts	1 space per 5 seats for gross floor area larger than 2,000 square feet
Truck Terminal	1 space per employee on the maximum shift and 1 space per vehicle operating from the premises
Urban Agriculture	None required unless includes farm stand. 1 space per farm stand
Vehicle Towing Facility	1 space per employee and 1 space per towing vehicle
All Veterinary Users	1 space per 1,000 square feet
Wholesale Bakeries	1 space per 2,000 square feet
Wind Turbines	1 space. If unmanned, then no parking required

Accessory Uses

No additional parking required above requirements for principal use

Note: No parking for any use is required is 1) Lot has an area of less than 5,000 square feet and has frontage exclusively on a collector or arterial street; or 2) Lot is within 1,200-foot radius of a light rail, PATH train, or NJ Transit Station

§ 41:7-3 Shared Parking.

§ 41:7-3-1 Shared Parking Approach.

A shared parking approach may be pursued, with the goal of permitting a lower total number of parking space than would be required if parking were determined separately for each use. The following shared parking approach is appropriate for a development that includes multiple land uses with different time-of-day and/or time-of-week peak parking demand periods:

1. The minimum number of onsite parking spaces required for weekday and weekend conditions for each use and then selecting the maximum number, as follows:
 - a. Calculate the Base Required Parking number which is the minimum number of parking spaces required for each component use according to the multipliers in Tables 7-1 and 7-2.
 - b. Calculate the Adjusted Required Parking by multiplying the number of Base Parking Spaces

required for each use by the occupancy rate in Table 7-3 for each use for the weekday daytime and nighttime, and for the weekend daytime and nighttime periods, respectively. Then take the weighted average (according to time) of the sum of all the rates. The Adjusted Required Parking shall be the weighted average rounded up to the nearest whole number. A legal instrument such as a lease, easement or deed restriction that guarantees access to the parking for both uses, designates the time periods under which each use will have rights to count spaces for purposes of the space requirements under Tables 7-1 and 7-2 must be submitted for approval.

TABLE 7-3: Parking Occupancy Rates

Time Period	Residential	Commercial	Hotel	Office	Institution/
					Civic
Weekday Rates					
Daytime (8:00 a.m.-6:00 p.m.)	60%	90%	80%	100%	100%
Nighttime (6:00 p.m.-8:00 a.m.)	100%	30%	100%	5%	20%
Weekend Rates					
Daytime (8:00 a.m.-6:00 p.m.)	80%	100%	80%	5%	20%
Nighttime (6:00 p.m.-8:00 a.m.)	100%	5%	100%	5%	5%

§ 41:7-4 Auto-Share Parking Spaces.

1. Spaces designated for auto-share use shall be shown on site plans and include signage identifying the auto share provider.
2. An applicant seeking a bonus for auto-share parking spaces shall provide a memorandum of understanding (MOU) with an auto-share service provider as a condition of approval by the Board.

3. Auto-share parking spaces in residential developments shall each count as three spaces toward meeting a minimum parking requirement (1 physical auto share space + 2 bonus credits toward the parking requirement).
4. No residential development shall have greater than 10% of the provided parking spaces designated as Auto-Share spaces.
5. The calculation of required EVSE parking spaces and any applicable discounts as provided in section 41:7-5, shall be applied prior to any calculations associated with auto share spaces.

§ 41:7-5 Electric Vehicle Supply / Service Equipment

§ 41:7-5-1 Purpose

The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State’s transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

1. Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
2. Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
3. Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
4. Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

§ 41:7-5-2 Approvals and Permits

1. An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
2. EVSE and Make-Ready Parking Spaces installed pursuant to Sub-Section 3. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.
3. All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
4. The municipal engineer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the City of Newark’s land

use regulations.

5. An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
 - a. the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 - b. all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - c. the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
6. An application pursuant to Section 5. above shall be deemed complete if:
 - a. the application, including the permit fee and all necessary documentation, is determined to be complete,
 - b. a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - c. a one-time written correction notice is not issued by the zoning officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
7. EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
8. A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

§ 41:7-5-3 Requirements for New Installation of EVSE and Make-Ready Parking Spaces

1. As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple

dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:

- a. prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - b. within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - c. within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
 - d. Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - e. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
 - f. For purposes of this section, “required off-street parking spaces” shall be the quantity of parking spaces shown on the site plan approved by the Board.
2. As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
- a. Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - b. Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - c. Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - d. Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
 - e. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
 - f. In lieu of installing Make-Ready parking spaces, a parking lot or garage may

install EVSE to satisfy the requirements of this subsection.

- g. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- h. Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

§ 41:7-5-4 **Minimum Parking Requirements**

1. All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces where applicable.
2. A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement if applicable. This shall result in a reduction of no more than 10 percent of the total required parking.
3. All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
4. Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged, but shall not be required in development projects.

§ 41:7-5-5 **Design Standards for All New EVSE and Make-Ready Parking Spaces**

1. Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
2. Installation:
 - a. Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 - b. Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 - c. To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and

other applicable accessibility standards.

- d. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.

3. EVSE Parking:

- a. Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
- b. Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
- c. Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
- d. Private Parking. The use of EVSE shall be monitored by the property owner or designee.

4. Safety

- a. Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
- b. Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with Chapters 8 and 16 of the City of Newark Code.
- c. Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings

placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.

- d. EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- e. Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- f. Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- g. Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the City of Newark shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

5. Signs

- a. Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- b. All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
- c. Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b.

above.

- d. In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
- e. Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
- f. Usage fees and parking fees, if applicable; and
- g. Contact information (telephone number) for reporting when the equipment is not operating or other problems.

6. Usage Fees

- a. The municipality or parking authority may adopt an ordinance establishing a fee for publicly owned and accessible EVSE.
- b. Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

§ 41:7-6 **Minimum Required Off-Street Loading Spaces.**

§ 41:7-6-1 **Requirements for Off-Street Loading Spaces.**

1. The number of off-street loading spaces required for any multi-family residential or non-residential use shall be provided as specified in Table 7-4.
2. Where a specific use is not listed here, the general loading space requirement for the use category shall be applicable.
3. All area-based standards must be computed on the basis of gross floor area.
4. Whenever the calculations of required or maximum off-street loading spaces result in a fraction of a loading space, and the fraction is equal to or greater than one-half, the number of required or maximum spaces shall be rounded up to the next whole number.
5. Loading spaces are not required in C-2 Zones except where the property in question has frontage on and access to more than one street.

TABLE 7-4: Schedule of Loading Space Requirements

Principal Uses	Gross Floor Area	
	(Square Feet)	Required Loading Spaces
Multi-Family Residential including Group Living	Greater than 99 Dwelling Units	1
Retail and Restaurants or Eating Establishments	0 to 9,999	0
	10,000 to 24,999	1
	25,000 to 49,999	2
	50,000 to 99,999	3
	Over 100,000	4
Office, Hospital or Medical Institution, Public, Civic and Institutional	0 to 99,999	0
	100,000 to 150,000	1
	150,001 to 500,000	2
	Over 500,001	3
Hotels	Fewer than 200 hotel rooms	1
	Greater than 200 hotel rooms	2
Industrial, Wholesale, Manufacturing, Storage Uses	0 to 9,999	0
	10,000 to 49,999	1
	Over 50,000	2

§ 41:7-7 Micromobility Parking Requirements and Standards.

§ 41:7-7-1 Required Micromobility Parking Spaces.

1. Micromobility parking spaces shall be provided in accordance with Table 7-5.

- 2. Space within dwelling units or on balconies may not be counted toward satisfying micromobility parking requirements.

TABLE 7-5: Required Micromobility Parking

Multi-Family Buildings

Number of Dwelling Units	Minimum Number of Spaces Provided in Racks or Indoor Storage
--------------------------	--

Fewer than 10 dwelling units	2
Greater than 10 dwelling units	1 space per 4 units with at least 50% provided in indoor storage

Non-Residential Uses

Commercial	2 spaces above first 5,000 square feet
Industrial	1 space per 10,000 square feet, but no use shall be required to provide more than 20 spaces

Chapter 41:8

Requirements for Off-Street Parking and Loading Areas

§ 41:8-1 Variances and Waivers.

Any deviation from a provision of this Chapter which is identified as a design standard shall require a waiver by the reviewing board from the specific design standard. Any other deviation from a standard contained in this Chapter shall require a variance from the specific standard in accordance with the Municipal Land Use Law.

§ 41:8-2 Parking Location.

§ 41:8-2-1 Zoning Standards.

1. Except as otherwise expressly provided in this Title, required off-street parking, loading, and vehicle stacking spaces shall be located on the same lot as the principal use and must have adequate access to a street or driveway connecting to a street.
 - a. Parking spaces should utilize vacant land whenever possible and preserve existing vegetation.
2. When the parking spaces required by this Title are provided off the site, the following additional regulations shall apply and shall continue so long as the premises are used for such purpose, except that in lieu of the area originally designated, other equal area may be substituted from time to time:
 - a. Such parking spaces shall be in the same possession by lease or ownership as the use to which they are an accessory.
 - b. Such spaces shall conform to all regulations of the district in which they are located.
 - c. For all building types except the Industrial building type described in Chapter 5:
 - i. All parking spaces shall be inside the structure or located at the rear or at one side of that structure.
 - ii. On-site parking is prohibited in front of a structure or forward of a street-facing facade of that structure.
 - iii. Tandem parking arrangements of only up to two spaces deep are allowable in one-, two-, or three-family dwellings.
 - iv. In multifamily structures with four or more dwelling units, tandem parking arrangements of up to two spaces deep can only be used if both spaces are assigned to the same dwelling unit and shall only count as one parking space.

§ 41:8-3 Off-Street Parking Lots.**§ 41:8-3-1 Design Standards.**

1. Complete Streets Policy.
 - a. The design and layout of off-street parking lots shall be reviewed so as to provide a high-quality, urban, shaded, compact, and walkable design and layout.
 - b. Pedestrian, bicycle, and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of pedestrian circulation from the public right-of-way to the development, parking areas, and off-street loading and unloading.
 - c. The Board shall ensure that parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be appropriately designed using Complete Streets standards outlined in the "Urban Street Design Guide" published by the National Association of City Transportation Officials (NACTO).
 - d. The site plan shall provide a safe and efficient circulation system for the movement of people, whether on foot, bicycle or other micromobility device, or vehicle into, out of, and within the site. The circulation system shall have minimum adverse impact on surrounding areas and shall comply with the Complete Streets standards outlined in the "Urban Street Design Guide" published by the National Association of City Transportation Officials (NACTO).
 - e. Particular attention shall be given to provide for safe emergency access for fire and police protection, vehicular and pedestrian circulation.
2. Off-street parking areas shall be designed to permit all vehicles to turn around on the site in order to prevent the necessity of any vehicle backing onto a collector or an arterial street from such site. No required off-street parking space or maneuvering space shall be located within the existing or proposed right-of-way of the street.
3. Off-street parking shall meet the following requirements:
 - a. The site plan shall provide for sufficient parking spaces, driveways, maneuvering areas and loading zones.
 - b. For all automobile parking the minimum space shall be eight feet six inches wide and 18 feet long. An eight-foot six-inch stall width assumes a clear space on adjacent stalls of the same dimension on both sides. If a stall is located with one side adjacent to a wall or high curb, an additional six inches of width is needed. The minimum stall width, if walls are on both sides, shall be therefore, nine feet. The use of minimum width of eight feet shall be permitted for attendant type parking.
 - c. The stall dimensions are in addition to the required maneuver and access aisles as determined by the Newark Department of Engineering. In no event shall the overall layout of the off-street parking area be conducive to a back-out maneuver onto a collector or an arterial street.

- d. In any case where a reduction of the required area per parking space is permitted by the Newark Department of Engineering on the basis of the developer's certification that such space will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.
 - e. A parking area shall be illuminated and shall be shielded to protect motorists on the adjacent or adjoining residential properties from resulting glare.
4. If parking lifts are to be utilized, refer to Chapter 4 Section **41:4-6-2**, Automotive Lifts.

§ 41:8-4 **Off-Street Structured Parking (Freestanding or in Mixed-Use Building).**

§ 41:8-4-1 **Zoning Standards.**

1. Structured parking shall be designed to complement Newark's neighborhoods and streets to create a pedestrian-friendly environment and aesthetically-pleasing public realm.
2. All structured parking and structured parking garages and structures (referred to here as parking structures) must have a primary pedestrian entrance and exitway facing a public street located at the sidewalk.
3. Facades on all parking structures shall be partially enclosed or screened as follows:
 - a. First or Ground floor: First floor of parking structures shall have at least 70% of the facade elevation enclosed with a wall so that it is not open to the exterior. In addition, a minimum of 50% of ground-floor facade shall be transparent with windows or other openings. Decorative exterior materials shall be used for enclosure and screening of openings.
 - b. Second floor and above: A minimum of 50% of the facade elevation area must be enclosed with a wall so that it is not open to the exterior. In addition, a minimum of 35% of facade shall be transparent with windows or other openings. Decorative exterior materials shall be used for enclosure and screening of openings.
4. Parking structures shall not be clad in EIFS or similar materials.

§ 41:8-4-2 **Design Standards.**

1. Public art and/or creative design and color schemes to make garage facade elevations aesthetically attractive and provocative to the street are encouraged.
2. Parking structures are encouraged to incorporate green roofs, sustainable materials, solar panels, and exterior vegetative landscaping features where appropriate.
3. New parking structure entrances/exits are prohibited on arterial streets.
4. Parking structures, whether stand-alone or incorporated into a building with other uses, shall not have more than 48 feet in height of exposed elevation frontage on any residential street. Parking structures exceeding 48 feet in height must be wrapped with other street-facing

uses.

5. Parking structures with over 450 vehicles shall have more than one exit/entry. Second entry/exit to garage should be on a different street than the other exit/entry if feasible.
6. The permitted and prohibited uses and ground floor use standards sections that are in the Permitted Uses by District contained in Chapter 4 may provide further restrictions on the design and placement of structured parking.
7. For ground-floor standards for parking structures, refer to Chapter 4, Permitted Uses by District.

§ 41:8-5 Off-Street Parking Landscaping.

§ 41:8-5-1 Zoning Standards.

1. All automobile and truck parking lots whether public or private, residential, commercial, or industrial parking lots shall be effectively screened by attractive decorative landscaping, the purpose of which is to screen from public view cars and trucks within the parking area. In all parking areas, at least 15% of the interior parking area shall be landscaped with plant material reasonably distributed in the lot.
 - a. One pollution-resistant shade or ornamental tree of not less than 2 1/2 inches caliper of a variety other than those named in Section **41:16-2-2**, shall be planted for every five parking spaces. These shall be reasonably distributed in parking areas and in landscaped areas combined with shrubbery. The base of each tree shall be left free of pavement for a diameter of not less than five feet. The landscaping should be located in protected areas, such as along walkways, lot perimeters, in center islands, at the end of bays or in diamonds between parking stalls. Such protected areas shall be constructed so as to prevent damage to plant material from vehicles.
 - b. Parking of motor vehicles on landscaped areas, on grass, or against trees and shrubbery shall not be permitted in business, commercial, industrial, and professional areas.
 - c. Only nursery grown planting stock, free of insects and disease, single-stem and spaced at a suitable distance to consider growth when reaching maturity, shall be used. Narrow evergreen coniferous shrubbery or trees shall be planted four feet on centers (such as Arborvitae) where used as a screening device. Special design effort shall be made to protect, save and utilize healthy vegetation and trees three inches or more in caliper.
2. All parking stalls shall be required to have either full-height curb designed to city engineering specifications or wheel guards. Where wheel guards are provided, they shall be positioned to prevent damage to fencing and landscaping along the property line and to ensure pedestrian safety wherever necessary.

§ 41:8-5-2 Design Standards.

1. All parking lots shall provide a buffer of hardy (salt-, shade-, and drought-resistant) plants to provide a deciduous or evergreen hedge-forming shrub variety which meets the following

standards:

- a. Such plantings shall not be less than three feet high at planting.
 - b. Such planting shall be located adjacent to the parking areas or along all property lines adjacent to such parking areas to buffer lot use, noise, and dust.
 - c. Such plantings shall be maintained at a height of four feet except where the perimeter of a parking lot is adjacent to a residential district, the height of such screening shall be six feet and evergreen.
 - d. Such plantings shall not be required in those instances where a permitted building or other structure screens such a parking lot.
 - e. Such plantings shall not be permitted within sight triangles of driveways.
 - f. Such plantings may be substituted by a combination of plantings and walls or other opaque, durable decorative permitted fencing that sufficiently screens automobile headlights, provided that opaque fencing or walls are not placed along a lot line bordering a public right-of-way. Chain link fencing with or without vinyl slats shall not be permitted as a substitute for such plantings.
2. For parking lots with greater than 20 spaces, the following landscaping requirements in addition to those set forth in Section **41:8-5-1** shall apply:
- a. Parking area designs must provide for shade by deciduous trees that have or will have when fully mature a trunk at least 12 inches in diameter. New trees shall be of a type suitable and adaptable to planting within a parking lot for shading. Each tree shall be capable of shading a circular area having a radius of 15 feet with the trunk of the tree as the center. There must be sufficient trees so that, using this standard, 50% of the parking area shall be shaded within 15 years after establishment of the parking facility.
 - b. Parking areas, 1/10 of the total of such area or 1,000 square feet within each 10,000 square feet of paved area, shall be landscaped with planting material reasonably distributed in the area. Landscaping in parking area shall be located in protected areas, such as along walkways, in center islands, at the end of bays, or in diamonds between stalls. Such protected areas shall be constructed so as to prevent damage to plant material from vehicles. One approved shade or ornamental tree shall be planted for every five parking places. These shall be reasonably distributed in parking areas in any landscaped areas combined with shrubbery. The base of each tree shall be left free of pavement for a diameter of not less than one foot per diameter inch of expected growth.
 - c. Green "belts," "islands," or strips, where appropriate, shall be provided to guide vehicle movement and to separate opposing rows of parking spaces and to provide adequate space for plant growth, pedestrian circulation and vehicle overhang. Such street design should be wide enough to accommodate two rows of deciduous trees with a walkway between the two allowing for pedestrians to safely walk to and from

destination. Design shall meet the following requirements:

- i. Such raised planting islands and the landscaping within them shall be designed and arranged so as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel interior traffic flow, to prevent indiscriminate diagonal movement of vehicles and to provide cooling shade and visual relief.
 - ii. Such plantings shall be maintained at a height of four feet.
 - iii. Curbs of such islands shall be designed so as to facilitate surface drainage.
 - iv. In lieu of planting islands, five foot by five-foot tree wells may be planted with shade trees with a minimum caliper of 2 1/2 inches and minimum height of eight feet in such positions necessary to effectively guide vehicle movement. These treewells shall have a curb surrounding them and shall incorporate structural soil under impervious surfaces to equal minimum square footage to sustain the tree at predicted maturity size.
3. The selection, amount and location of all landscaping materials shall be subject to approval by the staff of the Central Planning Board and Urban Forester based upon considerations of the adequacy of the proposed landscaping to serve its intended purpose with minimal maintenance problems including plant care, snow removal and leaf removal.
 4. All landscaping shall continue to be maintained in a healthy growing condition throughout the duration of the use, building or structure which is intended to serve. Any planting not so maintained shall be replaced with new plants promptly.
 5. A maintenance plan shall be submitted and reviewed prior to approval and shall be at least 10 years in effect.

§ 41:8-6 **Loading Areas.**

§ 41:8-6-1 **Design Standards.**

1. Off-street truck loading stalls shall have minimum dimensions according to the associated use as set forth in Table 8-1:

Table 8-1: Loading Zone Dimensions			
	Length	Width	Vertical Clearance
			(feet)
Residential Uses	30	10	12
Mixed-Uses including Residential	30	10	12

Table 8-1: Loading Zone Dimensions

	Length	Width	Vertical Clearance
Commercial Uses except in the C-3 Zone	30	10	12
Commercial Uses in the C-3 Zone	45	12	14
Industrial	45	12	14

- a. No truck parking or loading associated with a commercial or industrial use shall be located within 10 feet of a residential building. This standard shall not apply to a residential use located within a mixed-use building.
- b. Entrances and exits of driveways to a parking or truck loading area shall be paved and shall include turning areas and shall be so designed as to assure ease of mobility, ample clearance and safety of vehicles and pedestrians.
- c. A parking or truck loading area shall be surfaced with concrete or bituminous cover graded so as to prevent an accumulation of water on the surface of the areas. In no case shall drainage of any sort be permitted across the public walk into the roadway.

§ 41:8-7 Micromobility Parking Areas.

§ 41:8-7-1 Design Standards.

1. Bicycle racks and other micromobility parking shall be well integrated into the pedestrian realm. Racks shall not be permitted on a public right of way or on the sidewalk of a private road where the rack would limit the pedestrian right of way width to less than six feet.
2. Storage for micromobility vehicles may be provided inside a building so long as the following standards are met:
 - a. Minimum width: two feet.
 - b. Minimum length: six feet.
 - c. Minimum overhead clearance: seven feet.
3. Micromobility spaces must be located on private property unless the Department of Engineering approves location within the public right-of-way.

4. Micromobility parking provided outside of a building shall be located within a 100-foot radius of the primary building entrance.
5. Racks and other fixtures used to provide required parking must be affixed securely to the ground or a building, to which a micromobility vehicle may be locked or chained.

§ 41:8-8 Driveway Design Standards.

§ 41:8-8-1 Design Standards.

1. Complete Streets Policy.
 - a. The design of the driveway shall provide safe pedestrian movement along the public right-of-way and shall comply with the Complete Streets standards outlined in the "Urban Street Design Guide" by the National Association of City Transportation Officials (NACTO).
2. The dimensions of entrances and exit driveways and interior roads shall be adequate to accommodate the volume and character of vehicles anticipated to be using the site, but not wider than necessary to accommodate the volume and character of vehicles anticipated to be using the site, but not wider than necessary to accommodate the expected traffic, at a speed of 15 miles per hour.
3. All entrance and exit driveways shall be located so as to afford maximum safety to, and minimum disruption of, traffic on the street.
4. Where the frontage of the lot is too narrow to permit the above distance, the driveway shall be located as far from the intersection as possible but in no case any closer than 25 feet from a public pedestrian crosswalk.
5. All driveways shall require depressed curb construction.
6. All driveways shall conform to all applicable Newark standards. Driveway pavement shall extend to the curb of the street with which it connects.
7. Driveways shall be placed to maximize retention of on-street parking spaces.
8. Driveways for 1-4 family dwellings shall not exceed 10 feet in width in any front yard.
9. For all other driveway construction and design, the standards shall apply as given in Table 8-2, set forth hereinafter.

Table 8-2: Driveway Dimensions and Locations

	Commercial	Multi-Family Residential	Industrial
Driveway Width (feet)			

Table 8-2: Driveway Dimensions and Locations

	Commercial	Multi-Family Residential	Industrial
Minimum, one-way	12	10	12
Minimum, two-way	24	20	24
Maximums	12 (One-way); 24 (Two-way)	10 (One-way); 20 (Two-way)	20 (One-way); 40 (Two-way)
Minimum Driveway Spacing (feet) from Street Corner			
Signalized	50	50	50
Not Signalized	25	25	25

Number of Driveways

Properties with a frontage of less than 100 feet shall be permitted a maximum of 1 driveway

Properties with a frontage of more than 100 feet, 2 driveways shall be permitted on different streets

Properties with a frontage of more than 500 feet on one street, 2 driveways shall be permitted on the same street

Chapter 41:9

Signs

§ 41:9-1 Purpose

It is the purpose of this chapter to promote the public health, safety, and general welfare through reasonable, consistent, and nondiscriminatory sign standards. The standards in this ordinance are content-neutral and are not intended to censor speech. The standards are intended to regulate the secondary effects of signage as a medium of speech and their impacts on aesthetics, traffic, and pedestrian safety. The regulation of signage within the City of Newark is a means to promote a desirable visual environment, provide adequate light air and open space, and ensure the public health, safety, and welfare by promoting safety for pedestrians, cyclists, and the motoring public.

§ 41:9-2 Exemptions

1. The following signs shall be exempt from all signage requirements:
 - a. Any public notice or warning required by a valid and applicable Federal, State, County or local law, regulation or ordinance.
 - b. Any sign which is inside a building, not attached to a window or door, and is not readable from a distance of more than 10 feet beyond the lot line of the lot or parcel nearest to where such sign is located.
 - c. Seasonally appropriate holiday lights and decorations with no commercial message. However, such lighting can only remain for no more than three months.
 - d. Traffic control signs on private property, which meet Department of Transportation standards, and which contain no commercial message of any sort.
 - e. Flags of the United States, New Jersey, the City of Newark, flags of any foreign nation, or other flags with purely non-commercial purposes.
 - f. Pump mounted fuel price informational signs subject to the following:
 - i. Only one fuel price informational sign shall be permitted per fuel pump nozzle.
 - ii. Fuel price informational signs shall be limited in size to an area of 216 square inches in accordance with State and Federal regulations.
 - iii. Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
 - iv. Nothing herein shall be construed to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this section.
 - g. US Postal Regulation mailboxes.

§ 41:9-3 Temporary Signs

All temporary signs shall have the date that the sign is installed in the lower left corner, written legibly. No such sign shall be permitted that would, in the opinion of the Zoning Officer, interfere significantly with vehicular or pedestrian traffic. All such signs shall be of professional quality. A temporary sign which does not comply with the time limitations shall become a permanent sign and shall be subject to compliance with all standards of this chapter, which may require the sign be removed or a approval sought. The following temporary signs shall be permitted without a permit.

1. Signs associated with active construction sites, to be removed upon completion of construction.
2. Sandwich board or sidewalk signs shall be permitted associated with a specific business only during business hours. Sidewalk signs shall not obstruct pedestrian passage along the sidewalk and shall maintain a minimum clear width of six (6') feet.
3. Rental or Leasing Signs.
 - a. One sign advertising the sale or rental of an individual unit or commercial space on the premises upon which they are located shall be permitted provided that the sign is no more than eight square feet and removed within one week of the date of sale or rental of the property.
 - b. One rental or leasing sign or banner securely affixed to a building façade, advertising a development in a new or substantially rehabilitated building shall be permitted for a total of 180 days which may begin prior to certificate of occupancy. Such banner or leasing signs shall be subject to review either as part of a site plan application or by the zoning officer. The area of the sign shall not exceed 100 square feet and the sign shall be exempt from placement and location restrictions contained elsewhere in this Chapter.
4. Political signs provided that they fully comply with Section **29:22-1** et seq. of the Revised General Ordinances of the City of Newark.
5. Grand opening signs or banners shall be permitted, provided the sign does not exceed 70 square feet and is not displayed for a period greater than four weeks.
6. Special event signs shall be permitted for a period not to exceed 14 days. One special event sign shall be permitted per property and the sign shall not exceed 20 square feet in area.

§ 41:9-4 Prohibited Signs

1. Sign Prohibitions for All Districts:
 - a. Billboards shall be prohibited except as permitted by conditional use in Section 41:6-2-10 of the Zoning and Land Use Regulations of the City of Newark.

- b. No signs shall be placed on municipal fences, walls, railway or road bridges, bridge supports or abutments, retaining walls, parking meters or water towers unless approved by the City Council. Signs on trees and utility poles are prohibited.
- c. No roof signs, also known as "sky signs," mounted above the roofline of a building shall be permitted.
- d. No sign shall be placed on an accessory building.
- e. No sign shall be lighted by means of a varied illuminated light, nor shall any sign be in whole or in any part moving, mobile, revolving and/or electrically or mechanically activated.
- f. No sign shall be allowed with the optical illusion of movement by means of a design which presents a pattern capable of reverse perspective or giving the illusion of motion or changing copy.
- g. No signs shall be allowed that are placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way, where the apparent purpose is to advertise a product, service or activity or direct people to a business or activity. This is not intended, however, to prohibit signs placed on or affixed to vehicles, buses or trailers where the sign is incidental to the primary use of the vehicle or trailer. The vehicle shall remain in fully operable condition and be driven or moved by its own power at least once per week.
- h. No sign shall be allowed which obstructs any window or door opening to the point of jeopardizing public safety. Additionally, no sign shall obstruct the view of any building's existing decorative architectural features.
- i. No sign shall be allowed which obstructs the view of vehicle operators or pedestrians entering a public roadway from any parking area, service drive, public driveway, alley or other thoroughfare.
- j. Awnings made of translucent material of any type are prohibited.

§ 41:9-5 **Permit Procedure**

1. No sign except those exempted in subsections 2 and 3 above shall be placed, constructed, erected or modified unless a sign permit shall have been obtained from the Zoning Officer and, where required by the New Jersey Uniform Construction Code, a building permit shall have been obtained from the Construction Official.
2. When installation or modification of a sign has been approved by the Board as part of a development application, a sign permit shall be issued only if the proposed sign is consistent with the Board's approval.
3. Where a proposed sign is not consistent with the requirements of this Chapter, the Zoning

Officer shall refer the application to the appropriate Board for variance review. The Planning Board shall have jurisdiction over sign approvals when they are part of a new or amended site plan or subdivision application. The Zoning Board of Adjustment shall have jurisdiction if a variance pursuant to N.J.S.A. 40:55D-70.d is also required or if site plan or subdivision approval is not otherwise required.

§ 41:9-6 **Measuring Signs**

1. The following methods of measurement shall be utilized for the purposes of calculating permissible signage:
 - a. Individual Sign Area Measurements.
 - i. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, graphic illustration, picture, symbol or other display, together with any material or color forming an integral part of the background of the sign. For purposes of calculating sign area, any illuminated border including those which may frame the signage within a window shall be included in the sign area calculation and used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly incidental to the sign itself.
 - ii. No wall or canopy sign shall have more than two display faces. When a sign has two display faces such that both faces cannot be viewed from any one point at the same time, the sign's area shall be computed by the measurement of the larger of the two faces.
 - b. Glazed Area. Any glazing in doorways shall be considered part of the glazed area. For purposes of calculating window signs, a window shall be considered the glazed area. Signs which are required by County, State, or Federal agencies shall be exempt from calculation of permanent signage.
 - c. Measurement of Height. The height of a monument sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be considered to be the lower of the existing grade prior to construction of the newly established grade after construction, exclusive of any filing, berming, mounding or excavation solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, the sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public road or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

§ 41:9-7 **Electronic Message Center / Digital Display Signs**

1. Electronic Message Center and Digital Display signs shall not be permitted within the

city. Where applications for variance to permit an Electronic Message Center / Digital Display Sign are made, the standards in this section shall be considered. Billboards shall not be subject to this subsection but shall be regulated in accordance with the standards in Section 41:6-2-10.

2. Application Requirements. Applications for permits for electronic message center / digital display signs shall include all information typically required for sign permit and/or site plan or subdivision application along with the following information:
 - a. Maximum luminance during daylight hours and at all other times.
 - b. Method of luminance control.
 - c. Minimum message duration in accordance with the formula in subsection 41:9-7.5.
3. General Requirements
 - a. Electronic message center and digital display signs are subject to the same sign type, placement, height, area, and design standards as other sign types as defined in 41:9-10.
 - b. A maximum of one (1) electronic message center or digital display sign shall be permitted per property.
 - c. Animated or otherwise moving messages or images shall not be permitted.
 - d. Transitions between messages shall be instantaneous and shall not utilize fade-ins, fade-outs, star-wipes, or other similar transitions that create the illusion of movement.
 - e. The signs shall default to a black or similar dark color screen in the event of message or communication malfunction.
 - f. The owner of a message center sign shall coordinate with the City Council to provide an opportunity to display, when appropriate, emergency information important to the traveling public. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.
4. Luminance. Electronic message center and digital displays are subject to the following luminance limits. These standards ensure effective visibility of the sign while minimizing adverse impacts on neighboring properties and the motoring public:
 - a. During daylight hours between sunrise and sunset, luminance shall be no greater than five thousand (5,000) nits.

- b. At all other times, luminance shall be no greater than two hundred fifty (250) nits.
 - c. Each sign shall have a light sensing device that automatically adjusts the luminance of the display as the natural ambient light conditions change to comply with the limits set herein.
5. Message Duration. The length of time each message may be displayed on a message center sign or digital display is based upon the visibility and speed limit unique to the location of individual signs and the adjacent road conditions. The following method shall be used to calculate the minimum required message duration:
- a. Determine the greatest distance from which the sign becomes visible on the road from which the sign will primarily serve. If a sign is intended to be seen from more than one road, the road with the lower posted speed limit shall be used for determining message duration.
 - b. Multiply the road's posted speed limit (MPH) by 5,280 and then divide by 3,600 to obtain the speed limit in feet/second.
 - c. Divide the maximum visibility distance from a. by the speed limit in feet/second from b.
 - d. Add an additional ten (10%) percent to the total calculated in c.
 - e. The resulting amount of time in seconds is the minimum permitted message duration. Where the result is less than eight (8) seconds, the minimum message duration shall be eight (8) seconds.

§ 41:9-8 Standards for Illuminated Signs

1. Internal Illumination
 - a. Wall Signs shall be permitted to be internally illuminated through the use of channel letters or halo lighting mounted behind signs to create a glowing halo effect. Light box signs shall not be permitted.
 - b. Free-standing signs shall be permitted to be internally illuminated provided that no more than 50% of the sign is translucent (meaning up to half the sign may allow illumination to pass, with the remainder opaque to prevent visible illumination).
 - c. Internal illumination shall be static in intensity and color.
 - d. Electronic message center / digital display signs shall be regulated by section 41:9-6.
2. External Illumination

- a. The source of external illumination shall be shielded / angled / designed to not be visible to the passing public.
 - b. External illumination shall be a steady, stationary light source in a consistent color.
 - c. Light sources shall be designed to prevent any visible glare.
3. Illuminated signs shall be extinguished ½ hour past the close of business of the facility being identified or advertised, unless otherwise required by State or Federal Law or if there is a demonstrated security need to maintain illumination. Signs shall be equipped with an automatic timer to comply with this subsection.
 4. All wiring and other equipment associated with illuminated signs shall be contained within the sign or a secure enclosure that obscures loose wires from general visibility.

§ 41:9-9 Nonconforming Signs

1. No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity. Existing nonconforming permanent signs may continue to exist; however, when the sign is modified in either shape, size, illumination, material, or structure, the sign shall be altered to conform to the provisions of this section.
2. Should any nonconforming sign be damaged for any reason by any means to an extent of more than 50% of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this section.

§ 41:9-10 Signage Design and Measurement Requirements.

1. The following signs and standards and conditions that govern such signs are set forth in Table 9-1. All other signs are expressly prohibited unless otherwise regulated in this chapter. The following design standards shall apply:
 - a. Signs shall be in harmony and consistent with the architecture of the building and related to the features of the building in terms of location, scale, color, lettering, materials, texture and depth. Signs shall not be dominant but shall be proportionate and shall complement the building, existing signs and surroundings.
 - b. There shall be consistent sign design throughout a particular project. The design elements include style of lettering, construction materials, size and illumination.
 - c. Building signs shall not obscure, conflict with, or cover any architectural element and must be aligned with major building elements such as windows, trim and structure lines.
 - d. No sign shall extend or project above the highest elevation of the wall to which it is attached or above the lowest part of the roofline of the building, whichever is less.
 - e. Signs and sign structures of all types shall be located to allow a clear, unobstructed

line of sight for 300 feet from the stop line of any intersection of streets and/or driveways, traffic signal or traffic directional sign in the intersection.

- f. The width of signs mounted on the ground floor for any nonresidential or non-industrial use may be 100% of the width of the portion of the wall area dedicated to the applicable use if that width is less than 30 feet, or 75% if the relevant width is 30 feet or greater.

2. All signs shall comply with the standards enumerated in Table 9-1 below:

Table 9-1: Signage Design And Measurement Requirements				
Signage Type	Maximum Total Area (square feet)	Maximum Number	Maximum Height of Sign (feet)	Other Requirements

SINGLE-, TWO-, THREE-, AND FOUR-FAMILY DWELLING

Wall Sign	1 square feet	1	Not to be located above the first floor on the building.	Home occupation or profession only. (Address numbers are exempt.)
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TOWN HOUSES AND ROW HOUSES; LOW-, MID- AND HIGH-RISE RESIDENTIAL

Wall Sign	20 square feet	1 per street frontage for complex	Not to be located above the first floor on the building.	Building or complex Identification only – home occupation signs are not permitted for multi-family developments.
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OR

Monument	25 square feet	1 per street frontage	5 feet including base	Where permitted, monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures.
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MIXED-USE BUILDING WITH COMMERCIAL AND RESIDENTIAL USES

Wall Sign	10% of the wall area associated with the tenant space but no	Commercial: 1 per commercial tenant, per frontage	Not to be located more than 4 feet above the	
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Table 9-1: Signage Design And Measurement Requirements

Signage Type	Maximum Total Area (square feet)	Maximum Number	Maximum Height of Sign (feet)	Other Requirements
	greater than 50 square feet per sign.	occupied by the tenant Residential: 1 per frontage	top of the door, window, or lintel line, whichever is tallest.	
Projecting	6 square feet	1 per commercial tenant per frontage occupied by the tenant	n/a	May project a maximum of 4 feet from the building. Minimum distance between the ground and the bottom of the sign is 8 feet; Sign must be hung by brackets at right angles to the facade
Window	No more than 10% of glazed area for signs.	n/a	n/a	
Awnings	To be used in lieu of wall signs, subject to same conditions	n/a	n/a	Awnings, which are not internally lit, may be used to display signage in lieu of a wall sign. However, an awning with no signage but for the name, address and phone number on the fringe of the awning with lettering no greater than 8 inches high may be used in addition to a wall sign. A minimum letter height of 12 inches shall be used
Window Sign (above ground level)	25% of the total glazed area of the windows applicable to the use.	1 per street frontage	Signs may be located in level of the second or third levels of a building.	A sign for a commercial use above first level may be installed at the second or third level

DETACHED COMMERCIAL / SCHOOLS / COMMUNITY CENTERS / PLACES OF

Table 9-1: Signage Design And Measurement Requirements

Signage Type	Maximum Total Area (square feet)	Maximum Number	Maximum Height of Sign (feet)	Other Requirements
WORSHIP / HOSPITAL OR MEDICAL INSTITUTIONS				
Wall Sign	10% of the wall area associated with the tenant space but no greater than 70 square feet per sign. For a single tenant building, 10% of the wall area but no greater than 100 square feet per sign.	1 per tenant, per frontage occupied by the tenant	Not to be located more than 4 feet above the top of the door, window, or lintel line, whichever is tallest.	
Projecting	6 square feet	1 per commercial tenant, per frontage occupied by the tenant	n/a	May project a maximum of 4 feet from the building. Minimum distance between the ground and the bottom of the sign is 8 feet; Sign must be hung by brackets at right angles to the facade
Window	No more than 10% of glazed area for signs	n/a	n/a	
Awnings	To be used in lieu of wall signs, subject to same conditions.	n/a	n/a	Awnings, which are not internally lit, may be used to display signage in lieu of a wall sign. However, an awning with no signage but for the name, address and phone number on the fringe of the awning with lettering no greater than 8 inches high may be used in addition to a wall sign

Table 9-1: Signage Design And Measurement Requirements

Signage Type	Maximum Total Area (square feet)	Maximum Number	Maximum Height of Sign (feet)	Other Requirements
Monument Sign	25 square feet	1 per street frontage	5 ft. including base	Monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures. A minimum letter height of 12 inches shall be used

FUNERAL HOME OR MORTUARY

Wall Sign	10 square feet	1 per street frontage	Not to be located more than 4 feet above the top of the door, window, or lintel line, whichever is tallest.	
Monument Sign	25 square feet	1	5 ft. including base	Monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures. A minimum letter height of 12 inches shall be used

AUTOMOTIVE SERVICE; AUTOMOTIVE SALES AND REPAIR

Wall Sign	10% of the wall area but no greater than 50 square feet.	1 per street frontage	Not to be located more than 4 feet above the top of the door, window, or lintel line, whichever is	
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Table 9-1: Signage Design And Measurement Requirements

Signage Type	Maximum Total Area (square feet)	Maximum Number	Maximum Height of Sign (feet)	Other Requirements
			tallest.	
Monument	25 square feet	1 per street frontage	5 feet	Monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures.

SELF STORAGE

Wall Sign	10% of the wall area but no greater than 100 square feet.	1 per street frontage	n/a	
Monument	25 square feet	1 per street frontage	n/a	Monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures.

ALL OTHER INDUSTRIAL USES

Wall Sign	10% of the wall area but no greater than 100 square feet.	1 per street frontage	n/a	
Monument	25 square feet	1 per street frontage	5 feet	Monument signs shall be set back at least 5 feet from all property lines and 5 feet from all structures.

3. Other signs not listed in Table 9-1.
 - a. Building types or uses not listed in Table 9-1 shall comply with the signage standards for the most similar or appropriate building or use as determined by the Zoning Officer.
 - b. Office buildings of 12 stories or more with signs indicating the address or owning company's name or trademark image may be placed below the parapet line and above the top floor row of windows and shall be no more than 50% of the building width. Such signs shall be limited to business identification for the principal tenant or owner, who must occupy at least 40% of the building's total

floor area. Such signs shall be limited to one tenant/owner per building and one sign per building elevation. Such signs shall be prohibited in the Downtown Business District on buildings under 110 feet in height. Such signs shall be prohibited on key and contributing historic buildings in historic districts as well as on individually landmarked buildings in all districts. Such signage shall not have a negative effect on any historic structure.

- c. Free-standing signs shall be permitted for detached commercial malls and strip centers with a minimum area of 40,000 square feet and a minimum lot frontage of 200 feet subject to the following:
 - i. Maximum Height – 18 feet
 - ii. Minimum Setback to any property line – 5 feet
 - iii. Maximum Sign Area – 36 square feet

Chapter 41:10

Historic Sites and Districts

[Adopted by the City Council of the City of Newark February 4, 2015 by Ord. No. 6PSF-C, 2-4-2015. Amendments noted where applicable.]

§ 41:10-1 Title.

This Chapter shall be known as and may be cited as the Newark Landmarks and Historic Preservation Regulations.

§ 41:10-2 Definitions.

ADMINISTRATIVE OFFICER

Shall mean the Historic Preservation Officer. In the event that the Historic Preservation Officer is not appointed, the Manager of the Division of City Planning or his/her designee shall serve as the Administrative Officer.

ALTERATION

Shall mean any act or process that in any way effects a change in the design or outer appearance of a building, structure, object or site, or any part thereof.

APPLICATION

Shall mean an application form and all accompanying documents submitted for approval of a permit for alteration, repair, reconstruction, demolition or relocation of a designated historic site, building, structure or object, or improvement within a designated historic district or review of a development application concerning same.

ARCHAEOLOGICAL

Shall mean the science or study of the material remains of past life or activities and the physical site, location, or context in which they are found, as delineated in the Department of Interior's Archaeological Resources Protection Act of 1979.

ARCHITECTURAL

Shall mean relating or conforming to the rules of Architecture; having or conceived as of having a single unified overall design, form, or structure.

ARCHITECTURAL FEATURE

Shall mean the architectural style, design, general arrangement and components of all the surfaces, including but not limited to the kind, texture and color of the building material, and the type and style of all windows, doors, lights, signs and other features appurtenant to such improvement.

BUILDING

Shall mean any structure, part of a structure, extension thereof, or addition thereto having a roof supported by columns, posts, piers, or walls and intended for the shelter, business,

housing or enclosing of persons, animals, or property.

CERTIFICATE OF APPROPRIATENESS

Shall mean a document attesting that proposed work within a historic district or affecting a landmark building, structure, object, site or landscape feature has been reviewed and deemed appropriate and consistent with the purpose of this Chapter by the Newark Landmarks and Historic Preservation Commission.

CERTIFICATE OF NO EFFECT

Shall mean a document attesting that proposed work within a historic district or affecting a landmark building, structure, object, site or landscape feature has been reviewed by the Historic Preservation Officer and has been deemed not detrimental to the historic district or landmark on which the work is to be done or neighboring buildings, structures, objects, sites or landscape features.

COMMISSION

Shall mean the Newark Landmarks and Historic Preservation Commission.

CONSTRUCTION

Shall mean the act of: (a) adding an addition to an existing building or structure; (b) the erection of a new principal or accessory building or structure on a lot or property; or (c) alterations.

DAYS

Shall mean calendar days.

DEMOLITION

Shall mean the dismantling or razing of all or part of any historic site or landscape feature of or any improvement in a historic district.

DEVELOPMENT

Shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill, and any use or change in the use of any building or structure, or land or extension of use of land, for which permission may be required pursuant to this Title.

HISTORIC DISTRICT

Shall mean one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

HISTORIC REGISTRY

Shall mean a listing of all historic sites, buildings, districts or structures within the City of Newark as recorded by the City Clerk.

HISTORIC SITE

Shall mean any real property, building, manmade structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

HISTORIC TREE

Shall mean a tree that has been found to be of notable historic interest to the City because of its age, type, size or historic association and which has been so designated and that designation has been officially made and promulgated as part of the official records of the municipality, county, or state.

IMPROVEMENT

Shall mean any building, structure, work of art or other object installed upon real property or any part of such improvement.

MINOR APPLICATION

Shall mean an application for approval of actions on a designated historic site, building, structure or object which consists of ordinary maintenance and repair as defined herein.

OBJECT

Shall mean anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.

ORDINARY MAINTENANCE

Shall mean the repair or renewal of deterioration, wear or damage to a structure or improvement in order to return same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear or damage with materials and workmanship of the same quality and appearance of the structure or improvement.

REASONABLE RETURN

Shall mean on the average rate of return for properties similar to and in the same area as the improvement parcel under consideration for the purposes of this Chapter for the year proceeding the application as arrived at through certified appraisals, records of sale, and any other research.

RECONSTRUCTION

Shall mean the act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.

REHABILITATION

Shall mean the act or process of returning an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those orations or features of the improvements which are significant to historical, architectural and cultural values.

RELOCATION

Shall mean any removal or relocation of a structure or improvement on its site or to another site.

RESPONSIBLE PERSON

Shall mean any person or persons having such right to, title to, or interest in any property or improvement so as to be legally entitled, upon obtaining the required permits and approvals from City agencies, to perform with respect to such property or improvement any demolition, construction, reconstruction, alteration, restoration or other work as to which such person seeks the authorization or approval of the Commission.

RESTORATION

Shall mean the act or process of accurately recovering the form and details of an improvement by the removal of later work and/or by the reconstruction of missing earlier work.

STABILIZATION

Shall mean the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, structure or landscape feature while maintaining the essential form as it exists at present.

STRUCTURE

Shall mean a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. Structure includes, but is not limited to, buildings, signs, fences, tanks, towers, poles, walkways, driveways, streets and roads.

§ 41:10-3 Criteria For Designation.

§ 41:10-3-1 Historic Criteria.

As stated in the U.S. Department of the Interior's National Register Criteria for Evaluation, promulgated pursuant to 16 U.S.C.A. Sec. 470a, the following criteria shall be used by the Commission for its review for designation of historic sites, buildings and districts: the quality of significance in National, State or municipal history, architecture, archaeology, and culture if present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feelings, and association and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
2. That are associated with the lives of persons significant in the past; or
3. That embody the distinctive characteristics of a type, period, or method of construction that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That has yielded, or may be likely to yield, information important in prehistory or history.

§ 41:10-3-2 Criteria for Specific Sites.

Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for nomination; however, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
3. A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate building, structure or site directly associated with his or her productive life; or
4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from distinctive design features, or from association with historic events; or
5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
7. A property achieving significance within the past 50 years if it is of exceptional importance.

§ 41:10-4 Procedures of Designation.**§ 41:10-4-1 Nomination.**

Any interested party may nominate a historic landmark or district for local designation. All applications for nomination shall be submitted to the Division of City Planning. The application form shall be the National Register of Historic Places Registration Form, including all necessary attachments. The Administrative Officer shall review the application for completeness.

§ 41:10-4-2 Initial Review.

The nomination shall be presented initially to the Historic Preservation Commission, followed by the Central Planning Board and then the City Council; however, in any case, a nomination must be reviewed and approved by all these bodies in order to be designated as a local landmark.

§ 41:10-4-3 Automatic Designation.

Districts and landmarks already listed on the National or State Register of Historic Places as of May 30, 2007 shall automatically be designated a local landmark. The complete list is included as Exhibit A.

§ 41:10-5 Uses Of Designated Properties.**§ 41:10-5-1 Status of Property Use.**

Nothing contained herein shall affect the present legal use of the designated property.

§ 41:10-5-2 Zoning Regulations.

Use classifications and bulk restrictions as to all such property shall continue to be governed by the general zoning ordinance of the City of Newark and the procedures established therein.

§ 41:10-5-3 Compliance Required.

[Amended 6-2-2021 by Ord. No. 6PSF-F, 06-02-2021]

In no case, however, shall any use be permitted which requires demolition, relocation, or alteration of a designated historic building, structure, site or within a designated district so as to adversely affect its character except upon compliance with the terms of this chapter.

As to any building, facility or property owned by a religious institution and used for religious purposes, no Certificate of Occupancy shall be issued if the religious building or facility has been used for religious purposes for twenty-five (25) years or if the religious building or facility is in a designated historic building, structure, site or is located within a designated historic district except upon compliance with the terms of this chapter and the following requirements:

1. Any religious building or facility that has been used for religious purposes for twenty-five (25) years or more and is exempted from paying state and/or local taxes due to its status as a religious institution N.J.S.A. 54:4-3.6, must continue to be used as a religious building or facility upon a sale or transfer, unless prior to the sale or transfer, the Board of Directors of the religious building/facility obtains approval for said sale or transfer in accordance with N.J.S.A. 16:1-6.
2. The Board of Directors of the religious institution shall present a transition plan and proposal for the specific use of the religious building or facility, including the name of the purchaser or transferee, thirty (30) days before the public meeting required by N.J.S.A. 16:1-6.
3. Upon approval of the membership, a copy of the transition plan and proposal submitted to the membership, along with the recorded votes of members by individual name and a list of all members of the religious institution who attended the public meeting held pursuant to N.J.S.A. 16:1-6, must accompany any application for a Certificate of Occupancy, or application for approvals from the City's Historic Commission, Central Planning Board and Zoning Board.

§ 41:10-5-4 Marking by Plaque.

Each designated historic site or district may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

§ 41:10-6 Removal of Designation.**§ 41:10-6-1 Determination to Remove Designation.**

Upon recommendation of the Commission based upon new and compelling evidence and

negative evaluation according to the same criteria and following the same procedures set forth herein for designation, a determination may be made by the Commission to remove designation of a historic site or district.

§ 41:10-6-2 Vote Required to Remove Designation.

Such a determination must receive five favorable votes, i.e., the majority of the Commission membership.

§ 41:10-6-3 Removal Requirements.

A historic site or district shall not be removed from the historic registry of the City of Newark without consideration of the recommendation by the Commission and must be effected by ordinance adopted by simple majority of the Municipal Council.

§ 41:10-7 Actions Requiring Review.

§ 41:10-7-1 Building Permit.

No building permit shall be issued or amended nor shall any construction, alteration, ordinary maintenance or repairs, or repairs or demolition be started on a designated historic building, structure or site, or within a designated historic district, prior to review by the Commission.

§ 41:10-7-2 Rehabilitation, Demolition, Construction.

A permit issued by the Administrative Officer shall be required for any of the following actions to proceed regarding a designated historic site or for any improvement within a designated historic district:

1. Rehabilitation, restoration, reconstruction, repair or alteration or change to any part of the exterior of a building, structure or site, including repainting and residing, if visible from a public street.
2. Additions to a building, structure or site, or within a district if visible from a public street;
3. Relocation of a historic site or within a district;
4. Demolition of a historic site or within a district;
5. New construction on a historic site or within a district;
6. Change in use of a historic site or within a district if such change effects a change in the exterior appearance of the site or improvement.
7. Work within the root zone of an Historic Tree without preservation methods.

§ 41:10-7-3 Referral of Application to Commission.

All applications for permits pertaining to designated historic sites or improvements in designated Historic Districts shall be referred to the Commission for a written report and decision on the application of the provisions of this Chapter thereto.

§ 41:10-7-4 Outside Agency Approval

Approval from a government agency outside the City of Newark does not eliminate the requirement of review by the City of Newark's Landmarks & Historic Preservation Commission for approval.

§ 41:10-8 Actions Not Requiring Review.**§ 41:10-8-1 Interior Changes.**

Changes to the interior of structures;

§ 41:10-8-2 Changes Not Visible from Public Street.

Changes not visible to the public from a public street.

§ 41:10-9 Emergency Repairs.**§ 41:10-9-1 Emergency Conditions.**

In the event an Act of God or any other unexpected event shall cause the responsible person the need for immediate issuance of a permit to commence to stabilize, secure, repair or protect a designated historic site or any improvement in a designated historic district damaged from such event, and the Construction Code Official certifies the immediate necessity for such issuance, an approval of a permit may be issued in accordance herewith.

§ 41:10-9-2 Review by Commission.

Upon notice to the full Commission by telephone, personal contact or other appropriate means of communication, at least three members of the Commission shall convene as soon as possible and such convening members shall proceed to review the current conditions for which the emergency powers of this Chapter have been invoked. Subsequent to review, an approval may be issued upon a majority vote of the members convened. This approval will only apply to work which is deemed necessary for stabilization, securing, repair or protection of the historic site or improvement in a historic district.

§ 41:10-9-3 Work Requiring Review by the Commission.

All other work subsequent to this must be submitted for review by the Commission under the application procedures found in Section **41:10-11** et seq., of this Chapter.

§ 41:10-10 Informal Review.

If work which would require a permit is to take place on a building, structure or site, or within a district, which has already undergone a Commission hearing and has been recommended for designation as a historic site or district, but has yet to be reviewed by the Municipal Council, the applicant shall follow the same procedure herein set forth for property already designated at which point the Commission may make recommendations as to the appropriateness of the work and its impact on the historic fabric of the site or district.

§ 41:10-11 Application Procedures.**§ 41:10-11-1 Application Required.**

Persons seeking to undertake actions requiring review as per the provisions of this Chapter must submit a completed application to the Commission.

§ 41:10-11-2 Complete Application.

A complete application shall consist of:

1. A completed application form.
2. For all structures and additions thereto, architectural drawings or rendering of details of the exterior of the structure, including but not limited to: cornices, brackets, windows/fenestration, brickwork, mortar, window trim and moldings, heads and sills, porches, balusters, porch frieze, projecting elements, doors and bays shall be included with the application if available.
3. If such drawings are not available, the Commission shall have the right to require whatever documentation of the work to be performed as is necessary to make an informed decision.
4. For all structures, a detailed narrative description of the proposed scope of work (construction, alterations, repair, restoration, etc.).
5. Current photographs of the improvement.
6. Specification sheets listing all materials to be used including catalogue lot sheets, sample paint chips, etc.

§ 41:10-11-3 Process, Exceptions.

The Historic Preservation Officer shall forward the complete application to the Commission for its report, except in those instances described herein where the Chairperson of the Commission may issue the approval.

§ 41:10-12 Commission Review of Development and Zoning Applications.**§ 41:10-12-1 Application Must Be Available to Commission.**

The Central Planning Board and Board of Adjustment shall make available to the Commission every application for development submitted to either board for development in historic zoning districts or on historic sites designated on the zoning or official map or identified in any component element of the master plan.

§ 41:10-12-2 Referral.

This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.

§ 41:10-12-3 Commission Advice.

The Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

§ 41:10-12-4 Rejection of Recommendation.

If a recommendation of the Commission is rejected, the Central Planning Board or Board of Adjustment, as the case may be, shall include the reasons for rejecting the recommendation in the findings of its decision on the application.

§ 41:10-13 Commission Review of Application for Permits.**§ 41:10-13-1 Request for Hearing.**

At the request of any person seeking to undertake actions requiring review as per the provisions of this Chapter, the Commission shall schedule a hearing on his or her application. The applicant shall not be required to appear or to be represented at the meeting in which the application is being considered.

§ 41:10-13-2 Completed Application.

Completed applications for approval of a permit shall be submitted to the Administrative Officer a minimum of 14 days prior to a Commission's regularly scheduled meeting.

§ 41:10-13-3 Review.

Applications for minor alterations and ordinary maintenance and repair may be reviewed by the Historic Preservation Officer who, at his or her discretion may issue a Certificate of No Effect, may require additional submittal information and/or refer the application to the Commission upon being deemed complete. In making such a determination the Historic Preservation Officer shall consider factors, including, but not limited to the effect of the proposed work in creating, altering, destroying or affecting the architectural features of the landmark building, structure, object, site or landscape feature upon which such work is to be done and the relationship between the results of such work and the architectural features of neighboring buildings, structures, objects, sites and landscape features. In appraising such effects and relationships, factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color in addition to any other pertinent matters shall be considered.

§ 41:10-13-4 Time for Decision.

For all applications not issued a Certificate of No Effect, the Commission shall render a decision within 45 days the application is deemed complete. If approved, such approval shall be known as a Certificate of Appropriateness.

§ 41:10-13-5 Failure to Act.

If the Commission should fail to act within 45 days, the permit shall be deemed approved. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.

§ 41:10-13-6 Recommendation from the Commission.

The Commission may advise the Administrative Officer or the applicant, as the case may be, and make recommendations with regard to the appropriateness of the proposed action. These recommendations may become part of the conditions for approval of an application or the basis for the rejection of an application.

1. If an application is approved with or without the imposition of conditions, a permit shall be issued promptly.
2. If the Commission disapproves an application, the Administrative Officer shall not issue the permit and the Commission shall state its reasons in writing to the applicant within 30 days

of such decision.

§ 41:10-13-7 Approval Period.

An approval shall be valid for a period of one year from the date of issue unless reasonable extensions are granted by the Commission. Requests for extensions shall be made by written request and shall rest in the sound discretion of the Commission.

§ 41:10-14 General Standards.

§ 41:10-14-1 Standards for Decisions.

The following standards, The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, promulgated pursuant to 16 U.S.C.A. Sec. 470a, shall guide the Commission's and Central Planning Board's decision making concerning all applications and approvals described herein.

1. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
2. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the designated historic property and its environment would be unimpaired.
3. Construction of historic designs that were never built shall not be undertaken.
4. New additions, alterations or new construction in a historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.
5. Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.
6. A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.
7. The historic character of a property shall be retained and preserved. The removal of historic materials, vegetation, or alteration of features and spaces that characterize a property shall be avoided.
8. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.
9. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
10. Distinctive materials, features, finishes and construction techniques or examples of

craftsmanship that characterize a property shall be preserved.

11. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.
12. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials or vegetation shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
13. Significant archaeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

§ 41:10-15 Standards For Protection.

§ 41:10-15-1 Analysis.

Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

§ 41:10-15-2 Safeguards.

Protection shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

§ 41:10-15-3 Recording of Removed Material or Features.

If any historic material or architectural features are removed, they shall be properly recorded, and, if possible, stored for future study or reuse. If storage of said features causes a hardship for the applicant, the commission may consider making different accommodations.

§ 41:10-16 Standards For Stabilization.

§ 41:10-16-1 Stabilization.

Stabilization shall reestablish the structural stability of a property through the reinforcement of load bearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

§ 41:10-16-2 Detraction from Appearance.

Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

§ 41:10-17 Standards For New Construction.

§ 41:10-17-1 Considerations.

In considering whether to approve or disapprove an application for new construction on a

designated historic site or in a designated historic district, the Commission shall be guided by standards of the Secretary of the Interior and the following visual compatibility standards.

§ 41:10-17-2 **Compatibility.**

New construction need not replicate historic older buildings or structures, but may reflect contemporary design standards so long as the design and construction is compatible with surrounding historic structures. Building height, width, mass and proportion affect the degree of compatibility between the old and the new.

1. **Site and Setting:** A developer intending to utilize historic resource as a part of a development must consider the context of the resource's original site by honoring the original historic intention of the resource and integrating it respectfully into the new development.
2. **Building Height:** Height should be visually compatible with adjacent buildings. The apparent physical size, scale and height should relate to existing resources.
3. **Openings on Frontal Facades:** The width and height of windows, doors, and entries must harmonize in scale and proportion with the width and height of windows, doors, and entries of buildings and structures of historic significance in the surrounding environment.
4. **Relationship of Unbroken Planes to Void (i.e. Punctured Planes) in Front Facades:** The relationship of unbroken planes (i.e. walls) to voids (i.e. windows and doors) on the facade of a building or structure should be aesthetically harmonious with that of buildings and structures of historic significance in the surrounding environment.
5. **Relationship of Vacant Land to Buildings/Structures:** The relationship of a building or structure to the vacant land between and adjoining buildings or structures should not violate the existing paradigmatic spatial relationship of historically significant structures to the vacant land between them. Said structural projects can be varied in form by using setbacks to create open spaces and landscaping when desirable to provide harmonious visual transitions between new construction and the adjacent historic properties.
6. **Relationship of Exterior Projections to the Street:** The relationship of exterior projections to the street in new construction should be aesthetically harmonious with the relationship of exterior projections to the street in the surrounding existing buildings of historic significance.
7. **Relationship of Major Exterior Building Materials:** The major exterior building materials on the facade of a building or on a structure should reflect the predominant major building materials existent on the facades of historically significant buildings and on structures in the surrounding environment.
8. **Roof Forms:** The roof form and slope of a building or structure is a major element in the visual image of the building. Therefore, designers must take care to honor paradigmatically in new construction the existing historic roof forms and slopes so as not to violate the aesthetic harmony of the whole.

9. Rooftop Mechanical Structures and Rooftop Structures. Applications for the addition of rooftop mechanical structures, egress, mechanical bulkheads, utilitarian skylights or additions consisting of living space shall only be granted if such structures comply with the historic zoning regulations contained in Chapter 10 of this Title, as well as with the following requirements:
 - a. If the roof of the subject building on which such an addition is being proposed is not a significant feature of its design;
 - b. If the addition is not visible from a public thoroughfare or right-of-way;
 - c. If the building on which the addition is proposed does not possess a significant roof silhouette and where such addition does not interrupt the roof or skyline;
 - d. If the materials of the addition are not in the nature of utilitarian rooftop additions and if they are architecturally consistent with the existing roofscape;
 - e. The addition does not adversely affect the unified aesthetic of historic buildings in the district of which the subject building is a part;
 - f. Where the historic building on top of which the addition proposed is located is in or adjacent to a historic residential district such features shall be set back from the edge of the roof at least one foot for each one foot by which such features project above the roofline. However, no setback shall be required where the parapet wall is at least as tall as the rooftop mechanical structure.
10. Continuity in Visual Imagery of Appurtenances: Appurtenances of a building or structure such as walls, fences and landscaping shall honor the relationship of appurtenances to buildings of historic significance in the surrounding environment.
11. Scale of Buildings: Scale of buildings and structures shall be in scale with the buildings and structures of historic significance.
12. Signage: Signs which are out of keeping with the character of the environment in question should not be used. Excessive size and inappropriate placement on buildings result in visual clutter. A sign should be designed to relate harmoniously to exterior building materials and colors. A sign should express a simple clear message with wording kept to a minimum.
13. Site Planning: The site planning of landscaping, parking facilities, utility and service areas, walkways, and appurtenances must reflect the site planning of landscaping, parking facilities, utility and service areas, walkways and landscape feature reticulate to buildings or structures of historic significance.

§ 41:10-18 Standards For Relocation.

§ 41:10-18-1 Vote for Relocation.

A permit to relocate a designated historic site or an improvement in a designated historic district, must receive five favorable votes, i.e., the majority of the Commission membership.

§ 41:10-18-2 Considerations.

In considering whether to approve or disapprove an application for a permit for the relocation of a designated historic site or improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Whether the historic character and aesthetic interest in the building, structure or object contributes to its present setting;
2. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be;
3. Whether the building, structure, or object can be moved without significant damage to its physical integrity; and
4. Whether the proposed relocation area is compatible with the historical and architectural character of the building, object or structure.

§ 41:10-19 Standards For Demolition.**§ 41:10-19-1 Vote for Demolition.**

A permit to demolish a designated historic site or an improvement in a designated historic district must receive five favorable votes, i.e., the majority of the Commission membership.

§ 41:10-19-2 Considerations.

In considering whether to approve or disapprove an application for a permit to demolish a designated historic site, historic tree, or an improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Its historic architectural and aesthetic significance;
2. Its use;
3. Its importance to the City and the extent to which its historic or architectural value is such that its removal would be detrimental to the public interest;
4. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
5. The probable impact of its removal upon the ambience of the historic district;
6. The structural soundness and integrity of the building so as to comply with the requirements of the State Uniform Construction Code;
7. The effect on the remaining portion of building, structure, site, object or landscape feature in cases of partial demolition.

§ 41:10-19-3 Demolitions.

In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the power and authority of the City of Newark to demolish the structure, as otherwise provided by

law, shall not be impaired or altered in any way by the provisions of this Chapter. The City shall be exempt from making an application to the Commission but shall notify the Commission prior to the demolition.

§ 41:10-19-4 Appeals.

If an application to demolish is denied, the applicant shall follow the appeal process detailed herein for denial of a permit.

§ 41:10-20 Local Guidelines.

The Commission shall utilize locally generated guidelines or historic preservation aids in addition to the Secretary of the Interior's Standards.

§ 41:10-21 Effect of Project Approval or Denial; Appeals.

§ 41:10-21-1 Approved Permit.

If a permit is approved, then the applicant may proceed to perform the work approved in the permit in compliance with the conditions attached.

§ 41:10-21-2 Denied Permit.

If a permit is denied, the applicant is precluded from undertaking the activity applied for.

§ 41:10-21-3 Appeals.

An applicant dissatisfied with the action of the Commission relating to the issuance or denial of a permit shall have the right to appeal to the Board of Adjustment pursuant to NJSA 40:55D-70a within 20 days after receipt of notification of such action.

§ 41:10-21-4 Hearing.

The applicant shall be advised by the Clerk of the Board of Adjustment of the time and place of the hearing at which the appeal will be considered, and shall have all rights defined under N.J.S. 40:55D-70a.

§ 41:10-21-5 Legal Remedies.

If the Board of Adjustment affirms the Commission's denial, the applicant may seek legal remedies as afforded by law.

§ 41:10-21-6 Error in Order.

If, in the case of an appeal, the Board of Adjustment determines there is an error in any order, requirement, decision or refusal made by the Administrative Officer pursuant to a report submitted by the Commission, the Board of Adjustment shall include the reasons for its determination in the findings of its decision thereon.

§ 41:10-22 Enforcement.

§ 41:10-22-1 Failure to Obtain Permit.

If any person shall undertake any activity vis-a-vis a historic building, structure, tree, or site, or within a historic district, without first having obtained a permit to do so, such person shall be deemed to be in violation of this Chapter.

§ 41:10-22-2 Notice of Violation.

Upon learning of the violation, the Administrative Officer shall serve upon the owner or responsible party of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner 14 business days to abate the violation by restoring the historic site or improvement to its status quo ante. If the owner cannot be personally served within the municipality, the notice shall be deemed to have been officially served if a copy has been posted on site and a copy sent by certified mail, return receipt requested, to the owner at his last known address as it appears on the municipal tax rolls.

§ 41:10-22-3 Abatement of Violation.

In the event that the violation is not abated within 14 days of service or posting on site, whichever is earlier, the Administrative Officer shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Chapter.

§ 41:10-22-4 Penalties for Violation.

Any person violating any of the provisions of this Historic Preservation Ordinance of the City of Newark shall, upon conviction thereof, be subject to the penalties set forth for violation of the zoning ordinance.

§ 41:10-22-5 Separate Offense.

A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 41:10-22-6 Tax Lien.

Fines not paid within the time period set by law shall convert to a tax lien placed against the property and shall be recorded with the City of Newark Property Tax Office and the Essex County Register of Deeds and Mortgages.

§ 41:10-22-7 Inspection of Work.

The Administrative Officer shall inspect work approved by a permit and report to the Commission the results of such inspections.

§ 41:10-23 Preventive Maintenance.**§ 41:10-23-1 Preservation.**

The structural integrity of all historic sites and improvements in historic districts shall be preserved against decay and deterioration by being kept free from the following structural defects by the responsible person:

1. Deteriorated or inadequate foundation.
2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety.
3. Members of walls, partitions or vertical supports that split, lean, list or buckle due to defective material or deterioration.
4. Structural members of ceilings and roofs, or other horizontal structural members, which sag,

split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety.

5. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient strength to carry imposed loads with safety.
6. Lack of weather protection.

§ 41:10-23-2 Repair.

The responsible person shall repair the improvement within a specified period of receipt of a written order to correct defects or repairs to any improvement as provided in Section **41:10-23-1** above, so that such improvement shall be preserved and protected in accordance with the purposes of this Chapter 10.

§ 41:10-23-3 Orders, Appeals.

Any such order shall be in writing, state the actions to be taken with reasonable particularity and shall specify dates for compliance which may be extended for a reasonable period of time upon request to allow the responsible person to secure financing, labor and/or materials. Any such order may be appealed to the Board of Adjustment within 20 days of receipt of same.

§ 41:10-23-4 Conditions of Appeal.

That taking of an appeal or the commencement of any court action hereunder shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board of Adjustment or a court expressly stays such order.

§ 41:10-24 Municipal Responsibility.

§ 41:10-24-1 City Required to Obtain Permit.

It is recognized that the intent and purposes of this Chapter 10 would not be fully served if the City were to control the actions of others but fail to apply similar constraints to itself. Accordingly, a permit shall be required before final approval of any City actions on public as well as private lands, streets, easements and rights-of-way for actions affecting designated historic sites, buildings, trees, or districts.

§ 41:10-24-2 Requirement for Permit.

This requirement shall be deemed to include any action by any party which requires the approval or concurrence of the City or any City agency and which is not otherwise covered by the provisions of the Chapter 10.

§ 41:10-25 Rules Of Interpretation.

§ 41:10-25-1 Construal of Provisions.

This Chapter 10 shall be liberally construed to effect the purposes set forth herein. In the event that this Chapter conflicts with State law, State law shall take precedence.

§ 41:10-25-2 Invalid Provisions.

In the event that any portion of this Chapter 10 is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Chapter actually adjudged invalid and shall not be deemed to affect the operation of any other

portion hereof.

§ 41:10-26 General.

§ 41:10-26-1 Commission Authority.

No duties or powers of the Commission shall supersede or infringe on the powers of other City boards.

§ 41:10-26-2 Conflicting Provisions.

All ordinances and all provision thereof inconsistent or conflicting with the provisions of this Chapter 10 are hereby repealed to the extent of such conflict or inconsistency.

§ 41:10-27 Injunctive Relief.

In the event that any action which would permanently change adversely the historic building, structure, site or district, such as demolition or removal, is about to occur without an approval having been issued, the Administrative Officer shall apply to the Municipal Council for such injunctive relief as is necessary to prevent the destruction.

§ 41:10-28 Newark Historic Landmarks and Historic Districts Maps.

See Historic Landmarks and Landmark District Maps in the Appendix to Title XLI.

Chapter 41:11

Central Planning Board

§ 41:11-1 **Establishment; Membership; Terms of Office; Organization; Compensation; Experts and Staff**

Title II Administration, Office of the Mayor and Agencies, Boards, Commissions, and Agencies, Section 2:2-102 Central Planning Board contains the administrative regulations for the formation and operation of the Central Planning Board pursuant to N.J.S.A. 40:55D-23 et seq.

§ 41:11-2 **Powers and Duties.**

The Central Planning Board shall have the following powers and duties:

§ 41:11-2-1 **Mandatory Powers.**

The Central Planning Board shall exercise its powers in accordance with the Municipal Land Use Law in regard to:

1. The City Master Plan pursuant to NJSA 40:55D-28 subdivision ordinance and site plan review pursuant to the provisions of the ordinances of the City of Newark and the Municipal Land Use Law, NJSA 40:55D-1 et seq.
2. The Official Map in accordance with the provisions of the ordinances and NJSA 40:55D-32 et seq.
3. The zoning ordinance, including conditional uses, pursuant to this Chapter.
4. Municipal capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the Municipal Council, pursuant to NJSA 40:55D-29 et seq.
5. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to the Board's ancillary powers.

§ 41:11-2-2 **Other Powers.**

The Central Planning Board may:

1. Participate in the preparation and review of programs or plans required by State or Federal law or regulations.
2. Assemble data on a continuing basis as part of a continuous planning process.
3. Perform other such advisory duties as are assigned to it by ordinance or resolution of the Municipal Council.

§ 41:11-2-3 **Ancillary Powers.**

1. Central Planning Board Review in Lieu of Board of Adjustment. Whenever the proposed

development requires approval of a subdivision, site plan or conditional use, but not a use variance, the Central Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:

- a. Bulk and dimensional variances pursuant to this Chapter.
 - b. Direction pursuant to NJSA 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to NJSA 55D-32.
 - c. Direction pursuant to NJSA 40:55D-36 for issuance of a permit for a building or structure not related to a street.
2. Whenever relief is requested pursuant to this Subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit as the case may be.
 3. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of a variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Central Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance.

§ 41:11-2-4 Referral Powers.

1. Prior to the adoption of a development regulation, revision or amendment thereto, the Central Planning Board shall make and transmit to the Municipal Council, within 35 days after referral, a report including identification of any provisions in the proposed development regulation which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and other matters as the Board deems appropriate. The Municipal Council, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the Central Planning Board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Central Planning Board to transmit its report within the thirty-five-day period provided herein shall relieve the Municipal Council from the requirements of this Subsection in regard to the proposed development regulation, revision or amendment referred to the Central Planning Board. Nothing in this Section shall be construed as diminishing the application of the provisions of NJSA 40:55D-32 to any official map or an amendment or revision thereto or of NJSA 40:55D-62 to any zoning ordinance or any amendment or revision thereto.

§ 41:11-3 County Approval.

Whenever review or approval of an application by the County Planning Board is required pursuant to NJSA 40:27-6.3 or NJSA 40:27-6.6, the Central Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County

Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period. Whenever County Planning Board review or approval is required, the applicant shall be responsible for filing all necessary applications, plans, reports and other documents directly with the County Planning Board.

Chapter 41:12

Zoning Board of Adjustment

§ 41:12-1 **Establishment; Membership.**

§ 41:12-1-1 **Establishment.**

There is hereby established, pursuant to the provisions of N.J.S.A. 40:55D-1 et seq., in the City of Newark, the Zoning Board of Adjustment of seven members and four alternates who shall all be residents of the City of Newark, shall be appointed by the Municipal Council and who shall not hold any elective office or positions under the municipality. The members and alternate members of the board shall receive a salary of \$166 per meeting for attending each of the 30 regular board meetings and \$250 for each of the 10 special meetings which may be scheduled annually to address all applications which have not been placed on the board's agenda within a two month time frame. Such salaries shall be paid quarterly and in proportion to the number of meetings attended during each quarter. It is mandatory that all applications which have not been placed on the agenda of a special meeting be scheduled as needed. It is mandatory that all applications which have not appeared on the Board's agenda in the described period must be placed on the agenda of a special meeting to be scheduled as needed.

§ 41:12-1-2 **Membership.**

There may be four alternate members of the Zoning Board of Adjustment, appointed by the Governing Body, who shall be designated by the Chairperson as "Alternate No. 1", "Alternate No. 2", "Alternate No. 3" and "Alternate No. 4". Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 41:12-2 **Terms of Office; Vacancies.**

§ 41:12-2-1 **Term.**

All regular members appointed shall serve for terms of four years in accordance with the provisions of N.J.S.A. 40:55D-69.

§ 41:12-2-2 **Alternate Members.**

Alternate members shall be appointed for a term for two years.

§ 41:12-2-3 **Vacancy.**

A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

§ 41:12-2-4 **Removal.**

A member, after public hearing if requested, may be removed by the Municipal Council for cause.

§ 41:12-2-5 Personal or Financial Interest.

No member of the Zoning Board of Adjustment shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest.

§ 41:12-2-6 Lack of Quorum.

If the Zoning Board of Adjustment lacks a quorum because its regular or alternate members are prohibited by NJSA 40:55D-69 from acting on a matter due to the member's personal or financial interest, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Zoning Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service to the Planning Board until there are the minimum numbers of members necessary to constitute a quorum to act upon the matter without any personal or financial interest. If a choice has to be made between Class IV members of equal seniority, the Chairperson of the Central Planning Board shall make the choice.

§ 41:12-3 Organization of Board.

The Zoning Board of Adjustment shall elect a Chairperson and a Vice Chairperson from its members and shall select a Secretary who may or may not be a member of the Board.

§ 41:12-4 Experts and Staff.

The Zoning Board of Adjustment may employ, or contract for, and fix the compensation of legal counsel, other than the municipal attorney, and experts, and other staff and services as it deems necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the Municipal Council for its use. The Municipal Council shall make provision in its budget and appropriate funds for the expenses of the Zoning Board of Adjustment.

§ 41:12-5 Powers and Duties.

The Zoning Board of Adjustment shall have the following powers and duties:

§ 41:12-5-1 Appeals.

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the Zoning Ordinance.

§ 41:12-5-2 Requests for Interpretations.

To hear and decide requests for interpretation of the Zoning Map or Ordinance, or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass in accordance with the Municipal Land Use Law.

§ 41:12-5-3 Bulk and Dimensional Variances.

1. Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property; (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation in the Zoning Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue

hardship upon the developer of such property, the Board may grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; or

2. Where in an application or appeal relating to a specific piece of property the purposes of zoning set forth in NJSA 40:55D-2 would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, the Board may grant a variance to allow departure from regulations in the Zoning Ordinance; provided, however, that no variance from those departures enumerated in Subsection 41:12-5-4 below of this Section shall be granted under this Subsection; and provided further that the proposed development does not require approval by the Central Planning Board of a subdivision, site plan or conditional use in conjunction with which the Central Planning Board has power to review a request for a variance pursuant to NJSA 40:55D-60(a).

§ 41:12-5-4 Use Variances.

1. In particular cases and for special reasons, the Board may grant a variance to allow departure from the Zoning Ordinance to permit: (a) a use or principal structure in a district restricted against such use or principal structure; (b) an expansion of a nonconforming use; (c) deviation from a specification or standard pursuant to NJSA 40:55D-67 pertaining solely to a conditional use; (d) an increase in the permitted floor area ratio as defined in NJSA 40:55D-4; (e) an increase in the permitted density as defined in NJSA 40:55D-4 except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; or (f) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this Subsection shall be granted only by affirmative vote of at least five members of the Board.
2. If an application for development requests one or more variances but not a variance for a purpose enumerated in this Subsection, the decision on the requested variance or variances shall be rendered pursuant to Section 57 of P.L. 1975, c.291 (NJSA 40:55D-70c). No variance or other relief may be granted under the terms of this Section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the Zone Plan and Zoning Ordinance. In respect of any airport hazard areas delineated under the Air Safety and Hazardous Zoning Act of 1983, C. 6:1-80 et seq., no variance or other relief may be granted under the terms of this Section permitting the creation or establishment of a non-conforming use which would be prohibited under the standards promulgated pursuant to that act except upon issuance of a permit by the Commissioner of Transportation.
3. To direct issuance of a permit pursuant to NJSA 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved on the Official Map pursuant to NJSA 40:55D-32.
4. To direct issuance of a permit pursuant to NJSA 40:55D-36 for a building or structure not related to a street.

5. To grant to the same extent and subject to the same restrictions as the Central Planning Board subdivision or site plan approval pursuant to NJSA 40:55D-37 et seq. or conditional use approval pursuant to NJSA 40:55D-67 whenever the proposed development requires approval by the Board of a variance pursuant to NJSA 40:55D-70(d). The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in NJSA 40:55D-1 et seq. for the approval in question, and the special vote pursuant to NJSA 40:55D-70(d) shall not be required.
6. Any application under any Subsection of this Section may be referred to any appropriate person or agency, including the Central Planning Board, for its report and recommendation, provided that reference of any application under any Subsection of this Section shall not extend the period of time within which the Zoning Board of Adjustment shall act.
7. Whenever review or approval of the application by the County Planning Board is required by NJSA 40:27-6.3, in the case of a subdivision, or NJSA 40:27-6.6 in the case of a site plan, the Zoning Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time.
8. The Zoning Board of Adjustment is required to submit monthly attendance reports of all regular and special meetings to the Municipal Council (via the Office of the City Clerk) within 15 days subsequent to the end of the month.

§ 41:12-6 Annual Report on Variances Heard by Zoning Board of Adjustment.

The Zoning Board of Adjustment shall, at least once per year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for Zoning Ordinance amendment or revision, if any. The Zoning Board of Adjustment shall send copies of the report and resolution to the City Council and the Central Planning Board.

§ 41:12-7 County Approval.

Whenever review or approval of an application by the County Planning Board is required pursuant to NJSA 40:27-6.3 or NJSA 40:27-6.6, the Zoning Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period. Whenever County Planning Board review or approval is required, the applicant shall be responsible for filing all necessary applications, plans, reports and other documents directly with the County Planning Board.

Chapter 41:13

Subdivision Procedures

§ 41:13-1 Title.

This Chapter shall be known and cited as the "Subdivision Procedures" of the City of Newark.

§ 41:13-2 Purpose.

The purpose of this Chapter shall be to provide rules, regulations and standards to guide land subdivision in the City in order to promote the public health, safety, convenience and general welfare of the City. It shall be administered to insure the orderly growth and development, the conservation, protection and proper use of land and adequate provision for pedestrian, bicycle, and vehicular circulation, utilities, and services.

§ 41:13-3 Compliance with Applicable Requirements.

The procedures for processing subdivisions shall comply with the requirements of the Newark Zoning and Land Use Regulations.

§ 41:13-4 Applicability.

§ 41:13-4-1 Required.

Subdivision approval shall be required from the Central Planning Board for lots where the official lot line has to be altered for the purpose of dedication, sale of land/lot or creation of a new lot. Approval of the subdivision shall be obtained prior to such action as stated above.

§ 41:13-4-2 Approvals.

Approval of the subdivision is prerequisite before any official lot line is altered, the subdivision approval must be obtained from the Central Planning Board or the Zoning Board of Adjustment. The Zoning Board of Adjustment has mandatory jurisdiction of subdivision review in those limited situations as stated in Section **41:13-4-3**.

§ 41:13-4-3 Power to Review.

The Zoning Board of Adjustment shall have the power to review subdivisions and to grant, to the same extent and subject to the same restrictions as the Central Planning Board, subdivision approval whenever the Zoning Board of Adjustment is simultaneously reviewing an application for approval of a "d" or use variance which permits a structure or use in a district restricted against such structures or use as defined by NJSA 40:55D-70(d).

§ 41:13-4-4 Classification as Minor Subdivision.

A Minor Subdivision is the creation or reconfiguration of two or fewer lots and does not include the creation of a street, road, or public right-of-way. All other subdivisions shall be classified as Major Subdivisions.

§ 41:13-5 Waiver.

The Central Planning Board when acting upon application for preliminary or minor subdivision approval shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of this Title, if the literal enforcement of one or more provisions of the Title is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

§ 41:13-6 Minor Subdivision Procedure.**§ 41:13-6-1 Submission Requirements.**

Application for a minor subdivision shall include the following requirements as part of a complete submission. Failure to provide any of the required information and payment of a fee shall constitute an incomplete submission and the application shall not be acted upon by the Board.

1. City of Newark Central Planning Board/Zoning Board of Adjustment application.
2. Six sets of "Before Subdivision" and "After Subdivision" plats. Within this plat, include the area in square feet and acres both before and after. Both the before and after plats shall include lot numbers.
3. Six sets of the block diagram showing all properties within a radius of 200 feet from all corners of the property in question.
4. Six sets of the metes and bounds description of all existing and proposed lots. This should include one before description and one after description for all lots for which the lot line(s) is being altered. Metes and bounds shall be included on all plans.
5. Two copies of any protective covenants or deed restrictions applying to the land being subdivided.
6. The following must be submitted at least two days prior to the hearing:
 - a. Certified Mail Receipts:
 - (1) Mounted on 8.5 x 11 inch bound paper.
 - (2) Six to a page.
 - (3) Arranged in the same order as indicated on the certified list of property owners (a property certified U.S. Postal Form 3877 will be accepted in lieu of the mounted receipts, provided that the addresses are arranged in the same order as indicated on the certified list).
 - b. Affidavit of Proof of Service.
 - c. Affidavit of Publication.

7. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with the rest of the required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).

§ 41:13-6-2 Board Action.

Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Central Planning Board or within such further time as may be consented to by the applicant. Failure of the Board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the Secretary of the Board as to failure of the Central Planning Board to act shall be issued on request of the applicant.

§ 41:13-6-3 Effect of Approval.

Approval of a minor subdivision shall be deemed final approval provided that the Board may condition such approval on the provision of improvements as may be required. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision or site plan approval was granted, shall not be changed for a period of two years after the date on which the resolution of approval is adopted provided that the approved minor subdivision shall have been duly recorded.

§ 41:13-6-4 Expiration.

Approval of a minor subdivision shall expire 190 days from the date on which the resolution of approval is adopted unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.) or a deed clearly describing the approved minor subdivision, is filed by the developer with the County Recording Officer, the City Engineer and the City Tax Assessor. Any such plat or deed must be signed by the Chairperson and the Secretary of the Central Planning Board before it will be accepted for filing by the County Recording Officer.

§ 41:13-6-5 Extensions.

1. The Central Planning Board may extend the 190 day period for filing a minor subdivision plat or deed pursuant to this Chapter if the developer proves to the reasonable satisfaction of the Board:
 - a. That the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and
 - b. That the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the approvals, as determined by the Board. The developer may apply for the extension either before or after what would otherwise be the extension date.
 - c. The Board shall grant an extension of minor subdivision approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with

the development because of delays in obtaining legally required approvals from other governmental agencies and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for an extension before: (a) what would be the expiration date of minor subdivision approval; or (b) the ninety-first-day after the developer receives the first legally required approval from other governmental entities, whichever occurs later.

§ 41:13-7 Preliminary Major Subdivision Procedure.

§ 41:13-7-1 Submission Requirements.

Application for a Major Subdivision shall include the following requirements as part of a complete submission. Failure to provide any of the required information and payment of fee shall constitute an incomplete submission and the application shall not be acted upon by the Board.

1. City of Newark Central Planning Board/Zoning Board of Adjustment application.
2. Six sets of "Before Subdivision" and "After Subdivision" plats. Within this plat, include the area in square feet and acres both before and after. Both the before and after plats shall include lot numbers.
3. Six sets of the block diagram showing all properties within a radius of 200 feet from all corners of the property in question.
4. Six sets of the metes and bounds description of all existing and proposed lots. This should include one before description and one after description for all lots for which the lot line(s) is being altered. Metes and bounds shall be included on all plans.
5. Two copies of any protective covenants or deed restrictions applying to the land being subdivided.
6. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with the rest of the required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).

§ 41:13-7-2 Board Action.

Except for applications governed by the time limits, the Board shall approve, conditionally approve or deny a preliminary major subdivision application of 10 or fewer lots within 45 days after the submission of a complete application, unless the applicant shall extend the period of time in which the Board may act.

The Board shall approve, conditionally approve or deny a preliminary major subdivision application of more than 10 lots within 95 days after the submission of a complete application, unless the applicant shall extend the period of time in which the Board may act.

Failure of the Board to act within the time prescribed shall constitute preliminary major subdivision approval and a certificate of the Secretary of the Central Planning Board or the Zoning Board of Adjustments as to the failure of the Board to act shall be issued on request of

the applicant.

If the Board required any substantial amendment in the layout of improvements proposed by the developer, that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Central Planning Board shall, if the proposed development complies with the Municipal Land Use Law, grant preliminary approval.

§ 41:13-7-3 Substantial Modification.

1. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such modification shall be submitted and proceeded upon as in the case of the original application for development. The applicant may apply for modification approval either independently of or concurrently with application for final approval. In either case, notice pursuant to N.J.S.A. 40:55D-1 et seq. shall be required and shall state the nature of the proposed modification. A substantial modification shall mean one which: (a) increases the density of development; (b) increases the square footage of buildings; (c) proposes a different use; (d) would result in increased adverse impact upon properties in the immediate area with respect to factors such as, but not limited to, noise, glare and increased drainage runoff; or (e) materially changes a required element of the development plan.
2. If the Central Planning Board or the Zoning Board of Adjustments required any substantial amendment in the layout of improvements proposed by the developer, that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Central Planning Board shall, if the proposed development complies with the ordinance and the Municipal Land Use Law, grant preliminary approval.

§ 41:13-7-4 Effect of Preliminary Approval.

Preliminary approval of a major subdivision, except as provided in this Section, shall confer upon the applicant the following rights for a three-year period from the date on which the resolution granting preliminary approval is adopted.

1. That the general terms and conditions on which preliminary approval was granted shall not be changed, including, but not limited to: use requirements; layout and design standards for streets, curbs and sidewalks; lot sizes; yard dimensions and off-tract improvements; and in the case of a site plan, any requirements particular to the site plan approval pursuant to N.J.S.A. 40:55D-41, except that nothing herein shall be construed to prevent the City from modifying by ordinance such general terms and conditions of preliminary approval as related to the public health and safety.
2. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat.
3. That the applicant may apply for and the Board may grant extension on such preliminary approval of at least one year, but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

4. Whenever the Board grants an extension of preliminary approval pursuant to the previous paragraphs above and preliminary approval has expired before the date on which the extension was granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for an extension either before or after what would otherwise be the expiration date.
5. The Board shall grant an extension of preliminary approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented directly or indirectly from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for the extension before: (a) what would otherwise be the expiration date of the preliminary approval; or (b) the ninety-first day after the developer received the last legally required approval from other governmental entities, whichever is later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the previous paragraphs above.

§ 41:13-8 Final Major Subdivision Procedure.

§ 41:13-8-1 Submission Requirements.

1. Four copies of the "Before Subdivision" and "After Subdivision" plats containing all of the information and required changes requested during preliminary review of the sketch plat.
2. Applications for approval of a final plat shall be submitted to the Central Planning Board by the developer within three years following the date of preliminary approval. The final subdivision plat submission requirements shall be the same as required for the preliminary subdivision plat requirements under this Chapter.
3. The final plat shall conform to the preliminary plat as given tentative approval, except that it may consist of one section of the whole.
4. The final plat shall be accompanied by a written statement by the Director of the Department of Engineering that he or she has received a map showing all improvements, both proposed and existing, in exact location and elevation, identifying those portions already installed and those to be installed and that the subdivider has complied with either or both of the following requirements:
 - a. Installed all improvements in accordance with the requirements of this Chapter.
 - b. Posted a monument bond with the Central Planning Board, in an amount determined by the City Surveyor to assure the completion of all required improvements.
5. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with other required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).
6. If the Central Planning Board or the Zoning Board of Adjustments approves the final plat, a

statement to that effect shall be made on the plat and it shall be signed by the Chairperson and the Secretary to the Board.

§ 41:13-8-2 Board Action.

1. The Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions for preliminary approval, and the standards prescribed in the Map Filing Law, P.L. 1960, c. 141.
2. Final approval shall be granted or denied within 45 days after submission of a complete application or within such further time as may be consented to by the applicant. Failure of the Board to act within the period prescribed shall constitute final approval and a certificate of the Secretary of the Central Planning Board as to the failure of the Board to act shall be issued on request of the applicant.
3. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.1 or 40:27-6.6, the Board shall condition its approval on timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

§ 41:13-8-3 Effect of Final Approval.

1. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred by this Section shall expire if the plat has not been duly recorded within the time period provided below. If the developer has followed the standards prescribed for final approval and, in the case of subdivision, has duly recorded the plat with the County Recording Officer in accordance with below, the Board may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this Chapter, the granting of final approval terminates the time period of preliminary approval, for any Section of the development which is granted final approval.
2. Whenever the Board grants any extension of final approval pursuant to the preceding paragraph, and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
3. The Board shall grant an extension of final approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for an extension before: (a) what would otherwise be the expiration date of final required approval; or (b) the ninety-first day after the developer receives the last legally required

approval from other governmental entities, whichever occurs later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the preceding paragraphs.

§ 41:13-8-4 Conditions of Approval.

1. All conditions of preliminary and final approval shall be binding upon the applicant, all present and future owners, tenants, users and occupants of the property and their respective successors and assigns.
2. The applicant and any successor in interest shall be responsible for installing and maintaining in good order and condition all required improvements and landscaping, unless such improvements and landscaping are to be installed by, and/or dedicated and maintained by the City, County or another party under the terms of approval granted by the Board. Such required improvements shall include, but not limited to, parking improvements, buffer zones, drainage facilities, exterior lighting, and landscaping. Failure of any responsible party to install and/or maintain the required improvements or landscaping shall constitute a violation of this Chapter and shall be subject to the enforcement procedures set forth herein.

§ 41:13-8-5 Certificate as to Approval.

1. The prospective purchaser, prospective mortgages, or any other person interested in any land which forms part of a subdivision, or which formed part of a subdivision three years preceding the effective date of NJSA 40:55D-1 et seq., may apply in writing to the Secretary to the Central Planning Board for the issuance of a certificate attesting whether or not such subdivision has been approved. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
2. The Secretary to the Central Planning Board shall make and issue such certificate within 15 days after receipt of such written application and the fee of \$3. The Secretary to the Central Planning Board shall keep a duplicate copy of each certificate consecutively numbered, including a statement of the fee charged, in a binder as a permanent record in his/her office.
3. Each certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify:
 - a. Whether there exists in the municipality a duly established Planning Board and whether there is an ordinance controlling subdivision of land adopted under the authority of NJSA 41:55D-37.
 - b. Whether the subdivision, as it relates to the land shown in the application, has been approved by the Central Planning Board and, if so, the data of such approval and any extensions and terms thereof, showing the subdivision of which the lands are a part is a validly existing subdivision.
 - c. Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in this act.

4. The fees collected by the Secretary to the Central Planning Board shall be paid by the applicant to the City of Newark.

§ 41:13-8-6 Right of Owner of Land Covered by Certificate.

1. Any person who shall acquire for a valuable consideration an interest in the land covered by any such certificate of approval of a subdivision in reliance upon the information therein contained shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the municipality pursuant to the provisions of NJSA 40:55D-55.
2. Fifteen days after receipt of an application and the proper fee, any person acquiring an interest in the land described in such application shall hold any interest free of any right, remedy or action which could be prosecuted or maintained by the municipality pursuant to NJSA 40:55D-55.
3. Any such application addressed to the Secretary to the Central Planning Board shall be deemed to be addressed to the proper designated officer and the municipality shall be bound thereby to the same extent as though the same was addressed to the designated official.

§ 41:13-8-7 Expiration of Final Major Subdivision Approval.

1. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the applicant with the County. The Board may for good cause shown extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The Board may extend the 95 or 190 period if the applicant proves to the reasonable satisfaction of the Board: (a) that the applicant was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental entities; and (b) that the applicant applied promptly for and diligently pursued required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals as determined by the Board. The developer may apply for an extension either before or after the original expiration date.
2. No subdivision plat shall be accepted for filing by the County until it has been approved by the Board as indicated on the instrument by the signature of the chairperson and secretary of the Board. The signatures of the Board Chairperson and Secretary shall not be affixed until the developer has satisfied all applicable conditions of final approval. If the County records any plat without such approval, such recording shall be deemed null and void, and upon request of the City, the plan shall be expunged from the official records.

§ 41:13-9 Subdivision Plat Details Requirements.

§ 41:13-9-1 General.

1. The subdivision plat shall be clearly and legibly drawn and certified by a Land Surveyor licensed to practice in the State of New Jersey.
2. Subdivision plat shall be prepared pursuant to the "Map Filing Law" (NJSA 46:23-99 et seq.) and the title block shall conform to NJAC 13:40-1 and NJAC 13:40.

3. The subdivision plat shall conform to the provisions of the following:
 - a. Newly revised Newark Zoning and Land Use Regulations.
 - b. Design standards listed under Chapter 14 of the Newark Zoning and Land Use Regulations.
 - c. Master Plan and Official Map of the City of Newark.
4. The maps shall be sealed and signed by the Land Surveyor.

§ 41:13-9-2 Minor Subdivision Plat Details.

1. The plat shall be clearly and legibly drawn and certified by a land surveyor licensed to practice in the State of New Jersey.
2. The plat shall be drawn on sheets of 15 inches by 21 inches or larger, as measured from the cutting edge and shall show elements of this Chapter on a "Before Subdivision" and "After Subdivision" plan on a single sheet and so designated. If one sheet is not of sufficient size to contain the entire territory, the plat may be divided into sections to be shown on separate sheets of equal size with reference on each sheet to the adjoining sheets.
3. Graphic and written scale shall not be smaller than one inch-100 feet, North arrow and geographic reference meridian, and drawing and the date of the survey.
4. Street address, block and lot numbers, tax assessment volume and sheet number, and the name(s) and address(es) of the record owner(s) and owner's agent, if any.
5. Key Map showing the subdivision tract boundary lines and the surrounding area within 200 feet of the extreme boundaries of the subdivision.
6. The right-of-way lines of streets, street names and width easements and other right-of-way lines along with their purpose, all lot lines, other site lines and areas dedicated for public use with accurate dimensions, bearings and radii, lengths and central angles for all curves sufficient to enable the definite location of all lines and boundaries shown thereon.
7. Proposed use of the area and all existing structures standing upon or below the surface within the area to be subdivided and within 100 feet of the area with the detailed use of each of the structures and whether the structures are to remain or be removed.
8. All existing lots and blocks within 200 feet of the subdivision.
9. Acreage and square footage of all lots, as well as the total acreage and square footage of all lots with lines to be altered. Calculations shall be made to the nearest tenth of an acre and nearest square foot. Show all trees and limits of clearing.
10. There shall be submitted on the application the names, addresses and telephone numbers of all owners to title of the land subdivided by said plat, with their signature indicating their consent to the approval of said subdivision.

11. Existing monument locations.
12. Contours at two feet intervals for slopes averaging 10% or less and at five foot intervals for greater slopes. All contour lines shall be referenced to the United States Geological Survey Datum.
13. Typical cross-section which clearly indicates the type and width of pavement and locations of curb, sidewalks and planting strips (proposed cross-section). Existing and proposed profiles shall be shown.
14. Plans and profiles of proposed utility layout (storm sewers, sanitary sewers, water and gas mains, and electrical facilities) showing feasible connections to existing or proposed utility systems.
15. Conform to all other technical design controls required by the provisions of all other municipal ordinances.

§ 41:13-9-3 Major Subdivision Plat Details.

1. Preliminary Subdivision.
 - a. Include all the details outlined above.
 - b. All documentation bound and required by this Title.
 - c. There shall be endorsed thereon the following certificates:
 - i. Licensed Land Surveyor.

I hereby certify that this map and survey has been made under my supervision and complies with the provisions of "The Map Filing Law." (Include the following if applicable) I do further certify that the monuments as designated and shown hereon have been set.

Licensed Land Surveyor and No.

(Affixed Seal)

- ii. City Clerk.

If monuments are to be set at a later date, the following endorsement shall be shown on the map.

I hereby certify that a bond has been given to the municipality, guaranteeing the future setting of the monuments shown on this map and so designated.

City Clerk

iii. City Engineer.

I have carefully examined this map and find it conforms with the provisions of "The Map Filing Law" and the municipal ordinances and requirements applicable thereto.

City Engineer

(Affixed Seal)

iv. Central Planning Board.

We hereby certify that this map has been approved by the Central Planning Board of the City of Newark on _____, 20 _____, and the map complies with the provisions of "The Map Filing Law" (NJSA 46:23-9.9 et seq.). This certification shall expire if this map is not filed in the Office of the Register of Essex County on or before the _____ day of _____, 20 _____.

Secretary, Central Planning Board

v. Owner.

I (we), the undersigned, having an interest in the title of the property covered by this subdivision map, do hereby consent to the filing of this map in the Office of the Register of Essex County.

Name

2. Final Subdivision.

The following items shall also be included in addition to the requirements of the preliminary subdivision for the final subdivision plat details submission.

- a. Show entire subdivision and the surrounding area within 200 feet of the extreme boundaries of the subdivision.
- b. Contours at two feet intervals for slopes averaging 10% or less and at five foot intervals for greater slopes. All contour lines shall be referenced to the United States Geological Survey Datum.
- c. Existing zone and zoning information requirements along with plans.
- d. Typical cross-section which clearly indicates the type and width of pavement and locations of curb, sidewalks and planting strips (proposed cross-section). Existing and proposed profiles shall be shown.
- e. Plans and profiles of proposed utility layout (storm sewers, sanitary sewers, water and gas mains, and electrical facilities) showing feasible connections to existing or

proposed utility systems.

- f. Existing monument locations.

§ 41:13-10 Amended Subdivision Review.

Amended Subdivision Review Applications for amended subdivision review shall be governed by the same requirements as all other applications for subdivision review.

§ 41:13-11 Conditional Use Approval.

§ 41:13-11-1 Submission Requirements.

Submission requirements for conditional use applications shall be the same as for a major site plan, except as set forth below.

1. The Board shall grant or deny an application for conditional use approval within 95 days of submission of a complete application or within such further time as may be consented to by the applicant. If relief is requested pursuant to NJSA 40:55D-70d, the Board shall grant or deny within 120 days of submission of a complete application or within such further time as consented by the applicant.
2. The Board shall approve or deny a conditional use application simultaneously with any accompanying subdivision application. The longest time for action by the Board, whether it be for conditional use or subdivision approval, shall apply. Whenever approval of a conditional use is requested by the applicant, notice of the hearing on the application shall include reference to the request for conditional use approval.
3. In approving a conditional use, a time limit of one year from the date of the approval shall be set within which the owner shall secure a construction permit; otherwise the approval shall be null and void. The Board may, for good cause shown, extend the period for securing a construction permit for an additional period not exceeding six months.
4. The conditions for approval shall be those specifically set forth in this Chapter as well as the applicable area and yard requirements listed in each zoning district, the parking and buffer requirements set forth in this Title.

§ 41:13-12 Performance Guarantees and Improvement Costs.

§ 41:13-12-1 Requirements.

1. No final plats shall receive final approval unless the developer shall have installed the required improvements or shall have furnished the Central Planning Board with a performance guarantee bond of sufficient amount as established by the Director of Department of Engineering for the purpose of assuring installation and maintenance of on-tract improvements:
 - a. The furnishing of a performance guarantee in favor of the City of Newark in an amount not to exceed 120% of the cost of installation for improvements, which cost shall be determined by the Director of the Department of Engineering according to the method set forth in NJSA 40:55D-53.4, which may be deemed necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street

- lighting, shade trees, landscaping, survey monuments as shown on the final plat and required by the "Map Filing Law," NJSA 46:23-9.9 et seq., water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, and public improvements of open space. The Director of the Department of Engineering shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost list shall be appended to each performance guarantee posted by the obligor.
- b. Provisions for a maintenance guarantee to be posted with the Municipal Council, City of Newark for a period not to exceed two years after final acceptance of the improvements, in an amount not to exceed 15% of the cost of the improvements. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the City of Newark for such utilities or improvements.
 - c. All improvements required by the Central Planning Board shall be subject to inspection and approval by the Director of the Department of Engineering who shall be notified by the developer at least 24 hours prior to the start of construction of the same. No underground installation shall be covered until inspected and improved.
2. The time allowed for installation of improvements for which the performance guarantee has been provided may be extended by the Municipal Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Director of the Department of Engineering according to the method of calculation set forth in NJSA 40:55D-53.4 as of the time of the passage of the resolution.
 3. If the required improvements are not completed or corrected in accordance with the performance guarantee the obligor and surety, if any, shall be liable thereon to the City of Newark for the reasonable cost of the improvements not completed or corrected and the City of Newark may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law" NJSA 40A:11-1 et seq.
 4. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Municipal Council in writing, by certified mail addressed in care of the City Clerk, that the Director of the Department of Engineering prepare, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee pursuant to above, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Director of the Department of Engineering. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Director of the Department of Engineering shall inspect all improvements covered by obligor's request and file a detailed

list and report, in writing, with the Municipal Council, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.

- a. The list prepared by the Director of the Department of Engineering, shall state, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Director of the Department of Engineering shall identify each improvement determined to be completed and satisfactory together with a recommendation as to the amount of the reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee.
5. The Municipal Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Director of the Department of Engineering, or reject any of all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee in accordance with this Section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Director of the Department of Engineering. Upon adoption of the resolution by the Municipal Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee posted may be retained to ensure completion and acceptability of all improvements.
 - a. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering, including any contingency factor applied to the cost of installation. If the sum of the approved improvements would exceed 70% of the total amount of the performance guarantee, then the municipality may retain 30% of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.
 - b. If the Director of the Department of Engineering fails to send or provide the list and report as requested by the obligor pursuant this Section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Director of the Department of Engineering to provide the list and report within a stated period of time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
 - c. If the Municipal Council fails to approve or reject the improvements determined by the

Director of the Department of Engineering to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, the approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

- d. In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this Subsection, shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.
 - e. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure for notification, as set forth in this Section, shall be followed.
6. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Municipal Council or the Director of the Department of Engineering.
 7. The obligor shall reimburse the City of Newark for all reasonable inspection fees paid to the Director of the Department of Engineering for the foregoing inspection of improvements; provided that the City of Newark may require of the developer a deposit for the inspection fees in the amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of the improvements, which cost shall be determined pursuant to NJS 40:55D-53.4.
 - a. For those developments for which the inspection fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by the developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall deposit the remaining 50% of the inspection fees.
 - b. For those developments for which the inspection fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by the developer shall be 25% of the inspection fees. When the balance on the deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall make additional deposits of 25% of the inspection fees.

- c. The Director of the Department of Engineering shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.
8. In the event that final approval is by stages or sections of development pursuant to Subsection a. of NJSA 40:55D-38, the provisions of this Section shall be applied by stage or section.
9. To the extent that any of the improvements have been dedicated to the City of Newark on the subdivision plat, the Municipal Council shall be deemed, upon the release of any performance guarantee required pursuant to this Section, to accept dedication for public use of streets or roads and any other improvements made thereon according to subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Director of the Department of Engineering.

§ 41:13-12-2 Waiver of Improvements.

The Central Planning Board may waive the requirement to install any of the above specified improvements by resolution, setting forth the reasons for waiver and noting them in the minutes; provided that such waiver does not endanger public health, safety and welfare.

§ 41:13-13 Penalties, Civil Remedies and Liens.

§ 41:13-13-1 Penalty.

If, before final subdivision approval has been granted, any person who transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance, such person shall be subject to a penalty not to exceed \$1,000 or each lot disposition so made shall be deemed a separate violation.

§ 41:13-13-2 Civil Remedies.

In addition to the foregoing, the City may institute and maintain a civil action:

1. For injunctive relief.
2. To set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with NJSA 40:55D-56.

§ 41:13-13-3 Lien.

In any such action described in this Chapter, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his or her assign or successors, to secure the return of any deposits made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of the land or within six years, if unrecorded.

Chapter 41:14

Subdivision and Site Plan Design Standards

§ 41:14-1 Exceptions.

Any deviation from a provision of this Chapter which is identified as a design standard shall require an exception as set forth in N.J.S.A. 40:55D-51 by the reviewing board from the specific design standard.

§ 41:14-2 Development Requirement and Standards.

§ 41:14-2-1 General Design Standards.

In reviewing any application for development, the Board shall consider the following standards.

1. Design and Building Layout.
 - a. The design and layout of buildings and parking areas shall be reviewed so as to provide an high-quality, urban, compact, and walkable design and layout. Particular attention shall be given to impact on surrounding development, contiguous and adjacent buildings and lands, and safety and fire protection.
2. Circulation.
 - a. Pedestrian, bicycle, and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of pedestrian circulation from the public right-of-way to the development, parking areas, and off-street loading and unloading.
 - b. The Central Planning Board shall ensure that parking spaces are usable and are safely and conveniently arranged. Access to the site from adjacent roads shall be appropriately designed using Complete Streets standards outlined in the "Urban Street Design Guide" by the National Association of City Transportation Officials (NACTO).
 - c. The site plan shall provide a safe and efficient circulation system for the movement of people, whether on foot or vehicle into, out of, and within the site. The circulation system shall have minimum adverse impact on surrounding areas and shall comply with the Complete Streets standards outlined in the "Urban Street Design Guide" by the National Association of City Transportation Officials (NACTO).
 - d. Particular attention shall be given to provide for safe emergency access for fire and police protection, vehicular and pedestrian circulation.
 - e. Public open space for social meetings or recreation and play areas for children shall be located in a manner which provides security and visibility for those residents who use these spaces.

- f. The location of parking lots and refuse collection facilities shall not be sited so as to cause excessive foot travel to and from these uses or to conflict with private spaces within 200 feet of the farthest residence it serves.
 - g. Unnecessary and/or excess lighting should be avoided, but lighting essential for security or safety should always be provided.
 - h. The layout shall provide visual corridors, and sight lines to incorporate surrounding open space, recreational areas, historical landmarks, architectural or environmental attributes of the area to enhance design and environmental aspects of the site.
 - i. Consideration shall be given to the situation of the site concerning nearby social services and community needs and shall not be inconsistent with the land use in that area.
3. Storm Drainage and Public Utilities.
- a. Storm drainage, sanitary waste disposal, electrical service, water and gas supply shall be reviewed and considered. Particular emphasis shall be given to the adequacy of existing and proposed systems for improvement of utilities on-site, off-site, on-tract and off-tract to adequately carry storm water, run off, sewage, and to insure an adequate supply of water at sufficient pressure for potable, commercial, industrial or fire prevention uses.
4. Garbage Disposal.
- a. Garbage disposal shall be adequate to prevent vermin and rodent infestation and efficient collection. All disposal systems shall comply with the requirements of the Revised General Ordinances of the City of Newark.
5. Environmental Elements. The site plan shall be reviewed to assure the enhancement and protection of such environmental factors as trees, greenery, open spaces, water bodies, streams, ditches and culverts, air quality, soils, animal life and the abatement of noise and air pollution. An environmental impact statement shall be required upon request by the Director of Engineering.

§ 41:14-3 Streets.

§ 41:14-3-1 Design Standards.

1. Right-of-Way Widths.

Arterial	Collector	Local
80-130 feet	60-80 feet	50-70 feet

The right-of-way for internal roads and alleys in multifamily, commercial, and industrial developments shall be determined on an individual basis, and shall in all cases be of sufficient width and design to provide access to fire equipment and service trucks.

2. Pavement Widths.

Arterial	Collector	Local
46-92 feet	36-44 feet	26-34 feet

3. Sidewalk Widths.

Arterial	Collector	Local
8 feet or wider	6-8 feet	4-6 feet

4. Sidewalk Distance from Curb Face.

Arterial	Collector	Local
min. 8 inches	min. 8 inches	min. 6 inches

In some industrial and commercial areas, a buffer width of two feet may be stipulated.

5. Design Speed.

Arterial	Collector	Local
35-46 mph	25-35 mph	25 mph

6. Stopping Sight Distance.

Arterial	Collector	Local
min. 300 feet	min. 200 feet	min. 150 feet

7. Grades.

Arterial	Collector	Local
max. 8%	max. 10%	max. 12%

Maximum grade in itself is not a complete design control. It is also necessary to consider the length of a particular grade in relation to desirable vehicle operation.

For streets in commercial and industrial areas, gradient design should be less than 8%; desirably it should be less than 5%, with emphasis on still flatter gradients.

In order to provide for proper drainage the minimum grade that should be used for streets with

Arterial	Collector	Local
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outer curbs is 5%.

8. Minimum Centerline Radius.

Arterial	Collector	Local
500 feet	300 feet	200 feet

9. Cul-de-sac Turnaround.

- a. A local street open at only one end only should have a special turning area at the closed end. This turning area may be of "L," "T" or circular shape with dimensions as appropriate for the type of vehicle expected.
- b. The commonly used circular form should have a minimum curb radius of 35 feet in residential areas. Generally, cul-de-sacs should not be over 600 feet in length.

10. Clearance to Obstructions.

- a. On all streets, a clearance of at least two feet shall be provided between the face of curb or edge of shoulder and obstructions, such as utility poles, lighting poles, and fire hydrants.

11. Milling and Repaving.

- a. Milling and repaving, curb to curb, of the street at a project frontage shall be required if four or more adjacent gas, electric, water and/or sewer utility trenches are proposed.
- b. Milling and repaving, curb to curb, of the street for the entire block length, shall be required if six or more gas, electric, water and/or sewer utility trenches are proposed within the same tax block or within the tax blocks across from each other on the street.

§ 41:14-4 **Intersection Design.**

§ 41:14-4-1 **Design Standards.**

1. Intersections should be designed with adequate corner sight distance and the area kept free of obstacles. The corner sight distance for arterial streets should be a minimum of 400 feet; for collector and local streets should be a minimum of 300 feet and 200 feet respectively.
2. It is desirable for all intersections to meet approximately a 90° angle. Skewed intersections should be avoided, and in no case should the angle be less than 75°. At street intersections in residential areas the minimum radius of curb return should be 20 feet. In commercial and industrial areas, the curb return radius should be not less than 30 feet and, desirably, use should be made of a 3-centered curb of sufficient radii to accommodate the largest vehicles expected.

3. Use of "T" intersections in residential subdivision is recommended. However, offsets of at least 100 feet between centerline should be provided. In the case of two collector street intersections this offset should be increased in order to allow for left turn storage between intersections.
4. The intersection area and area where vehicles store while waiting to enter the intersection should be designed with a flat grade; the maximum grade on the approach leg should be 5%.

§ 41:14-5 **Sidewalks.**

§ 41:14-5-1 **Design Standards.**

1. Sidewalks are an important element in the circulation pattern and shall be required for all development in the City of Newark.
2. Sidewalks may be considered a part of the recreational system. Senior citizens use them for walking as do parents pushing carriages. Young children use sidewalks for skating and riding tricycles and other wheeled toys. Sidewalks shall generally meet the following requirements:
 - a. Sidewalks shall connect the main entrance of each building with the street or with the interior road giving access to the building. Sidewalks shall be provided wherever needed to protect the safety of pedestrians. All new sidewalks shall comply with the City's Complete Streets Policy and the "Urban Street Design Guide" by the National Association of City Transportation Officials (NACTO), shall match with the existing sidewalks, driveways and curb elevation within the public rights-of-way, and shall meet the requirements of the Director of Engineering.
 - b. Pedestrian walks and sitting areas shall be surfaced so that they will be easily maintained and properly illuminated and shaded.
 - c. The entire route or alignment of pedestrian walks shall be visible from a street or other public ways.
 - d. A private pedestrian walk shall have a minimum paved width of five feet, and if dedicated to the City as a public walk shall have an easement with a minimum of eight feet.
 - e. Handicap and bicycle ramps shall be designed into all sidewalk designs consistent with the approval of the Director of Engineering. Each intersection shall have its own ramp.

§ 41:14-6 **Curbing.**

§ 41:14-6-1 **Design Standards.**

1. Streets normally should be designed with curbs for high utilization of available width, for control of drainage, protection of pedestrians, and for delineation.
2. Curbs should be straight battered with a minimum of six inches exposed to the roadway.

§ 41:14-7 Street Lighting.**§ 41:14-7-1 Design Standards.**

1. Unnecessary lighting should be avoided, but lighting essential for security or safety should always be provided.
2. The minimum level of illumination for residential areas should be within the range of 0.4 to 1.0 average maintained footcandle. For commercial or industrial areas, the minimum level of illumination should be within the range of 1.0 to 1.6 within the range of 3:1 to 4:1 where the average intensity is 0.6 footcandle or greater, and no worse than 6:1 where the intensity is lower than 0.6 footcandle.

§ 41:14-8 Traffic Control Devices.**§ 41:14-8-1 Design Standards.**

1. On the recommendation of the Director of Engineering, in order to facilitate the safe and efficient movement of traffic into and out of a site, the Central Planning Board or Board of Adjustment may require the installation of traffic control devices at designated locations on the site.
2. Where required on the site, all devices must conform with the current manual on uniform traffic control devices. The pro-rated cost of the off-site improvements shall be borne by the developer.

§ 41:14-9 Additional Measures.**§ 41:14-9-1 Design Standards.**

The Central Planning Board may require provisions of such additional measures as it deems necessary to protect public areas or neighborhood properties from adverse effects of the proposed development which would be harmful to health, safety, conservation of property values and general welfare.

Chapter 41:15

Site Plan and Application Procedures

§ 41:15-1 Title.

This Title shall be known and cited as the "Site Plan Procedures."

§ 41:15-2 Purpose.

The purpose of this Chapter shall be to establish the mandatory requirements that shall be met prior to site plan approval and those standards to be utilized in the site plan review process. This Chapter shall be applicable to the development of all lands within the City of Newark, New Jersey, in order to promote the public health, safety, and general welfare of the City.

§ 41:15-3 Severability and Validity.

If any clause, sentence, subparagraph, paragraph or section of this Chapter hereinafter adopted or any part thereof is held invalid, inoperable, or unconstitutional by a court of competent jurisdiction, such determination, order or judgment shall not affect, impair, or invalidate the remaining portions of this Chapter, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, section, chapter, title or part thereof directly involved in the controversy in which the determination, order or judgment shall have been rendered.

§ 41:15-4 Compliance with Applicable Requirements.

The procedures for processing site plans shall comply with the land use procedures requirements provided in Title XLI, Zoning and Land Use Regulations.

§ 41:15-5 Applicability.

§ 41:15-5-1 Site Plan Review and Approval Required.

Site Plan Review and Approval shall be required from the Central Planning Board, or Zoning Board of Adjustment where applicable for all Land Development involving:

1. An enlargement which increases the square footage/floor areas of an existing structure by 1,000 square feet or more except for one-, two-, and three-family residential uses.
2. The construction of a new structure containing four or more residential units or the creation of four or more new residential units within an existing structure.
3. If variance relief pursuant to N.J.S.A. 40:55D-70.c or d is required, except for a one- or two-family residential use.
4. Rehabilitation of any industrial or warehousing structure that involves a change in that structure's use group as described in the International Construction Code, 2000 (ICC), or its equivalent replacement construction code put into use by the City of Newark.
5. The construction of new commercial, industrial or institutional structures with a gross floor area of 1,000 square feet or more.

6. The construction of structures other than buildings (e.g., water tower/chemical containers) of 1,000 square feet or more of grade level or ground floor area.
7. The development of an area of 5,000 square feet or more which is wholly devoted to playground, garden or park purposes.
8. Any vehicular parking or storage lot development where more than five new parking or storage spaces are created and/or the development of any vehicular parking area or impervious area that increases the existing impervious area by 1,000 square feet or more.
9. Establishment of parking areas using "automotive lifts."
10. Establishment, enlargement, or conversion of an outdoor storage, salvage, junk or equipment yard.
11. Establishment of any institutional residential facility including but not limited to a hospital, prison, dormitory, shelter, or reformatory.
12. Approval of site plan shall be obtained prior to the commencement of any excavations, compactions, removal of soil, clearing of a site, construction or demolition, or placing of any fill on land contemplated for development. Site plan approval is a prerequisite to the issuance of a building permit. No certificate of occupancy shall be issued unless all construction and development conforms to the plans as approved by the reviewing board.

§ 41:15-6 Exceptions.

§ 41:15-6-1 When Site Plan Review Not Required.

Site Plan Review shall not be required; however, a zoning permit and applicable building permits shall be required for:

1. An enlargement which increases the square footage/floor area of an existing structure by less than 1,000 square feet.
2. Development of one-, two-, or three-family residential structures.
3. Rehabilitation of any unoccupied or occupied residential structure where the number of residential units increases by three or fewer above the number of legally established units and no other requirements for site plan approval are triggered.
4. Rehabilitation of any commercial, industrial, and institutional structures if the use group does not change. Such rehabilitation shall include the combination or division of internal space that results in fewer or additional tenant spaces.
5. The creation of three or fewer new residential dwellings within an existing building currently used for retail, food service, office, or personal service establishments. Such dwelling creation/conversion shall not affect the existing zoning conformity status for its existing building, unless a building addition increases the degree of a nonconformity or

creates new nonconformities, in which case site plan review as well as applicable variances shall be required.

6. The construction of new commercial, industrial, or institutional structures with a gross floor area of less than 1,000 square feet.
7. The construction of structures other than buildings (e.g., water tower/chemical containers) of less than 1,000 square feet of grade level or ground floor area.
8. The development of an area of less than 5,000 square feet which is wholly devoted to playground, garden or park purposes.
9. Any vehicular parking or storage lot development consisting of fewer than five spaces and/or development of any vehicular parking area less than 1,000 square feet.
10. Construction of a private accessory use such as a garage, toolhouse or greenhouse.
11. Temporary uses as outlined in **41:15-7-1**.
12. Exceptions from site plan review requirements shall not exempt any application for development from Zoning Standards contained in Chapter 16 or applicable stormwater management requirements contained in Chapter 17.

§ 41:15-7 Temporary Use Permit.

§ 41:15-7-1 Criteria.

Applications for temporary use permit approval shall follow the zoning permit approval process and shall be approved by the administrative officer upon meeting all of the following criteria:

1. The proposed use is temporary or seasonal in nature and shall not be in operation for a period greater than 180 days.
2. No permanent construction, paving, or grading shall be permitted by a temporary use permit.
3. The installation of temporary structures, tents, tensioned membrane structures, canopies, or greenhouses as defined in N.J.A.C.5:23-2.14 shall be permitted subject to compliance with all applicable local and state construction requirements. New temporary structures, tents, tensioned membrane structures, canopies, or greenhouses shall not be permitted within 5 feet of a side lot line adjacent to a residential use or 20 feet of a rear lot line adjacent to a residential use.
4. The temporary use shall be a permitted use in the zone or shall be a temporary use as defined in **41:2-2**.

§ 41:15-7-2 Effect of Approval.

1. Approval of a temporary use permit shall grant the applicant the legal use of the property for a period not to exceed 180 days, subject to any other necessary approvals (i.e. building permits).

2. Upon expiration of the temporary use permit, the legal use of the property for the purpose defined by the temporary use permit shall be extinguished. If the applicant seeks to continue the use beyond the permitted 180 days, an application for zoning permit, and any subsequent approvals, shall be made for a permanent use.
3. A temporary use shall not be subject to the rights and permissions afforded to non-conforming uses as described at N.J.S.A. 40:55D-68 and elsewhere in Title 41.

§ 41:15-8 Major Site Plan Procedure.

§ 41:15-8-1 General.

The information hereunder is required as part of an application for site plan review. Failure to supply any of the required information and/or payment of fees shall constitute an incomplete submission and the application will not be acted upon by the Central Planning Board.

1. Site plans submitted shall conform to the zoning regulations as set forth in Title XLI, Zoning and Land Use Regulations of the Revised General Ordinances of the City.
2. The applicant shall submit a completed City of Newark Central Planning Board/Zoning Board of Adjustment application with the payment of the required fee, as provided in Section **41:15-12-2**.
3. Clear, color photos of site.
4. The applicant shall submit the required number of site plan drawings, each of which shall bear the impression seal and the inked signature of the licensed architect, engineer or land surveyor for the appropriate drawing as required by NJAC 13:40-1 and 13:40-2 and shall be in conformance with the preliminary and final site plan requirements detailed in Sections **41:15-8-2** and **41:15-8-3**.
5. The following must be submitted at least two days prior to the hearing:
 - a. Certified Mail Receipts for notice requirement.
 - i. Mounted on 8.5 x 11 inch bound paper.
 - ii. Six to a page.
 - iii. Arranged in the same order as indicated on the certified list of property owners (a properly certified U.S. Postal Form 3877 will be accepted in lieu of the mounted receipts, provided that the addresses are arranged in the same order as indicated on the certified list).
 - b. Affidavit of Proof of Service by individual who performed mailing certified.
 - c. Affidavit of publication from newspaper.
6. For projects greater than 5,000 square feet, the applicant shall submit for the Final Site Plan six copies of the Soil Erosion and Sedimentation Control Plan to the Central Permit

Office, Department of Engineering for their review. The Department of Engineering shall inform the Secretary of the Central Planning Board of its action and/or comments and forward a copy of the plan after it has been approved.

7. Technical Review Meeting

- a. The applicant for any development for 15 or greater residential units or 10,000 or greater square feet of non-residential building area shall participate in a technical review meeting involving representatives from the City Departments / Divisions of Planning and Zoning, Engineering, Traffic and Signals, and Water and Sewer.
- b. Participation in the technical review meeting shall be a mandatory action prior to the application being deemed complete. The meeting will be scheduled within 45 days of the submission of the application materials unless an extension is requested by the applicant and agreed to by the city.
- c. The purpose of the technical review meeting shall be to evaluate the feasibility of the project from an infrastructure, engineering, and design standpoint to identify potential structural impediments and to ensure consistency with the NZLUR and Master Plan.

§ 41:15-8-2 Preliminary Major Site Plan.

1. Submission Requirements.

- a. Six sets of site plan drawings which are submitted as a part of a preliminary site plan application shall include a cover sheet, a boundary and topography survey map and a site detail plan, the details of which shall comply with Section 41:15-8-6. Six sets of the site plan are required unless stated otherwise in this Title.
- b. The site plan drawings shall be prepared in the size of 24 inches by 36 inches or 30 inches by 42 inches. The sites which cannot be accommodated within the 30 inches by 42 inches, the plan may be drawn at a smaller scale; however, the selection of such scale shall require prior consultation and approval by the Board staff. Two (2) copies of 11 x 17 inch size sets shall be required.
- c. The cover sheet and site plan detail sheet information may be combined on one sheet in those cases where the required information can be effectively and clearly shown.
- d. All drawings shall be numbered in sequential fashion and properly identified.
- e. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with other required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).
- f. The preliminary submission shall be made at least 30 days prior to the regularly scheduled meeting of the Board.

2. Board Action.

- a. Except for applications governed by the time limits, the Board shall approve, conditionally approve or deny a preliminary major site plan which involves 10 acres of land or less, and 10 dwelling units or less, within 45 days after the submission of a complete application unless the applicant shall extend the period of time within which the Board may act.
- b. The Board shall approve, conditionally approve or deny the preliminary major site plan of more than 10 acres or more than 10 dwelling units within 95 days after the application is certified complete unless the applicant shall extend the period of time within which the Board may act.
- c. Failure of the Board to act within the time prescribed shall constitute preliminary major site plan approval and a certificate of the Secretary of the Board as to the failure of the Board to act shall be issued on request of the applicant.

3. Substantial Modification.

- a. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such modification shall be submitted and proceeded upon as in the case of the original application for development. The applicant may apply for modification approval either independently of or concurrently with application for final approval. In either case, notice pursuant to NJSA 40:55D-1 et seq. shall be required and shall state the nature of the proposed modification. A substantial modification shall mean one which: (a) increases the density of development; (b) increases the square footage of buildings; (c) proposes a different use; (d) would result in increased adverse impact upon properties in the immediate area with respect to factors such as, but not limited to, noise, glare and increased drainage runoff; or (e) materially changes a required element of the development plan.
- b. If the Central Planning Board or the Zoning Board of Adjustments required any substantial amendment in the layout or design of improvements proposed by the developer, that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Central Planning Board shall, if the proposed development complies with the ordinance and the Municipal Land Use Law, grant preliminary approval.

4. Effect of Preliminary Approval.

- a. Preliminary approval of a major site plan, except as provided in this Section, shall confer upon the applicant the following rights for a three-year period from the date on which the resolution granting preliminary approval is adopted.
 - i. That the general terms and conditions on which preliminary approval was granted shall not be changed, including, but not limited to: use

requirements; layout and design standards for streets, curbs and sidewalks; lot sizes; yard dimensions and off-tract improvements; and in the case of a site plan, any requirements particular to the site plan approval pursuant to NJSA 40:55D41, except that nothing herein shall be construed to prevent the City from modifying by ordinance such general terms and conditions of preliminary approval as related to the public health and safety.

- ii. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.
- iii. That the applicant may apply for and the Board may grant extension on such preliminary approval of at least one year, but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- iv. Whenever the Board grants an extension of preliminary approval pursuant to the previous paragraphs above and preliminary approval has expired before the date on which the extension was granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for an extension either before or after what would otherwise be the expiration date.
- v. The Board shall grant an extension of preliminary approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented directly or indirectly from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for the extension before:
(a) what would otherwise be the expiration date of the preliminary approval; or
(b) the ninety-first day after the developer received the last legally required approval from other governmental entities, whichever is later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the previous paragraphs above.

5. Simultaneous Preliminary and Final Site Plan Approval.

- a. Combined preliminary and final site plan approval may be granted provided all submission requirements for both applications are met. The time limit within which the Board shall act shall be the longest time period permitted for either of the two approvals.

§ 41:15-8-3 Final Major Site Plan.

1. Submission Requirements.

- a. Final site plan drawings shall include any changes or modifications required by the Board while granting preliminary approval, and the additional information required hereunder pursuant to this Section and Section **41:15-8-2**.
 - b. Six sets of copies of the site plan duly revised shall be required for the final submission.
 - c. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with other required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).
 - d. The final submission shall be made at least 20 days prior to the regularly scheduled meeting of the Board.
2. Board Action.
 - a. The Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions for preliminary approval.
 - b. Final approval shall be granted or denied within 45 days after submission of a complete application or within such further time as may be consented to by the applicant. Failure of the Board to act within the period prescribed shall constitute final approval and a certificate of the Secretary of the Central Planning Board as to the failure of the Board to act shall be issued on request of the applicant.
3. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.3 or 40:27-6.6, the Board shall condition its approval on timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
4. Effect of Final Approval.
 - a. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted. If the developer has followed the standards prescribed for final approval the Board may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this Chapter, the granting of final approval terminates the time period of preliminary approval, for any section of the development which is granted final approval.
 - b. Whenever the Board grants any extension of final approval pursuant to the preceding paragraph, and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.

- c. The Board shall grant an extension of final approval for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for an extension before: (a) what would otherwise be the expiration date of final required approval; or (b) the ninety-first day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this Section shall not preclude the Board from granting an extension pursuant to the preceding paragraphs.

5. Conditions of Approval.

- a. Conditions Binding. All conditions of preliminary and final approval shall be binding upon the applicant, all present and future owners, tenants, users and occupants of the property and their respective successors and assigns.
- b. Failure to Maintain. The applicant and any successor in interest shall be responsible for installing and maintaining in good order and condition all required improvements and landscaping, unless such improvements and landscaping are to be installed by, and/or dedicated and maintained by the City, County or another party under the terms of approval granted by the Board. Such required improvements shall include, but not limited to, parking improvements, buffer zones, drainage facilities, exterior lighting, and landscaping. Failure of any responsible party to install and/or maintain the required improvements or landscaping shall constitute a violation of this Chapter and shall be subject to the enforcement procedures set forth herein.

§ 41:15-8-4 Amended Site Plan Review.

Applications for amended site plan review shall be governed by the same requirements as all other applications for site plan review.

§ 41:15-8-5 Conditional Use Approval.

1. Submission requirements for conditional use applications shall be the same as for a major site plan, except as set forth below.
 - a. The Board shall grant or deny an application for conditional use approval within ninety-five days of submission of a complete application or within such further time as may be consented to by the applicant. If relief is requested pursuant to NJSA 40:55D-70d, the Board shall grant or deny within 120 days of submission of a complete application or within such further time as consented by the applicant.
 - b. The Board shall approve or deny a conditional use application simultaneously with any accompanying site plan application. The longest time for action by the Board, whether it be for conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the applicant, notice of the hearing on the application shall include reference to the request for conditional use approval.

- c. In approving a conditional use, a time limit of one year from the date of the approval shall be set within which the owner shall secure a construction permit; otherwise the approval shall be null and void. The Board may, for good cause shown, extend the period for securing a construction permit for an additional period not exceeding six months.
- d. The conditions for approval shall be those specifically set forth above as well as the applicable area and yard requirements listed in each zoning district, the parking and buffer requirements set forth above and all other applicable design requirements provided in this Chapter.

§ 41:15-8-6 Major Site Plan Drawing Requirements.

1. Survey Map:

- a. A survey of the site shall be performed by a New Jersey licensed surveyor pursuant to NJSA 45:8.
- b. A title block pursuant to N.J.A.C. 13:40-5 in bottom right corner listing street addresses, block and lot numbers, and land area.
- c. Bearings to the nearest 10 seconds and distances to the nearest hundredth for all property lines. It shall indicate true north or magnetic north.
- d. The location of any existing monuments used for the survey. The areas of the site in square feet and acres to the nearest hundredth.
- e. Existing site elevations and contour lines at two foot intervals. If an assumed datum is used, its locations, should be clearly indicated.
- f. The natural site characteristics such as streams, drainage ways, lakes, existing vegetation, marsh vegetation, etc.
- g. Location, size and nature of existing buildings, structures, and impervious areas.
- h. Locations and dimensions of existing rights of way/easements deed restrictions on survey or plan.
- i. A legend indicating all symbols used on survey sheet.
- j. Lot area in square feet.
- k. Utility locations.

2. Site Plan Cover Sheet:

- a. A detailed textual project description on the cover sheet of the plans to include, but not limited to:

- i. Number of proposed uses and types of uses.
 - ii. Number of dwelling units, broken down by number of bedrooms.
 - iii. Hours of operation.
 - iv. Number of employees: total and by shift.
 - v. Anticipated traffic volume.
 - vi. Hazardous material information (chemicals to be used/stores at site, and long-term effects on site from chemical usage/storage at site).
 - vii. Anticipated noise impacts.
 - viii. Number of parking spaces.
- b. Statement of whether or not the site is located in a flood hazard area and if so how mitigated.
 - c. A listing of all variances, conditional use approvals and all other municipal, County, State, Federal and other (e.g., PVSC) permits required, applied for and/or received, as well as the date and requirements of such (if none required, state same), in chart form showing the requirement, project provisions and whether variances or waivers are needed.
 - d. A locational key map at a scale of one inch equals 1,000 feet with a north directional arrow, a graphic scale, the names of all streets and rights-of-way within a 3,000-foot radius of the site.
 - e. The street address and block and lot numbers of the site as shown on the current City tax map and the zoning designation of the property in the title block at the bottom right corner of the cover page.
 - f. Block Diagram of 200 feet radius labeled with zoning, buildings, footprints, land uses and fire hydrants shown.
3. Site Plan:
 - a. A title block pursuant to NJAC13:40-5.
 - b. North Arrow.
 - c. Cross section of proposed site characteristics, retaining walls, and slopes on plans.
 - d. Proposed building locations, building dimensions, construction types, and building setbacks on plans.
 - e. Fencing, type and height, gates if proposed.

- f. Retaining walls, type and height, if proposed.
 - g. Adjacent streets shown on plans with direction arrows to show traffic flow.
 - h. Details of all paving, walls, curbs, handicapped features, etc. on plans.
 - i. Facilities for the storage and collection of refuse and recyclable materials for the site including details of walls or fences used for screening purposes as well as measures to assure protection from infestation of rats and vermin, etc. Provisions for collection of refuse shall also be provided.
4. Demolition Plan:
 - a. Proposed demolition activities (indicated in dashed lines) on a separate page on plans.
5. Landscaping Plan:
 - a. The locations, species name, common name, mature height, planting height or caliper, and quantities of all proposed and existing plantings, maintenance statement and planting details. Existing live trees over three inches caliper shall be preserved.
6. Lighting Plan:
 - a. The location, type and height of all existing and proposed exterior on-site, pole and building mounted and adjacent right-of-way lighting, with isolux contours of illumination showing effects in buildings, sidewalks, parking areas, signs and any spillover effects, etc.
 - b. The construction details of all proposed fixtures shall be illustrated.
 - c. Lighting design shall conform to the current Illuminating Engineering Society Lighting Handbook.
7. Soil Erosion/Sediment Control Plan.
8. Parking Plan:
 - a. Location and dimensions of any vacated or intended to be vacated streets and nature of all easements and rights-of-way.
 - b. Names and width of all adjacent streets showing directions of vehicular traffic flow and all utilities within existing streets.
 - c. A layout of all on-site traffic and/or off-site parking arrangements, including circulation patterns for pedestrians and vehicular traffic and measurements for all driveways, travel ways and parking spaces.
 - d. Measurements for curb widths and driveway spacing.

- e. Walkway depictions on plans with information about pavement types and curbing.
 - f. Vehicular circulation depictions for trucks.
 - g. On-site loading/drop-off/pick-up areas identified and with measurements.
 - h. Company vehicle/trucks, number owned by company if any.
 - i. Provision for handicapped persons such as parking facilities accompanied with easy accessibility through sidewalks and ramps, housing units, etc., as required by the Barrier-Free Design Regulations (NJAC 5:23).
9. Storm Water/Utility Plan:
- a. Storm drainage calculations (sanitary flow and run-off calculations) with details on retention facilities, elevations and flow direction.
 - b. Grading plan
 - c. Percolation test result for storm water drainage seepage pits or drywells.
 - d. Utility connections plan with diameters for all service and public lines (or for the reuse of existing buildings, a statement of plans signifying if existing utility connections are to be used otherwise a utility plan is required for new construction).
 - e. The location, type, size, inverts, and slope of all sanitary utilities such as grease traps, oil separators, clean outs, manholes, monitoring points, or any other appurtenances required.
 - f. Utility pole locations.
 - g. Mechanical and HVAC location and type.
 - h. Water meter setting diagrams.
10. Building Elevations:
- a. Finished floor elevations and the datum upon which these are based.
 - b. Indicating heights, colors, exterior materials and finishing details, including but not limited to walls, windows, and fenestrations.
 - c. Signage plan detailing type, illumination method, location, material, colors, measurements, installation method.
11. Floor Plans:
- a. Individual room measurements showing width and depth of each room in feet, building measurements showing width and depth of building, unit measurements, units labeled.

- b. Room labels including number of bedrooms.
- c. For residential projects, a table with number of units, bedroom count and square footage range.

12. Detail sheets:

- a. Drywell profiles, street tree plantings, curb cuts profiles, fence details, traffic details, sign details, retaining wall details, sidewalk and curb details, handicap ramp details, pavement restoration details.

§ 41:15-8-7 Variances Without Site Plan Submission Requirements.

1. Variance applications that are not part of a subdivision or site plan application shall submit the following:

- a. The applicant shall submit a completed City of Newark Central Planning Board/Zoning Board of Adjustment application with the payment of the required fee, as provided in Section **41:15-12-2**.
- b. Six sets of site plan drawings, which would otherwise be submitted as part of a preliminary site plan application, shall include a cover sheet, a boundary and topography survey map and a site detail plan, the details of which shall comply with Section **41:15-8-2**.
- c. The site plan drawings shall be prepared in the size of 24 inches by 36 inches or 30 inches by 42 inches. For sites which cannot be accommodated within the 30 inches by 42 inches, format, the plan may be drawn at a smaller scale; however, the selection of such scale shall require prior consultation and approval by the Zoning Board of Adjustment. Two (2) copies of 11 inch by 17 inch plans shall be required.
- d. The cover sheet and site plan detail sheet information may be combined on one sheet in those cases where the required information can be effectively and clearly shown.
- e. All drawings shall be numbered in sequential fashion and properly identified.
- f. Digital Submission Requirement: All required documents shall also be submitted digitally on a USB drive, which shall be submitted with the rest of the required documentation. The digital files shall be combined into a single Adobe Portable Document File (PDF file format).
- g. The preliminary submission shall be made 30 days prior to the regularly scheduled meeting of the Board.

2. Variances without site plan Drawing Requirements.

- a. Survey Map.
 - i. A survey of the site shall be performed by a New Jersey licensed surveyor

pursuant to NJSA 45:8.

- ii. A title block pursuant to NJAC 13:40-5 in bottom right corner listing street addresses, block and lot numbers, and land area.
 - iii. Bearings to the nearest 10 seconds and distances to the nearest 1/100 for all property lines. It shall indicate true north or magnetic north.
 - iv. The location of any existing monuments used for the survey. The areas of the site in square feet and acres to the nearest 1/100.
 - v. Existing site elevations and contour lines at two foot intervals. If an assumed datum is used, its locations, should be clearly indicated.
 - vi. The natural site characteristics such as streams, drainage ways, lakes, existing vegetation, marsh vegetation, etc.
 - vii. Location, size and nature of existing buildings, structures, and impervious areas.
 - viii. Locations and dimensions of existing rights of way/easements deed restrictions on survey or plan.
 - ix. A legend indicating all symbols used on survey sheet.
 - x. Lot area in square feet.
 - xi. Utility locations.
- b. Plot Plan.
- i. A detailed textual project description on the cover sheet of the plans to include, but not limited to:
 - A. Number of proposed uses and types of uses.
 - B. Number of dwelling units, broken down by number of bedrooms.
 - C. Number of parking spaces.
 - ii. Statement of whether or not the site is located in a flood hazard area and if so how mitigated.
 - iii. A listing of all variances, conditional use approvals and all other municipal, County, State, Federal and other (e.g., PVSC) permits required, applied for and/or received, as well as the date and requirements of such (if none required, state same), in chart form showing the requirement, project provisions and whether variances or waivers are needed.
 - iv. A locational key map at a scale of one inch equals 1,000 feet with a north

directional arrow, a graphic scale, the names of all streets and rights-of-way within a 3,000-foot radius of the site.

- v. The street address and block and lot numbers of the site as shown on the current City tax map and the zoning designation of the property in the title block at the bottom right corner of the cover page.
 - vi. Block Diagram of 200-foot radius labeled with zoning, buildings, footprints, land uses and fire hydrants shown.
 - vii. A title block pursuant to NJAC 13:40-5.
 - viii. North Arrow.
 - ix. Cross section of proposed site characteristics, retaining walls, and slopes on plans.
 - x. Proposed building locations, building dimensions, construction types, and building setbacks on plans.
 - xi. Fencing, type and height, gates if proposed.
 - xii. Retaining walls, type and height, if proposed.
 - xiii. Adjacent streets shown on plans with direction arrows to show traffic flow.
 - xiv. Details of all paving, walls, curbs, handicapped features, etc. on plans.
 - xv. Facilities for the storage and collection of refuse and recyclable materials for the site including details of walls or fences used for screening purposes as well as measures to assure protection from infestation of rats and vermin, etc. Provisions for collection of refuse shall also be provided.
- g. Building Elevations.
- i. Finished floor elevations and the datum upon which these are based.
 - ii. Indicating heights, colors, exterior materials and finishing details, including but not limited to walls, windows, and fenestrations.
 - iii. Mechanical and HVAC location and type.
- h. Floor Plans.
- i. Individual room measurements showing width and depth of each room in feet, building measurements showing width and depth of building, unit measurements, units labeled.
 - ii. Room labels including number of bedrooms.

- iii. For residential projects, a table with number of units, bedroom count and square footage range.

§ 41:15-8-8 Pre-Application Conference.

The developer may participate in a pre-submission conference with the Newark Division of City Planning and the Engineering Department, either in person or by agent. The purpose of this conference shall be to evaluate the proposal for the type of review required and to ensure that the developer receives all proper information regarding the submission. No statement or representation by either the developer, the Newark Division of City Planning or the Engineering Department at this conference shall be binding or final. The Secretary may request that representatives of various City reviewing agencies or departments attend any pre-application meeting.

§ 41:15-8-9 City Agencies and Department Review.

The Secretary to the reviewing board shall forward either a physical or digital copy of the application for site plan approval and a copy of site plan drawings to the following City agencies and department heads for their review and written comments.

1. One copy to the Central Planning Board staff.
2. Two copies to the Department of Engineering.
3. One copy to the Department of Water and Sewer Utilities.
4. One copy to the Office of Emergency Services
6. One copy to the City Arborist
7. One copy to the Environmental Commission for covered applicants as defined in 41:20-3.

The Central Planning Board shall retain one copy for its records.

The applicant is expected to comply with any requirements and recommendations raised by any of the above City agencies.

§ 41:15-8-10 Planned Unit Development and Public Areas.

1. The planned unit development and public areas shall require that prior to approval of such development, the Central Planning Board shall find the following facts and conclusions:
 - a. That departure by the proposed development from zoning regulations, otherwise applicable to the subject property, conforms to Title XLI, Zoning and Land Use Regulations, of the Revised General Ordinances of the City of Newark;
 - b. That the proposals for maintenance and conservation of the common open space are supported, and the amount, location and purpose of the common open space are adequate;
 - c. That provisions through the physical design of the proposed development for public

services control other vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate;

- d. That the proposed planned unit development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
2. In the case of a proposed development which contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development are adequate.

§ 41:15-8-11 Ownership and Maintenance of Common Open Spaces in Planned Unit Development.

1. Public Dedication. Common open space which may be dedicated to the City shall be free and clear of all mortgages and encumbrances, and shall only be dedicated at the discretion of the City.
2. Private Dedication. Dedicated areas may be deeded free and clear of any encumbrances, to a permanent property owner's association, cooperative or condominium corporation for its use, control and management for common open space, recreational or other similar use, and providing appropriate restrictions to assure the effectuation of the purpose of this Section and to provide for the maintenance and control of the area. The organization shall meet the following standards, to be written into the articles of incorporation and/or bylaws:
 - a. The developer shall provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents, if said open space is not dedicated to the City. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the common open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the City.
 - b. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the Director of Engineering or the Secretary of the Central Planning Board may serve written notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and the notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof and shall state the date and place of a hearing thereon, which shall be held within 15 days of the notice. At such hearing the Central Planning Board may modify the terms of the original notice as to deficiencies and may give reasonable extension of time, not to exceed 65 days within which the deficiencies shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within the 35 days or any permitted extension thereof, the Board, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. The entry and maintenance shall not vest in the public any right to use the open space except when the same is voluntarily dedicated to the public by the owners.

Before the expiration of the year, the Central Planning Board or the Director of Engineering shall upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' written notice to such organization and to the owners of the development, to be held by the Central Planning Board at which hearing such organization and the owners of the development shall show cause why such maintenance by the City shall not, at the election of the City, continue for a succeeding year. If the City shall determine that such organization is ready and able to maintain the open space in reasonable condition, the City shall cease to maintain the open space at the end of the year. If the Director shall determine such organization is not ready and able to maintain the open space in a reasonable condition, the City may, in its discretion, continue to maintain the open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Central Planning Board shall constitute a final administrative decision, subject to judicial review.

- c. The cost of such maintenance by the City shall be assessed by the Director of Engineering prorated against the properties within the development that have a right of enjoyment of the common open space, in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on these properties and assessed thereon and shall be enforced and collected with interest by the same officers and in the same manner as other taxes.

§ 41:15-8-12 **Reservation of Public Areas.**

The Master Plan or the Official Map provides for the reservation of designated streets, public drainage ways, flood control basins, or public areas within the proposed development. Before approving a site plan, the Central Planning Board may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses. The Central Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the City shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this Section shall not apply to streets and roads, flood control basins or public drainageways necessitated by the land development and required for final approval.

§ 41:15-8-13 **Performance Guarantees and Improvement Costs.**

1. As a condition of final site plan approval, the Central Planning Board may require and shall accept in accordance with the standards adopted by this Chapter for the purpose of assuring the installation and maintenance of on-tract improvements: a. The furnishing of a performance guarantee in favor of the City of Newark in an amount not to exceed 120% of the cost of installation for improvements, which cost shall be determined by the Director of the Department of Engineering according to the method set forth in NJSA 40:55D-53.4, which may be deemed necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyors, monuments as shown on the

final plat and required by the "Map Filing Law," N.J.S.A. 46:23-9.9 et seq.; water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, and public improvements of open space. The Director of the Department of Engineering shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost list shall be appended to each performance guarantee posted by the obligor.

2. Provisions for a maintenance guarantee to be posted with the Municipal Council, City of Newark for a period not to exceed two years after final acceptance of the improvements, in an amount not to exceed 15% of the cost of the improvements. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the City of Newark for such utilities or improvements.
3. All improvements required by the Central Planning Board shall be subject to inspection and approval by the Director of the Department of Engineering who shall be notified by the developer at least 24 hours prior to the start of construction of the same. No underground installation shall be covered until inspected and approved.
4. The time allowed for installation of improvements for which the performance guarantee has been provided may be extended by the Municipal Council by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Director of the Department of Engineering according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.
5. If the required improvements are not completed or corrected in accordance with the performance guarantee the obligor and surety, if any, shall be liable thereon to the City of Newark for the reasonable cost of the improvements not completed or corrected and the City of Newark may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law" N.J.S.A. 40A:11-1 et seq.
6. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Municipal Council in writing, by certified mail addressed in care of the City Clerk, that the Director of the Department of Engineering prepare, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee pursuant to Section 41:15-8-13, Subsection 1 above, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the Director of the Department of Engineering. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the Director of the Department of Engineering shall inspect all improvements covered by obligor's request and file a detailed list and report, in writing, with the Municipal Council, and shall simultaneously send a copy thereof to the obligor not later than 45 days after

receipt of the obligor's request.

- a. The list prepared by the Director of the Department of Engineering, shall state, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Director of the Department of Engineering shall identify each improvement determined to be completed and satisfactory together with a recommendation as to the amount of the reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee pursuant to Subsection 1 above.
7. The Municipal Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Director of the Department of Engineering, or reject any of all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering and appended to the performance guarantee in accordance with Section 41:15-8-13, Subsection 1 above. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Director of the Department of Engineering. Upon adoption of the resolution by the Municipal Council, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee posted may be retained to ensure completion and acceptability of all improvements.
- a. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering, including any contingency factor applied to the cost of installation. If the sum of the approved improvements would exceed 70% of the total amount of the performance guarantee, then the municipality may retain 30% of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.
 - b. If the Director of the Department of Engineering fails to send or provide the list and report as requested by the obligor pursuant to Section 41:15-8-13, Subsection 6, above, within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Director of the Department of Engineering to provide the list and report within a stated period of time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

- i. If the Municipal Council fails to approve or reject the improvements determined by the Director of the Department of Engineering to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, the approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Director of the Department of Engineering; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
8. If any portion of the required improvements are rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure for notification, as set forth in this Section, shall be followed.
9. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Municipal Council or the Director of the Department of Engineering.
10. The obligor shall reimburse the City of Newark for all reasonable inspection fees paid to the Director of the Department of Engineering for the foregoing inspection of improvements; provided that the City of Newark may require of the developer a deposit for the inspection fees in the amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of the improvements, which cost shall be determined pursuant to NJSA 40:55D-53.4.
 - a. For those developments for which the inspection fees are less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by the developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall deposit the remaining 50% of the inspection fees.
 - b. For those developments for which the inspection fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by the developer shall be 25% of the inspection fees. When the balance on the deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Director of the Department of Engineering for inspection, the developer shall make additional deposits of 25% of the inspection fees.
 - i. The Director of the Department of Engineering shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.
11. In the event that final approval is by stages or sections of development pursuant to

Subsection a. of NJSA 40:55D-38, the provisions of this Section shall be applied by stage or section.

12. To the extent that any of the improvements have been dedicated to the City of Newark on the site plan, the Municipal Council shall be deemed, upon the release of any performance guarantee required pursuant to Section 41:15-8-13, Subsection 1, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plan approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Director of the Department of Engineering.

§ 41:15-8-14 Commencement of Project.

1. Notice Upon Commencement; Site Plan Copy at Construction Site.
 - a. The Director of Engineering and the Secretary of the Central Planning Board shall be notified in writing 72 hours before the commencement of construction of any development which has received final site plan approval. This notification shall be sent by the applicant.
 - b. Two copies of the approved final site plan shall remain at the construction site during the entire construction period until a certificate of occupancy has been issued and all requirements of the plan have been complied with.

§ 41:15-8-15 Inspection.

No person shall interfere with or prevent a Construction Code Official or Subcode Official or the authorized person of the Central Planning Board from inspecting any site while engaged in the performance of his or her duties under this Title. Permission is granted to the Construction Code Official or his or her authorized designee to enter upon the site and property during regular work hours.

§ 41:15-8-16 Enforcement.

1. Pursuant to NJSA 40:55D-18, the Construction Code Official or Subcode Official shall inspect each site for which a performance bond or certified check has been posted and the Construction Code Official shall certify to the developer whether installations and control measures are in compliance with the standards in general design principles prescribed in Chapter 16. In addition, an applicant is responsible for compliance with any specific requirements that have been stated as conditions of site plan approval. The Construction Code Official shall keep the Central Planning Board informed as to whether the construction is in compliance with the requirements of the site plan. If the Official shall, during the course of an inspection, find that a developer is not complying with the approved site plan, the Construction Code Official shall send a written report of his findings to the Central Planning Board or the Zoning Board of Adjustments.
2. The Central Planning Board shall forward such notice to the applicant indicating in the notice the specific reasons for the noncompliance notice. Within seven days of the notice, another inspection shall be made by the appropriate officials. If noncompliance is again found, the Director of Engineering or the Construction Code Official shall issue a stop-

construction order for all activities on the site. The order shall be sent to the developer by certified mail. Such an order shall be issued whenever a project is not being conducted in accordance with (1) the approved final site plan modifications; (2) conditions stipulated at the time of final site plan approval; or (3) provisions provided by this Chapter. The notice sent to the applicant regarding a stop-work notification shall inform the developer that he/she has a right to contest the stop-work order by making a request to the Central Planning Board for a review of the site plan. The participants of such a review shall be the Director of the Department of Engineering and the Division of City Planning. If after the review it is found that the applicant deviated from the final site plan approval specifications the Construction Code Official shall provide to the applicant the specifics of the noncompliance, necessary corrective measures, and a timetable for compliance of the same in writing.

3. Prior to the commencement of construction after a stop-work order, the applicant is required to submit signed and sealed amended plans (three copies) — one copy to be submitted to the Director of Engineering, one copy to be submitted to the Central Planning Board and one copy to the Division of City Planning. After a review of these plans by the Engineering Department and the Division of City Planning if the plans are acceptable, then a notice informing the developer to continue construction will be issued forthwith.

§ 41:15-8-17 Penalties.

1. Any person who violates any provision of Chapter 15 shall upon conviction thereof, be punished by a fine not exceeding \$1,000.
2. For any and every violation of any other provision of this Chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the owner, general agent, contractor, architect, builder, or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist, shall, for each and every violation, be punished by a fine not exceeding \$1,000.
3. A separate offense shall be deemed continued on each day during or on which a violation occurs or continues.

§ 41:15-8-18 Completion.

1. Filing Upon Completion.

Upon completion of all work, a professional architect or professional engineer licensed in the State of New Jersey shall file with the Secretary of the Central Planning Board and the Director of Engineering, certification on a form obtained from the Department of Engineering, that all measures of the site plan have been completed in conformance with the approved plan and provisions of this Chapter.

§ 41:15-9 Time Period for Action by the Zoning Board of Adjustment.

§ 41:15-9-1 Variances.

1. The Zoning Board of Adjustment shall render its decision not later than 120 days after the date: (a) an appeal is taken from the decision of an administrative officer; or (b) the

submission of a complete application for a variance to the Board pursuant to the provisions of NJSA 40:55D-72b.

2. Whenever an application for development requests relief pursuant to subdivision or site plan approval associated with a use variance, the Zoning Board of Adjustment shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the Zoning Board of Adjustment or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the one hundred and twenty-day provision shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this Chapter. Failure of the Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Secretary of the Zoning Board of Adjustment as to the failure of the Board to act shall be issued on Sample Public Notice Sign request of the applicant.

Sample Public Notice Sign: See Title XLI Appendix for the Notice of Public Hearing.

§ 41:15-9-2 Direction for the Issuance of a Permit.

The Zoning Board of Adjustment shall render its decision not later than 120 days after the date of submission of a complete application for direction for issuance of a permit. Failure of the Board to render a decision within such 120-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

§ 41:15-9-3 Inquiries.

The Zoning Board of Adjustment shall respond to inquiries submitted in writing as to whether a proposed land use is permissible under the Zoning Ordinance or Official Map within 45 days after the next meeting following receipt of the request or within such additional time as may be consented to by the inquirer.

§ 41:15-10 Time Period for Action for Ancillary Powers of the Central Planning Board.

Whenever the Central Planning Board is called upon to exercise its ancillary powers as set forth in Section **41:11-5-3**, the Board shall grant or deny approval of the application within 120 days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. In the event the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying any subsequent approval shall be as otherwise provided in NJSA 40:55D-1 et seq.

§ 41:15-11 Provisions Applicable to Both the Central Planning Board and Zoning Board of Adjustment.

§ 41:15-11-1 Meetings.

1. Meetings of both the Central Planning Board and Zoning Board of Adjustment shall be held as scheduled unless canceled for lack of applications for development to process.
2. Special meetings may be provided for at the call of the Chairperson and shall be held on notice to its members and the public in accordance with all applicable legal requirements.

3. No action shall be taken at any meeting without a quorum being present.
4. All actions shall be taken by majority vote of the members present at the meeting except as otherwise required by any provision of NJSA 40:55D-1 et seq. Failure of a motion to receive the numbers of votes required to approve an application for development shall be deemed an action denying the application. A member of the Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding the absence from one or more of the meetings; provided, however, that a transcript or recording of all of the hearings from which he or she was absent exists, and provided, further, that such Board member certifies in writing to the Board that he or she has read such transcript or listened to such recording.
5. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Act.

§ 41:15-11-2 Minutes.

Minutes of every regular or special meeting of the Central Planning Board or the Zoning Board of Adjustment shall be kept and shall include the names of the persons appearing and addressing the Boards and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes of each Board shall thereafter be made available for public inspection during normal business hours at the office of the Secretary of the Board. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes.

§ 41:15-11-3 Public Hearings.

1. Rules. The Central Planning Board and the Zoning Board of Adjustment shall make rules governing the conduct of hearings, which rules shall not be inconsistent with the provisions of NJSA 40:55D-1 et seq. or of this Chapter.
2. Agendas. The meeting agendas for both the Zoning Board of Adjustment and the Central Planning Board shall be posted online by the Newark Planning Office.
3. Maps. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Board Secretary. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify the previously filed maps and documents.
4. Oaths. The officer presiding at the hearing or such other person as may be designated shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law (C.2A:67A-1 et seq.) shall apply.
5. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross

examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

6. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
7. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his or her expense.

§ 41:15-11-4 Notice Requirements for Hearing.

Public notice of a hearing on an application for development or relief per NJSA 40:55D-1 et seq. shall be given for final major site plans, minor site plans, final major subdivisions, and variances. Notice pursuant to this Section shall be given by the applicant at least 10 days prior to the date of the hearing. The Secretary of the Board or the applicant shall give notice thereof at the applicant's expense as follows:

1. Public notice shall be given by publication in the official newspaper of the municipality.
2. Public notice shall be given by a sign(s) posted on the proposed development site. The sign shall be the responsibility of the applicant and posted subject to the following conditions:
 - a. The sign(s) shall be posted no less than 10 calendar days prior to the date of the public hearing and shall not be removed by the applicant until the hearing is closed;
 - b. The sign(s) shall be firmly secured to the ground or structure to prevent vandalism and shall be along the most visible portion of street frontage. The sign(s) shall be erected in a manner so as to be visible to traffic moving in both directions. Signs must be posted within five to 15 feet of the property line. If there is more than one street frontage of the parcel, one sign for each street frontage shall be posted;
 - c. Sign Design and Content. The sign(s) shall comply with the following sign design requirements:
 - i. The composition of the sign(s) shall be of a durable material with a dimension of at least three feet by three feet painted white with black lettering having a minimum height of three inches for the title;
 - ii. The words "Notice of Public Hearing" shall be a minimum of three inches in size. Sign content should match the example to the right.
 - iii. The sign(s) shall advertise the date, time, and location of the public hearing, as well as name, address, and a contact phone number for Applicant and Owner, with at minimum two inch high lettering;
 - d. The applicant is responsible for submitting a signed affidavit along with two photos of the posted sign(s) to the appropriate approval Board Secretary. One photo shall show

the contents of the sign; the second photo shall show the sign posted in front of the property. An applicant who fails to display the sign or prove that the sign was displayed shall result in a delay in application processing.

- e. Applicant shall complete the following affidavit and mail or deliver it to: Newark Planning Office, 920 Broad Street, Room 112, Newark, New Jersey, no later than five days after the sign posting. The signed affidavit shall contain the following elements:

Application No.:

Filed on:

I, _____ (applicant) _____ hereby certify that on _____ (date of sign installation) _____ I installed a notice of public hearing sign at the property known as for which the major development application number _____ is being considered by the _____ (approval entity) _____ on _____ (date of hearing) _____

I also hereby agree to meet the specifications and general requirements of the sign content as stated in Section 41:15-11-4(2)(c) of the Newark Zoning and Land Use Regulations.

Attached to this affidavit as Exhibit "C" is the photo(s) of the sign(s) as it was installed on the property and agree to the responsibility of maintaining the integrity and accuracy of the sign.

I also hereby agree to maintain the sign in place for a period of 10 days before each public hearing and for its subsequent removal thereafter.

Date:

Applicant's/Representative's

Signature:

Phone number:

- 3. Notice shall be given to the owners of all real property as shown on the current tax duplicate located within 200 feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which applicant's land is located; provided that this requirement shall be deemed satisfied by notice to the: (a) condominium association, in the case of any unit owner whose unit has a unit above or below it; or (b) a horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Such notice shall be given by: (a) serving a copy thereof on the owner as shown on the current tax duplicate and most recent records of the Tax Surveyor in the Office of Assessment, or on his or her agent in charge of the property; or (b) mailing a copy thereof by certified mail to the property owner at his or her address as shown on the current tax duplicate and Tax Surveyor's records. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its

president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

4. Notice shall be given by personal service or certified mail to the Municipal Clerk of any adjoining municipality when the property involved is located within 200 feet of said adjoining municipality.
5. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road shown on the official County map or on the County Master Plan, adjoining other County land or situated within 200 feet of a municipal boundary.
6. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
7. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Central Planning Board or Zoning Board of Adjustment pursuant to NJSA 40:55D-10b.
8. All notices hereinabove specified in this Section shall be given at least 10 days prior to the date fixed for hearing and the person giving notice shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
9. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of NJSA 40:55D-14.
10. All notices required to be given pursuant to the terms of this Chapter shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the City Tax Assessor's Office and the location and times at which any maps and documents for which approval is sought are available as required by law.
11. Notice of hearing on applications for approval of a major subdivision or a site plan not defined as a minor site plan in this Chapter requiring public notice pursuant to this Chapter shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which as registered with the municipality and which has registered with the municipality in accordance with NJSA 40:55D-12.1, by: (a) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility; or (b) by mailing a copy thereof by certified mail to the person whose name appears on the

registration form at the address shown on that form.

12. The applicant shall file an affidavit of proof of service and affidavit of publication with the Board holding the hearing, at least two days prior to the first scheduled hearing. In addition, the applicant shall submit the original white slips bearing the postmark from the post office from where notices were mailed.
13. It is the policy of both the Zoning Board of Adjustments and the Central Planning Board that no notices shall be reserved if any application is adjourned at the applicant's request. Thus, the adjacent property owners and every other body requiring a notice shall be notified of the adjourned hearing.

§ 41:15-11-5 List of Property Owners Furnished.

Pursuant to the provisions of NJSA 40:55D-12c., the municipal Tax Assessor shall within seven days after receipt of a written request therefor and upon receipt of payment of a fee of \$10, make and certify a list from the current tax duplicate of names and addresses of owners to whom notice must be given pursuant to Subsection 41:15-11-4. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner, to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding.

§ 41:15-11-6 Registration by Public Utilities.

1. Every public utility, cable television company and local utility which holds a right-of-way easement in the City and which is interested in receiving notice pursuant to this Chapter, may register with the City Clerk to receive such notice. The registration shall remain in effect until revoked by the public utility, cable television company, or local utility or by its successor in interest.
2. A registration fee of \$10 is required pursuant to NJSA 40:55D-12.1 for any public utility, cable television company or local utility, which registers to receive notice pursuant to this Section.

§ 41:15-11-7 Decisions.

1. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The Board shall provide the findings and conclusions through:
 - a. A resolution adopted at a meeting held within the time period in NJSA 40:55D-1 et seq. for action by the Board on the application for development; or
 - b. A memorializing resolution adopted pursuant to NJSA 40:55D-10g. at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution.

2. A copy of the decision shall be filed in the office of the Secretary of the Central Planning Board or the Zoning Board of Adjustment, as the case may be, where it shall be made available for public inspection during reasonable hours.
3. A brief notice of the decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant. The notice shall be sent to the newspaper for publication within 10 days of the date of any such decision.

§ 41:15-11-8 Payment of Taxes.

Pursuant to the provisions of NJSA 40:55D-39 and NJSA 40:55D-65, every application for development submitted to the Central Planning Board or the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on the property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

§ 41:15-11-9 Conditional Approval.

1. In the event that an applicant submits an application proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by a State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the Board shall process such application in accordance with this Chapter, and if such application complies with all City regulations, the Board shall approve such application conditioned on removal of such legal barrier to development.
2. In the event that development proposed by an application requires an approval by a governmental agency other than the Board, the Board shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency. The Board shall make a decision on any application within the time period provided in this Chapter or within an extension of such period as has been agreed to by the applicant, unless the Board is prevented or relieved from so acting by the operation of law.

§ 41:15-11-10 Time Extensions.

The Board and an applicant may mutually agree to extend the time limit specified for action. Such extension shall be made in writing or verbally at a public meeting of the Board.

§ 41:15-11-11 Expiration of Variance.

Any variance from the terms of this Chapter hereafter granted by either Board permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by the variance or unless such permitted use has actually been commenced within one year from the date of publication of the notice of the decision of the Board granting the variance or unless specifically approved for a longer period of time as permitted by statute, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing of appeal from the decision of the Board to a court

of competent jurisdiction, until the termination in any manner of such appeal or processing.

§ 41:15-11-12 Application by Corporation or Partnership.

1. Disclosure by Corporate or Partnership Applicant. A corporation or partnership applying to the Central Planning Board or the Zoning Board of Adjustment shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class or at least 10% of the interest in the partnership, as the case may be.
2. Disclosure by Corporation or Partnership Owning 10% or More of Applicant. If a corporation or partnership owns 10% or more of the stock of a corporation or interest of 10% or greater in a partnership, either of which is subject to disclosure pursuant to the above paragraph, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock or interest of 10% or greater in the partnership, as the case may be; and this requirement shall be followed by every corporate stockholder or partner in said partnership until the names and addresses of the non-corporate stockholders and individual partners exceeding 10% ownership criterion set forth in this Section have been listed.
3. The Board shall not approve the application of any corporation or partnership which does not comply with this Section.
4. Any corporation or partnership which conceals the names of the stockholders owning 10% or more of its stock or of the individual partners owning an interest of 10% or greater in the partnership, as the case may be, shall be subject to a fine of \$1,000 to \$10,000, which shall be recovered in the name of the City of Newark in any court of record in the State in a summary manner pursuant to the Penalty Enforcement Law (NJSA 2A:58-1 et seq.).

§ 41:15-12 Application for Development Procedures.

§ 41:15-12-1 Application: Procedures for Filing.

1. The applicant shall obtain all necessary forms from the Newark Division of Planning Office, which shall inform the applicant of the procedures to be followed in filing an application for development and advise the applicant which Board has jurisdiction over the application. The applicant shall provide such information as the Zoning Officer deems necessary in order to render a determination as to the type of application required. At the time of filing the application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all sketch plats, plot plans, maps or other papers required by virtue of any provision of this Section or any rule of the Central Planning Board or the Zoning Board of Adjustment.
2. An application for development shall be complete for purposes of commencing the applicable time period for action by the Central Planning Board or the Zoning Board of Adjustment when so certified by the Board or its authorized committee or designee. In the event that the agency, committee or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period unless: (a) the application lacks information indicated on a checklist adopted by ordinance and provided to the applicant; and (b) the Board or its authorized committee or

designee has notified the applicant in writing, of the deficiencies in the application within 45 days of submission of the application.

3. The applicant may request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he or she is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Board.
4. All applicants for permits pertaining to designated historic sites or improvements in designated historic districts shall be referred to the Newark Landmarks and Historic Preservation Commission ("Commission") for a written report and decision on the application of the provisions in Chapter 10, Historic Sites and Districts.

§ 41:15-12-2 **Fees.**

1. Non-refundable application fees.
 - a. There shall be a non-refundable fee for applications to the Newark Central Planning Board, Zoning Board of Adjustment, as provided by law and established herein. The fees provided for shall be non-refundable and are for purposes of offsetting the administrative and clerical costs of running these Boards.
 - b. Applicable Fees. Every application for review or hearing before the Zoning Board of Adjustment, or the Central Planning Board shall be initially accompanied by a check for \$150. Balance due will be determined upon Division of City Planning Staff's review in accordance with the amount(s) as provided in Fee Table I and based upon the initial submission package. If future submissions result in additional fees, such will be calculated at that time. This balance will be due within 30 days of issuance of the first review checklist. If not received within 30 days, review will cease until payment is submitted.
 - c. Copies of resolutions rendered by either the Zoning Board of Adjustment or the Central Planning Board shall be available to any person requesting them at their sole cost and expense. Any applicant shall receive a copy of the decision rendered at no additional cost. Minutes of either the Board of Adjustment or the Central Planning Board shall also be available on request to any person or applicant at their sole cost and expense. Amounts charged shall be as provided for in the City's ordinance regulating photocopy and documents fees.
 - d. Performance guarantees may be required by the Zoning Board of Adjustment or the

Central Planning Board pursuant to N.J.S.A. 40:55D-53 separate from application fees.

2. Schedule of Fees.

a. Application fees.

Table 15-1: Application Fees.		
Type of Application	Use Category	Application Fee
Zoning Determination	Residential	\$250
	Mixed Use	\$300
	Commercial	\$300
	Industrial	\$350
	Others not specified	\$300
	Affordable Housing 21% and over	None
	Public & Municipal Use	None
Legal Use Letters	All Categories	\$25
Certificate of Non Conformity	All Categories	\$300
Extension of CPB or BOA Approval	All Categories	\$500
Special Meeting by CPB or BOA	All Categories	\$5,000
Preliminary Major Site Plan	Residential 3-5 dwelling units	\$750
	Residential 6-10 dwelling units	\$850
	Residential 11-20 dwelling units	\$1,150
	Residential 21-50 dwelling units	\$1,250
	Residential 51-100 dwelling units	\$1,750

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
	Residential over 100 dwelling units	\$3,000
	Residential over 300 dwelling units	\$4,000
	Commercial less than 5,000 square feet	\$850
	Commercial 5,000 to 20,000 square feet	\$2,000
	Commercial 20,001 to 100,000 square feet	\$3,250
	Commercial over 100,000 square feet	\$5,500
	Additional: Application subject to EJCIO Basic Form	\$500
	Additional: Application subject to EJCIO Full Form	\$1,000
	Industrial less than 5,000 square feet	\$1,000
	Industrial 5,000 to 20,000 square feet	\$2,250
	Industrial 20,001 to 100,000 square feet	\$3,500
	Industrial over 100,000 square feet	\$6,500
	Additional: Application subject to EJCIO Basic Form	\$1,500

*Affordable Housing Units will be excluded from dwelling counts for purpose of determining application fee

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
	Additional: Application subject to EJCIO Full Form	\$3,000
Final Major Site Plan	Residential 3-5 dwelling units	\$375
	Residential 6-10 dwelling units	\$500
	Residential 11-20 dwelling units	\$525
	Residential 21-50 dwelling units	\$550
	Residential 51-100 dwelling units	\$1,000
	Residential 101-300 dwelling units	\$1,500
	Residential over 300 dwelling units	\$2,000

*Affordable Housing Units will be excluded from dwelling counts for purpose of determining application fee

Commercial less than 5,000 square feet	\$500
Commercial 5,000 to 20,000 square feet	\$1,000
Commercial 20,001 to 100,00 square feet	\$1,625
Commercial over 100,000 square feet	\$3,000
Additional: Application subject to EJCIO Basic Form	\$250
Additional: Application subject to EJCIO Full Form	\$500

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
	Industrial less than 5,000 square feet	\$625
	Industrial 5,000 to 20,000 square feet	\$1,250
	Industrial 20,001 to 100,000 square feet	\$1,875
	Industrial over 100,000 square feet	\$3,500
	Additional: Application subject to EJCIO Basic Form	\$750
	Additional: Application subject to EJCIO Full Form	\$1,500
Subdivision	Minor Subdivision: 2 acres or less	\$1,100
	Minor Subdivision: Over 2 acres	\$2,000
	Preliminary Major Subdivision	\$2,500
	Final Major Subdivision	\$1,300
Conditional Use	All categories except cell antenna	\$750
	Cell Antenna	\$3,000
Wireless Communication Colocation		\$750
Use Categories	"C" Variance	"D" Variance
Residential		
0-5 dwelling units	\$300	\$2,000

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
6-10 dwelling units	\$500	\$2,150
11-20 dwelling units	\$500	\$2,500
21-50 dwelling units	\$750	\$2,750
51-100 dwelling units	\$1,000	\$3,000
Over 100 dwelling units	\$1,250	\$3,250
Over 300 dwelling units	\$1,500	\$3,500
Commercial		
Less than 5,000 square feet	\$500	\$2,250
5,001 to 20,000 square feet	\$750	\$2,500
20,001 to 100,000 square feet	\$1,000	\$2,750
Over 100,000 square feet	\$1,250	\$3,000
Additional: Application subject to EJCIO Basic Form	\$350 per each "C" variance, \$500 per each "D" variance [New]	
Additional: Application subject to EJCIO Full Form	\$500 per each "C" variance, \$500 per each "D" variance	
Industrial		
Less than 5,000 square feet	\$750	\$2,500
50,001 to 20,000 square feet	\$1,000	\$2,750
20,001 to 100,000 square feet	\$1,250	\$3,000
Over 100,000 square feet	\$1,500	\$3,500
Additional: Application subject to EJCIO Basic Form	\$500 per each "C" variance, \$750 per each "D" variance [New]	
Additional: Application subject to	\$750 per each "C" variance, \$1,000 per each "D"	

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
EJCIO Full Form		variance

Landmark & Historic Commission Fee Schedule

Application Type	Application Fee (Non Refundable)
Certificate of No Effect	
Non-Residential	\$50
Residential	\$40
Sign/Awning Application	\$100
Facade and/or Store Front Application	\$150
Sidewalk Repair or Replacement Application	\$50
Demolition Application (when not filed concurrently with other work)	\$500
Certificate of Appropriateness (COA)	
Residential	
New construction on vacant land	\$500
All others:	
- 1 to 4 dwelling units	\$100
- 5 dwelling units and over	\$25 per dwelling unit up to a maximum of \$1,000
Non-Residential	
- With principal building	\$100 per 1,000 square feet of GFA or part thereof
- Without principal building	\$100 per 1,000 square feet of lot area or part thereof

Table 15-1: Application Fees.

Type of Application	Use Category	Application Fee
Extension of COA approval		\$200
Special Meeting requested by applicant		\$500

*Note: Fees for mixed-use projects will be determined based upon the sum of the fees associated with the components of the project. Where variances are required, the use category for the project shall be determined to be the use with the greater proportion of floor area in the case of buildings or lot area where buildings are not proposed.

- b. Certified list of names and addresses of owners of property located within 200 feet of property which is the subject of a hearing: \$10.
 - c. Certificate certifying approval of a subdivision application: \$10.
3. An applicant shall pay any and all costs of the publication of notice of a hearing on an application before the Zoning Board of Adjustment or the Central Planning Board and of a verbatim recording of the proceedings. Any interested party who requests a transcript or duplicate recording of proceedings before the Board shall pay the cost thereof except that the Zoning Board of Adjustment and the Central Planning Board shall provide to any property owner or tenant within 200 feet in all directions of the property which is the subject of such proceedings any transcript necessary for appeal to the Municipal Council pursuant to NJSA 40:55D-17 for the cost of transcription.

§ 41:15-12-3 Professional Review Fees, Escrows and Procedures.

1. As used herein, the following definitions apply to this Section:
 - a. BOARD - Refers to the Central Planning Board, Board of Adjustment and/or Landmarks and Historic Preservation Commission.
 - b. APPLICATION - Refers to the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-1 et seq.
 - c. PROFESSIONAL PERSONNEL OR PROFESSIONAL SERVICES, AS USED HEREIN - Shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, inspector, appraiser or other expert who would provide professional services to ensure an application complies with the standards set forth in this chapter and any other expert who provides testimony on a subject matter testified to by any of the applicant's experts.
 - d. All the terms defined within Title XLI, Chapter 2, "Definitions," and Title XLI, Chapter 15 "Site Plan Procedures," are incorporated herein.

2. In addition to the application fees set forth in Section **41:15-12-2**, escrow deposit fees are hereby established, as provided by N.J.S.A. 40:55D-53.2, to cover or offset the overhead for professional review services and/or outside consultants to the Boards including, but not limited to, planning, legal, engineering, landscaping, traffic, environmental and other professional expenses incurred by the City in connection with the review of submitted materials for land development applications.
3. The City, through its Boards, shall require fees for professional review services and for testimony provided to the respective Board in reviewing an application. Fees for these services shall be in addition to any other required fees to be paid by a developer. Each developer, upon submission of an application to the Boards, shall provide a Federal Tax Identification Number or Federal Social Security Number.
4. The review services of staff professionals shall be charged at 200% of the sum of the products by multiplying the hourly base salary, as established by ordinance for each professional, times the number of hours spent by the respective professional on review of the application for development or inspection of the developer's improvements, as permitted by N.J.S.A. 40:55D-53.2. Outside consultant professional review services shall be charged to the escrow account at the consultant's standard hourly rate.
5. The applicant review and inspection charges shall be limited only to:
 - a. Professional charges for review of applications:
 - i. An applicant shall be responsible for reimbursing the City, without limitation, for the following professional expenses:
 - A. All expenses of professional personnel incurred and paid by the City necessary to process an application for development before the Boards, including, without limitation:
 - (1) Charges for reviews by professional personnel of applications and accompanying documents;
 - (2) Issuance of reports by professional personnel to the Board setting forth recommendations resulting from the review of any documents submitted by the applicant;
 - (3) Charges for any telephone conference or meeting with the applicant, his attorney or experts;
 - (4) Review of documents submitted by the applicant and issuance of reports relating thereto;
 - (5) Review and/or preparation of documents, including but not limited to, easements, developers' agreements, deeds, resolutions of approval or the like; and

- (6) Preparation for and attendance at hearings on the application.
 - b. Review and preparation of documents;
 - c. Inspections of developments under construction; and
 - d. Review by outside consultants, when the application is outside the scope of the expertise of the professionals normally used by the municipality.
 - i. The costs of expert advice and/or testimony obtained by the Boards in connection with its consideration of the application.
- 6. Upon submission of appropriate vouchers or statements, the Director of Finance of the municipality, or his/her designee, shall make all of the payments of expenses/fees to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq., and shall keep a record of same for the purpose of monitoring and maintaining escrow deposits.
- 7. Escrows.
 - a. Subject to the provisions of subsection 8 below, "Conditions and requirements," each applicant shall, prior to the application being ruled complete pursuant to the provisions of the Municipal Land Use Law, submit the following sum(s) to be held in escrow in accordance with the provisions hereof:
 - i. Residential Development (Planning Board application for site plan approval, Zoning Board of Adjustment application for "c" or "d" variance/site plan approval).

Number of Units	Escrow Amount to be Posted
0 to 3	\$2,000
4 to 10	\$3,000
11 to 25	\$4,500
26 to 50	\$5,500
51 to 100	\$8,000
100 or more	\$10,000

- ii. Commercial development applications involving structures (including mixed use buildings) for site plan approval and/or "c" or "d" variance approval.

Gross Floor Area (GFA)	Escrow Amount to be Posted
0 to 5,000	\$2,000
5,001 to 10,000	\$4,500
10,001 to 15,000	\$7,000
15,001 to 20,000	\$9,000
20,001 to 25,000	\$10,000
25,001 to 30,000	\$12,500
30,001 to 100,000	\$15,000
Over 100,001	\$20,000

iii. Industrial & others development applications involving structures for site plan approval and/or "c" or "d" variance approval.

Gross Floor Area (GFA)	Escrow Amount to be Posted
0 to 5,000	\$2,500
5,001 to 10,000	\$5,000
10,001 to 15,000	\$8,000
15,001 to 20,000	\$9,500
20,001 to 25,000	\$13,000
25,001 to 30,000	\$15,000
30,001 to 100,000	\$17,000
Over 100,001	\$25,000

iv. Subdivisions (Fees in addition to applicable site plan fee in subsections 7.a.i or 7.a.ii.

Minor Subdivision: \$2000

Major Subdivision: \$3,000

b. Escrow fees shall be deposited and disbursed pursuant to the provisions of N.J.S.A.

40:55D-53.1. Escrow accounts shall be replenished by the applicant as required by N.J.S.A. 40:55D-53.2(c). Charges to the escrow account shall be made in accordance with N.J.S.A. 40:55D-53.2(c).

- c. If the approving agency is requested to have a special meeting by the applicant and decides to do so, the applicant shall have professional fees deducted from the escrow account per this section. Professionals attending meetings may bill at the rate of four hours minimum which may be distributed over one applicant or multiple applicants who so requested the special meeting. If the planning consultant is requested by the applicant to review the application prior to formal submission of the application, the fee shall be \$150 for each consultation, which shall be deposited in the escrow account.
 - d. The sums hereinabove set forth are estimates and, during its review of an application for development, the approving Boards may determine that such sums are sufficient, excessive or insufficient, based upon the following criteria: The presence or absence of public water and/or sewer servicing the site.
 - i. Environmental considerations, including without limitation, geological, hydrological and ecological factors.
 - ii. Traffic impact of the proposed development.
 - iii. Impact of the proposed development on existing aquifer and/or water quality.
 - iv. Impact on improvements which might require off-tract or off-site contributions.
 - e. In the event that the approving Board shall determine said amount is excessive, it shall, upon the prior written request of the applicant and by resolution, specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted, and the excess of the escrowed amount over the amount so determined shall be refunded to the applicant, together with such interest as allowed by subsection 10.a below. In the event that the approving Board shall determine the amount specified above is insufficient, it shall, by resolution, so specify and shall further set forth the additional amount required to be posted in light of the criteria specified herein. Said additional amount shall be paid by the applicant prior to advancing to the next step in the approval procedure.
8. Conditions and requirements.
- a. No subdivision plat or deed or site plan shall be signed, nor shall any zoning permits, building permits, certificates of occupancy or any other types of permits be issued with respect to any approved application for development until:
 - i. All bills for reimbursable services have been received by the municipality from professional personnel rendering services in connection with such application.
 - ii. Payment of such bills has been approved by the Planning Department of the Department of Economic and Housing Development.

- iii. The applicant has reimbursed the municipality the excess of such bills over the escrowed amount otherwise herein provided for.
 - b. If the amount of the deposit exceeds the actual cost as approved for payment by the Governing Body, the developer shall be entitled to a return of the excess deposit, together with such interest as allowed by subsection 10.a below. The Chief Financial Officer shall determine the position of all escrow accounts and, where additional funds are required, it shall be the obligation of the Chief Financial Officer to notify the applicant, pursuant to N.J.S.A. 40:55D-53.2(c). Within a reasonable time, the applicant must post a deposit to the escrow account in an amount agreed upon by the City or Board and the applicant, pursuant to N.J.S.A. 40:55D-53.2(c). At the time of filing the application for development, the applicant shall execute an escrow agreement containing the terms set forth herein.
9. No professional personnel submitting charges to the municipality for any of the services referred to in subsection 1 above shall charge for any of the services contemplated by said section at any higher rate or in any different manner than would normally be charged to the municipality for similar work. Payment of any bill rendered by a professional to the municipality in respect to any service for which the municipality is entitled to reimbursement under this section shall in no way be contingent upon receipt of reimbursement by the developer, nor shall any payment to a professional be delayed pending reimbursement from a developer.
10. Deposits received from any developer pursuant to this chapter shall be deposited in a banking institution or savings and loan association in this state insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the state, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The municipality shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.
 - a. When a deposit is in an amount of money in excess of \$5,000 the municipality shall not be required to refund an amount of interest paid on this deposit when the interest does not exceed \$100 for the year. If the amount of interest exceeds \$100, that entire amount shall belong to the applicant and shall be refunded to the developer by the municipality annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipality may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses.
11. Close-out procedures shall commence for an application review once the Board and/or the approving authority has granted final approval and signed the subdivision plat or site plan; or for improvement inspection once improvements have been approved pursuant to N.J.S.A. 40:55D-53. The applicant must give written notice by Certified Mail to the Chief Financial Officer, the approving authority, and the City Clerk that the application or improvements have been completed. After receipt of notice the professional and/or outside consultant must give the final bill to the Chief Financial Officer within 30 days and send a copy of the bill to

the applicant. The Chief Financial Officer then shall give a written financial accounting identifying the use of the deposits to the applicant within 45 days of receipt of the final bill. The municipality shall pay the remaining balance in the deposit or escrow account including interest paid to the applicant with the final accounting.

12. For any dispute by the applicant of the charges made by a professional for services rendered in reviewing applications for development pursuant to this Section, the applicant shall notify, in writing, the Municipal Council of the City of Newark, with copies to the Chief Financial Officer, the Board hearing the application, and the professional, in accordance with N.J.S.A. 40:55D-53.2(a). The Municipal Council of the City of Newark shall attempt to resolve the dispute, pursuant to the procedures set forth in N.J.S.A. 40:55D-53.2(a). Upon a decision by the Municipal Council of the City of Newark, the applicant is afforded an appeal to the county construction board of appeals, pursuant to N.J.S.A. 40:55D-53.2(a).
13. All procedures and requirements of N.J.S.A. 40:55D-53.2 are incorporated herein; to the extent such procedures are not otherwise included within this Section.
14. Release of Performance Guarantees. The City Clerk may administratively release, without need of further legislation in order to comply with N.J.S.A. 40:55D-53, a Performance Guarantee posted pursuant to the Zoning and Planning Ordinance and any Zoning or Planning resolution of approval, upon receipt of the following:
 - a. A written request from the Department of Economic and Housing Development, Office of Planning and Zoning (on behalf of the Planning Board or the Zoning Board of Adjustment, as the case may be), that the applicant has met the necessary requirements for the full release of the Performance Guarantee; and.
 - b. A Certification from the City Engineer that the bonded improvements are complete and satisfactory.

§ 41:15-13 Appeals.

§ 41:15-13-1 Appeals to Zoning Board of Adjustment.

1. An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the municipality based on or made in the enforcement of the Zoning Ordinance or Official Map.
2. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal.
3. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
4. The procedure for the hearing of an appeal shall be the same as a development application.
5. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from, and to that end shall have all the powers of the Zoning Official from whom the appeal is taken.

6. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.
7. The Zoning Board of Adjustment shall render a decision not later than 120 days after the date: (a) an appeal is taken from the decision of an administrative officer; or (b) the submission of a complete application for development to the Zoning Board of Adjustment. Failure of the Board to render a decision within such 120-day period or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.
8. A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to an administrative officer. Such appeal shall be made and decided in accordance with the provisions of NJSA 40:55D-72 et seq.

Chapter 41:16

Additional Zoning and Design Standards

§ 41:16-1 **Applicability**

§ 41:16-1-1 Any provision of this Chapter identified as a design standard shall be applicable to applications for subdivision and/or site plan approval. Any provision identified as a zoning standard shall be applicable to any application for development.

§ 41:16-1-2 **Variances and Waivers.**

Any deviation from a provision of this Chapter which is identified as a design standard shall require a waiver by the Central Planning Board and the Zoning Board of Adjustment from the specific design standard for a site plan application. Any other deviation from a standard contained in this Chapter shall require a variance from the specific standard in accordance with the Municipal Land Use Law.

§ 41:16-2 **Landscaping For Buildings and Yards.**

§ 41:16-2-1 **Design Standards.**

1. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and screening requirements.
2. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and/or the use of building and paving materials in an imaginative manner.
3. Landscaping shall be provided for all residential, commercial, and industrial sites. Landscaping is required to meet the following objectives, however, nothing contained therein shall prevent the Central Planning Board from requiring additions or revisions to the landscape plan for the development.
 - a. **Architectural Use.** Landscaping shall be used to form walks, corridors, canopies, or floors of varying heights and densities. Planting shall be used as barriers to provide private, semi-private, and public space within planned unit developments, cluster housing, etc.
 - b. **Engineering Use.** Landscaping shall be used to control lighting, glare, and reflection, noise, soil erosion, provide for drainage control through the use of swales, and recharge areas, and for climate control for purposes of shading, wind reduction, snow fencing and insulation for buildings.
 - c. **Aesthetic Use.** Landscaping shall be used to provide buffers and screening for parking areas, loading zones, refuse collection areas, and to enhance building design.
 - d. Plans shall clearly indicate all existing trees and their size in inches of diameter at breast height (dbh), to be removed due to the construction for which the applicant is seeking permission. The developer must provide, on-site, replacement trees, the

combined cross sectional area of which measured at diameter at breast height, must be equal to or greater than the area or combined areas as measured in cross section of trees removed. All replacement trees, as to species and type, are to be approved by the Newark Planning Office and shall be planted at a minimum initial diameter of three inches (dbh). If the site cannot accommodate the number of trees hereby required as replacement, the developer may be required to pay to a special fund, known as the Tree Planting and Preservation Fund, an amount determined by the Newark Planning Office to be equal to the value of the trees and the planting cost per the discretion of the Central Planning Board or the Zoning Board of Adjustment.

- e. If trees required by Zoning Standards in Section **41:16-2-2** are planted in an area with less than 25 square feet of pervious area per tree, structural soil shall be applied under impervious surfaces.
4. Selection of landscaping shall prioritize native species suited for USDA Plant Hardiness Zone 7a, urban areas, and/or the specific site soil and drainage conditions.
5. Where trees cannot be planted due to soil conditions or underground obstructions such as utilities, structured planters may be used to satisfy planting requirements subject to approval by the Department of Engineering and/or the City Arborist.
6. To the extent feasible, shade trees shall be planted in continuous trenches rather than individual pits. Design shall be subject to approval by the Department of Engineering and/or the City Arborist.

§ 41:16-2-2 Zoning Standards.

1. All of the lot area not covered by buildings, parking areas, driveways, sidewalks and other impervious surfaces shall be landscaped with vegetative land cover.
2. On-Site Trees.
 - a. For each 25 feet of lot width in a required primary front yard adjacent to a public street, there shall be at least one tree planted with a minimum of 2 1/2 to three inches in caliper and eight feet in overall height at the time of installation. There shall be a minimum pervious area of 25 square feet per tree.
 - b. Where more than one tree is required, such trees may be planted in appropriate clusters or groups. Trees shall be mulched with at least two inches of bark mulch or other material commonly used for the purpose. If the front yard is greater than 10 feet in depth, any required trees shall be planted in the front yard, otherwise required trees may be planted within the side and/or rear yards. No trees shall be required where no yards have a depth less than 10 feet.
3. Shade trees
 - a. Shall be planted along streets spaced at a maximum of 35 feet center at center and shall be three inches to four inches in caliper which shall be measured six inches from the ground level after planting.

- b. Generally, shade trees shall be located within the right-of-way between the sidewalk and curb line. However, alternate locations may be permitted subject to review by the City Arborist, or in the absence of such review, by the Department of Engineering.
 - c. Where an applicant demonstrates specific hardship related to factors beyond their control, a contribution in lieu of tree planting shall be made to the City Shade Tree Fund in the amount of \$2,000 per tree.
4. Prohibited tree species. The following tree varieties may not be planted and are prohibited:
- a. Bradford Pear/*Pyrus calleryana* 'Bradford'.
 - b. Empress Tree/*Paulownia tomentosa*.
 - c. Tree of Heaven/*Ailanthus altissima*.
 - d. White Poplar & Lombardy Poplar/*Populus alba* & *Populus nigra*.
 - e. Russian Olive.
 - f. Siberian Elm.
 - g. Amur Maple.
 - h. Silver Maple.
 - i. Norway Maple.
 - j. Ginkgo Biloba - female.

In addition, no tree listed on the NJDEP Invasive Plant List or USDA Invasive Plants Field and Reference Guide may be planted.

§ 41:16-3 **Buffer Areas.**

§ 41:16-3-1 **Zoning Standards.**

1. Buffer areas shall be provided along the entire linear footage of lot lines where a non-residential use or district line abuts a residential use except that where a new residential use is proposed on a lot adjoining an existing non-residential use or district line, the proposed residential use shall provide the buffer.
2. Buffer areas shall be planted with a combination of evergreens, deciduous trees and shrubs of such species and sizes which will produce within two growing seasons a living screen at least six feet in height. Buffers shall be of a density so as to obscure throughout the full course of the year the glare of automobile headlights or other bright sources of illumination emanating from the premises.
3. Buffer areas shall not be less than five feet in width. Where such width is not practical in the side or rear yard, decorative fencing subject to the requirements of Section **41:16-5** of

this Chapter, shall be provided in lieu of a landscaped buffer. However, chain link fencing shall not be used for buffer purposes.

4. No activity, outdoor storage of materials or parking of vehicles shall be permitted in the buffer area except for access driveways, directional signs, and permitted signs.
5. Buffer areas shall be placed so that at maturity they will not protrude across any street or property line and so that a clear sight triangle shall be maintained at off-street intersections and at all points where private accessways intersect a public street.

§ 41:16-3-2 Design Standards.

1. Within a buffer area, a solid and continuous landscape screen shall be planted and maintained. Planted materials in the buffer zone shall be placed within the buffer and shall be sufficiently large and planted in such a fashion that a screen at least eight feet high, occupying 50% of the width of the buffer shall be produced within three growing seasons. The buffer may consist of evergreen and deciduous plants, natural features, berms, fencing, mounds or combinations to achieve objectives. A variety of plant material providing seasonal color and interest should be provided. Possible arrangement of plant material includes plantings in parallel, serpentine or broken rows. If planted berms are used, the minimum top width shall be four feet and the maximum side slope shall be 2:1. The intense density of the buffer screen may be reduced by the board if it is found that the proposed use is visually attractive and not detrimental to the appearance of the neighboring uses.
2. All buffer zones and other areas subject to the landscaping requirements of this Section, including all trees, shrubbery, grass and fences located therein, shall be properly maintained for a period of 12 months. The applicant or developer shall post with the City a maintenance bond in an amount equal to 1/2 of the total cost of the installation of all landscaping required by this Section. Said maintenance bond shall be in addition to any performance bond required. All plantings which shall fail to survive for a period of 24 consecutive months shall be replaced by the applicant or developer at their expense. Such replacement shall be made within 60 days following a written demand for replacement or within such extended period of time as may be specified. Such replacement plantings shall conform to the standards applicable to original plantings as set forth in this Section.

§ 41:16-4 Screening Of Uses and Activities.

§ 41:16-4-1 Zoning Standards.

The following uses and activities visible from any public right-of-way shall be screened as follows.

1. Refuse Disposal Dumpsters, Trash and Recycling Containers.
 - a. Screening shall consist of an opaque fence or wall with a minimum height of six (6') feet.
 - b. Where such walls and/or fences are visible from any public way, there shall, where possible, be plantings visually consistent with other required landscaping. Such plantings shall be planted at a minimum initial planting height of three feet.

- c. Chain link fencing and gates with or without vinyl slats shall not be permitted for screening purposes.
2. Loading Berths.
 - a. Such screening shall consist of an opaque fence or wall with a minimum height of six (6') feet or a continuous evergreen or dense deciduous shrub hedge, or a combination of the two.
 - b. Chain link fencing and gates with or without vinyl slats shall not be permitted for screening purposes.
3. Outdoor Manufacturing Activities.
 - a. Screening shall consist of a solid fence or wall a minimum of six (6') feet or of such height necessary to screen such storage from view from the public street or adjacent properties. In the alternative, a continuous evergreen or dense deciduous shrub hedge, or a combination of the two may be used.
 - b. Chain link fencing and gates with or without vinyl slats shall not be permitted for screening purposes.
4. Ground-Mounted Mechanical Equipment.
 - a. A wall or planting shall be installed to screen ground-mounted mechanical equipment from view on all sides.
 - b. The material, finish and design shall be architecturally compatible with the exterior facade of the principal structure on the lot.
 - c. All plantings shall be planted at a minimum initial planting height of three feet.
5. Rooftop-Mounted Mechanical Equipment.
 - a. Architectural screening shall be installed so as to screen the rooftop mounted mechanical equipment from view from all sides from which it may be visible. However, no additional screening shall be required where the parapet wall is at least as tall as the rooftop mechanical structure.
 - b. Screening shall consist of architectural elements of a height equal to the mechanical equipment.
 - c. The material, finish and design shall be architecturally compatible with the exterior facade of the principal structure on the lot.
 - d. Rooftop mounted mechanical equipment shall be set back from the edge of the roof at least one foot for each one foot by which rooftop mechanical structures project above the roofline. No setback shall be required if the parapet wall is at least as tall as the

rooftop mechanical structure.

§ 41:16-5 **Fences and Walls.**

§ 41:16-5-1 **Zoning Standards.**

1. Residential Uses. Fences or walls or a combination of the two, may be constructed between the building line and the property line as follows:
 - a. Height restrictions.
 - i. The maximum allowable fence height shall be three feet in front yards. Fences shall not be solid.
 - ii. The maximum allowable height shall be six feet in side and rear yards.
 - iii. Where a residential use is adjacent to an industrial use, the side and rear yards may have a fence or wall up to eight feet in height.
 - b. Material and Style
 - i. Fences shall be of a consistent, ornamental nature such as wrought iron, picket wood, or tubular metal fencing. The minimum width of vertical bars shall be 0.5 inch and the maximum spacing of the bars shall be four inches.
 - ii. Walls shall consist of brick, stucco, decorative concrete, natural stone, or other similar decorative material shall be used.
 - iii. PVC Vinyl or wood stockade fences are permitted only in rear yard areas.
 - iv. No solid fencing is permitted along a public right-of-way line or in a front yard.
 - v. Gates shall not swing into the public right-of-way.
 - vi. Chain link fencing shall not be permitted.
2. Commercial Uses. Fences or walls or a combination of the two, may be constructed between the building line and the property line as follows:
 - a. Height restrictions
 - i. The maximum allowable fence height shall be four feet in front yards. Fences shall not be solid.
 - ii. The maximum allowable height shall be six feet in side and rear yards.
 - b. Material and Style
 - i. Fences in a front yard shall be of a consistent, ornamental nature such as wrought iron, picket wood, or tubular metal fencing. The minimum width of vertical bars shall be 0.5 inch and the maximum spacing of the bars shall be four inches.

- ii. Chain link fencing shall only be permitted in a side or rear yard.
 - iii. Where walls are utilized, walls consisting of brick, stucco, decorative concrete, natural stone, or other similar decorative material shall be used.
 3. Industrial Uses. Fences or walls or a combination of the two, may be constructed between the building line and the property line as follows:
 - a. Height restrictions
 - i. The maximum allowable height shall be six feet in any yard area, except as noted elsewhere in this section. Fences in the front yard shall not be solid.
 - b. Material and Style
 - i. Chain link fencing shall be permitted in any yard area.
 - ii. Where security fencing is required, a bent-top tubular metal fence or similar design may be utilized. Barbed wire, razor wire, or other similar fence attachments shall not be permitted.
 - iii. Where walls are utilized, walls consisting of brick, stucco, decorative concrete, natural stone, or other similar decorative material shall be used.
 4. Parks, Recreational Areas and School Uses. Fences or walls may be constructed along all property lines as follows:
 - a. Height restrictions.
 - i. The maximum allowable height shall be 10 feet for ballfields and six feet for all other uses.
 - ii. Where walls are utilized, walls consisting of brick, stucco, decorative concrete, natural stone, or other similar decorative material shall be used.
 5. The use of razor wire, barbed wire or sharp projections on fences is prohibited.

§ 41:16-6 **Lighting.**

§ 41:16-6-1 **Design Standards.**

1. Adequate lighting shall be provided to ensure the safe movement of persons and vehicles, and provide security.
2. Lighting design shall conform to standards presented in the current edition of the Illuminating Engineering Society Lighting Handbook.
3. Lighting shall be designed to minimize glare and reflection on adjacent properties.
4. The type of lighting provided shall be consistent with the existing street light in the immediate area of the site.

5. Unnecessary lighting should be avoided, but lighting essential for security or safety should always be provided.

§ 41:16-6-2 **Zoning Standards.**

1. General Illumination Standards.

- a. All exterior areas of a site, except for residential and school structures, shall be illuminated at night in accordance with the standards herein. This shall include, but not be limited to, pedestrian pathways, plazas, courtyards, building entrances, parking and driveway areas, and other outdoor spaces commonly used at night. When such areas are not in active use, lighting shall be sufficient to allow for appropriate surveillance for crime prevention purposes, but shall be designed and installed in such a way as to minimize glare or intrusive light onto adjoining properties.
- b. All wires and cables used for the provision of lighting from light poles or other freestanding structures shall be underground.
- c. All exterior lighting fixtures, however mounted, shall be provided with shields as necessary to confine the illumination to the site upon which it is located to the standards set forth herein and to eliminate glare on any adjacent properties and to adjacent streets.

2. Illumination Levels.

- a. Illumination levels at the property line of a project shall not be more than 0.5 footcandle with the shell pointing downwards at any point when the project is located next to any residential use or residentially zoned property. The illumination levels at the property line of a project adjacent to any other use shall not be more than one (1.0) footcandle. Illumination levels shall be permitted to exceed one (1.0) footcandle within the right-of-way at a front property line in order to provide illumination levels as specified in this section at building entrances, pedestrian walkways, access drives, or other required locations.
- b. Off-street/surface parking areas or lots as well as private roadway areas shall comply with the following requirements: Illumination levels outside the radius of any light pole (with radius equaling the height of the pole) shall range between a minimum of one (1.0) footcandle and a maximum of five (5.0) footcandles.
- c. Access drives for non-residential uses and multifamily housing shall be illuminated with at least 0.5 footcandle.
- d. Entrances and exits of non-residential structures and multi-family housing shall have a minimum illumination level of one (1.0) footcandle and a maximum level of five (5.0) footcandles within a five-foot radius of the entrance or exit.
- e. Single-, two-, three- and four-family residential uses shall have a maximum illumination level of three foot-candles at the driveway or walkway, but no more than 0.5 footcandle at any property line elsewhere on the site.

- f. Pedestrian walkways or bikeways shall have an illumination level ranging between a minimum of 0.5 footcandle and a maximum of 2.5 footcandles.
 - g. Large open areas and the grounds of multifamily housing complexes shall have a minimum illumination level of 0.3 footcandle and a maximum level of two (2.0) footcandles.
 - h. Canopied areas, such as those found at drive-through facilities at banks, service stations, car washes, shall have a maximum illumination level of twenty (20.0) footcandles with a maximum to minimum illumination level ratio of 2:1. Illumination levels outside the canopy area shall not exceed 5.0 foot-candles.
 - i. Display areas at outdoor dealerships for new and used products, including, but not limited to, automobiles, trucks, motorcycles and boats, shall have a maximum illumination level of fifteen-foot-candles for any row or tier of display that is adjacent to an external road or street, and a maximum level of 10 footcandles for all other rows or tiers of display. Entrances and exits shall not exceed 10 footcandles.
 - j. Illumination levels for outdoor recreational facilities, such as, but not limited to, football fields, soccer fields, baseball fields, or tennis courts, shall be consistent with best practices from the Illumination Engineering Society of North America (IESNA) based on the type of facility, number of potential spectators, and overall surroundings, but shall comply with the illumination limits at property lines established above in this Section **41:16-6-2.a**
 - k. For all other outdoor spaces, the minimum illumination standard shall be 0.5 footcandle. Such illumination shall be controlled by motion sensor lighting.
 - l. For covered parking areas or enclosed parking garages, a minimum lighting level of 2.0 footcandles shall be maintained. No lighting shall produce glare outside the structure.
3. The spacing between poles illuminating large open areas including, but not limited to, surface parking areas or lots, parks, or the grounds of multi-family housing complexes shall be no closer than 2 1/2 times the pole height. Light poles must be positioned to enable walkways to comply with local, Federal, or State disabled persons' access legislation.
 4. Architectural Lighting.
 - a. Fixtures used to accent architectural features, materials, colors, style of buildings or art shall be located, aimed and shielded so that light is directed only on those features.
 - b. Such fixtures shall be aimed or shielded so as to minimize light spill into the sky. Such fixtures shall not generate excessive light levels, cause glare, or direct light beyond the facade onto neighboring property, streets or the night sky. Lighting shall not change colors or strobe.
 5. Height Standards.

- a. Freestanding Lights.
 - i. For residential uses, the maximum height of freestanding lights shall not exceed the height of the principal building or 15 feet, whichever is less.
 - ii. For commercial and mixed-use uses, the maximum height of freestanding lights shall not exceed the height of the principal building or 20 feet, whichever is less.
 - iii. For industrial uses, the maximum height of freestanding lights shall not exceed the height of the principal building or 30 feet, whichever is less.
- b. Mounting Heights. The mounting height of any building-mounted light source shall be the lowest height possible to achieve appropriate illumination, but in no case shall the mounting height exceed 20 feet above grade.

§ 41:16-7 Garbage and Refuse Collection Disposal and Recyclable Materials.

§ 41:16-7-1 Design Standards.

1. All new multi-family projects shall be provided with a means of collection and storage for garbage, refuse, and waste which will be generated by the development and must be designed to adequately ensure protection and freedom from vermin and rodent infestation.
2. There shall be included in any new multi-family housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located.
3. The dimensions of the recycling area and the bins or containers shall be consistent with the City of Newark, Title XV, Solid Waste Management, Chapter 12, Mandatory Recycling Ordinance.
4. The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
5. All refuse and recyclable materials storage areas shall comply with the screening standards in Section 41:16-4
6. If kept outside, the refuse and recycling area shall be well-lit, and shall be safely and easily accessible by recycling personnel vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
7. The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of

recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

§ 41:16-8 **Sanitary Utilities.**

§ 41:16-8-1 **Design Standards.**

1. All sanitary utilities shall be separately conveyed from on-tract storm water facilities, and shall be separately connected to the municipal sewerage system. A minimum internal pipe size of four inches shall be used within all public rights-of-way or City easements. The materials and design shall be as approved by Title VII of the Revised General Ordinances providing the State Uniform Construction Code as adopted by the City.
2. All industrial users and/or major industry as defined under Title XXXII, Sewers and Sewage Disposal of these Revised General Ordinances shall comply with the regulations therein as well as the requirements of this Chapter.
3. Sanitary waste loads from residential and commercial uses shall be calculated by the methods defined in the BOCA National Plumbing Code, or by utilizing per capita per day water consumption. Per capita per day consumption shall be assumed in all such calculations.
4. Pipes shall be designed with full flow velocities ranging from a minimum of 2.5 feet per second and a maximum of 10 feet per second.

§ 41:16-9 **Water Supply.**

§ 41:16-9-1 **Design Standards.**

1. Water supply system for providing adequate water for potable water, fire protection, industrial or commercial uses shall conform to the current principles and standards of Title VII of the Revised General Ordinances providing the State Uniform Construction Code as adopted by the City in Section 7:1-1.

§ 41:16-10 **Fire Prevention.**

§ 41:16-10-1 **Design Standards.**

1. The Fire Division of the City shall approve all means of fire protection including but not limited to such things as site accessibility for fire apparatus, the placement of hydrants, the placement of smoke and fire detectors and the installation of all fuel and heating systems such as gas and oil supplies. All on-site heating systems shall be designed in accordance with the standards of the Uniform Construction Code and Fire Code as adopted by the City.

§ 41:16-11 **Maintenance.**

§ 41:16-11-1 **Zoning Standards.**

1. The property owner shall be required to maintain all landscaping, site lighting, fences, signs, and other site improvements to keep the features attractive; in good functioning condition; and free of weeds or overgrowth. Property shall be kept free of debris, trash, or rubbish. Regular weeding, pruning, and mowing of plant materials, and replacement of all dead plant material shall also be required.

§ 41:16-12 Bird Friendly Design.**§ 41:16-12-1 Purpose.**

According to the American Bird Conservancy and the Audobon Society, hundreds of millions of birds die each year in the United States due to collisions with glass. Advances in material technology and modern aesthetics have increased the amount of exterior glazing present on buildings of all sizes, from single-family homes to skyscrapers, which has increased the risk to local and migratory birds.

The purpose of this section is to balance the architectural aesthetic and functional considerations associated with building envelope glazing and fenestration with the desire to protect birds from threats associated with these design elements. The design standards and references herein are intended to guide a cost effective approach to creating bird friendly buildings in the City of Newark.

§ 41:16-12-2 Applicability.

1. The standards in this section shall apply to all new construction and substantial rehabilitation where the building envelope is being modified in all zones and redevelopment plans throughout the city.
2. These standards shall be considered design standards, with which all applications shall comply to the extent practicable.

§ 41:16-12-3 Definitions.

The following definitions shall apply to this section:

BIRD FRIENDLY MATERIAL.

Shall mean a material or assembly that has or has been treated to have a maximum threat factor of 30 according to the American Bird Conservancy Bird Collision Deterrence Material Threat Factor Reference Standard, or with the American Bird Conservancy Bird-friendly Materials Evaluation Program at Carnegie Museum's Avian Research Center test protocol.

BIRD HAZARD INSTALLATIONS

Shall mean monolithic glazing installations that provide a clear line of sight on the exterior of buildings, including, but not limited to, glass awnings, glass handrails and guards, glass wind break panels, or glass acoustic barriers.

EXTERIOR WALL ENVELOPE

Shall mean a system or assembly of exterior wall components, including exterior wall finish materials, that provides protection of the building structural members, including framing and sheathing materials, and conditioned interior space, from the detrimental effects of the exterior environment.

FLY-THROUGH CONDITIONS

Shall mean one or more panels of glass that provide a clear line of sight through such elements creating the illusion of a void leading to the other side, including parallel glass elements, at a distance of 17 feet or less, or a convergence of glass sides creating a perpendicular, acute, or obtuse corner.

THREAT FACTOR

Shall mean the relative threat level to birds posed by various materials and design details. The Threat Factor quantified as a number between 1 and 100 that indicates the relative effectiveness of materials or assemblies, typically in reducing bird collisions, but not exclusively, evaluated per a binary choice flight-tunnel protocol involving live birds. A Threat Factor of 1 is the least threatening and a Threat Factor of 100 is the most threatening. Materials with a threat factor greater than 50 are those with attributes that may contribute to collisions.

§ 41:16-12-4 Design Standards.

1. The exterior wall envelope and all openings up to 100 feet above grade shall be constructed with bird friendly materials. Materials other than bird friendly materials shall not exceed an aggregate of 10 square feet within any 10 feet by 10 feet square area of exterior wall area below 100 feet above grade. The following exceptions to this requirement shall apply:
 - a. Where ground floor transparency is required for commercial storefronts, materials with a threat factor not to exceed 30 shall be permitted.
2. Bird hazard installations shall be constructed of bird friendly materials regardless of their height above grade.
3. Fly-through conditions located 100 feet or less above grade shall be constructed with bird friendly materials.
4. The exterior wall envelope and any associated openings installed adjacent to a green roof system on the same building shall be constructed with bird friendly materials up to 12 feet above the walking surface.

§ 41:16-12-5 Reference and Guidance.

Applicants are encouraged to use one or more of the following sources for guidance:

1. LEED BD+C: New Construction v. 4.1 (or subsequent) Innovation: Bird Collision Deterrence
2. Bird Friendly Building Design, American Bird Conservancy
3. Bird Friendly Building Design & Construction Requirements Guidance Document, NYC

Buildings, November 2020 Version 1.0 (or subsequent version)

§ 41:16-13 Green Building, Sustainability, and Resiliency Standards.

The green building and sustainability standards in this section shall be considered design standards and guidelines for development in the City of Newark. These standards shall be applied to the extent feasible for any application seeking subdivision or site plan approval.

Advancing the concepts of green building, sustainability, and resiliency is a planning and zoning best practice. Application of these principles should be ingrained in local decision making and all development projects. The following standards are sourced in part and paraphrased from the LEED v.4 standards for New Construction and Major Renovation as well as other relevant best practices. These standards are meant to guide the preparation and review of applications for development in the City of Newark.

LEED Certification for new projects is encouraged, but not required. Additional certification programs to consider include but are not limited to the SITES Initiative, Passive House, Energy Star, BREEAM, Green Globes, Living Building Challenge, National Green Building Standard, Green Guard, and WELL Building Standard.

Encouraging green building, sustainability, and resiliency in development projects advances the purposes of the Municipal Land Use Law and is beneficial to the public health, safety, and welfare.

§ 41:16-13-1 Open Space

1. Open space should be provided on site that includes vegetated space with multiple types of vegetation or an overhead canopy. Outdoor space should contribute to the vibrancy of the site and the well-being of its occupants by incorporating social and recreational amenities, gardens, diverse green space, and habitat for local flora and fauna.

§ 41:16-13-2 Roof Design

1. Specify a high-reflectance roof (cool roof). High-reflectance low-sloped roofs should have an initial Solar Reflectance Index (SRI) of at least 82 and an aged SRI of at least 64. Steep sloped roofs with pitches greater than 2:12 should have an initial SRI of 39 and an aged SRI of 32.
2. Specify a vegetative roof (green roof) using native or adaptive plant species.

§ 41:16-13-3 Water Conservation

1. Indoor water use reduction
 - a. WaterSense fixtures and fittings should be specified for toilets, urinals, and showerheads.
 - b. EnergyStar appliances or equivalent should be specified for clothes washers,

dishwashers, and ice machines.

2. Outdoor water use reduction
 - a. Native, drought-tolerant landscaping should be utilized where appropriate to minimize irrigation needs.
3. Cooling towers and evaporative condensers should be equipped with makeup water meters, conductivity controllers and overflow alarms, and efficient drift eliminators.

§ 41:16-13-4 **Energy Use and Conservation**

1. Renewable energy should be incorporated into projects to the extent feasible. Building mounted solar panels, solar canopies over parking lots, and integration of emerging technologies are encouraged.
2. Efficient building performance – Building design should consider reductions in interior and exterior lighting power, daylight controls, occupant sensors, enhancements to the building envelope, high efficiency HVAC units, interior and exterior shades, and other energy use reduction and efficiency measures.

§ 41:16-13-5 **Materials and Waste Management**

1. Storage and collection of recyclables – Developments should include dedicated areas for the storage and collection of recyclable materials that includes separate disposal areas for batteries, mercury containing lamps, and electronic waste.
2. Construction and demolition waste management – Development plans should include a construction and demolition waste plan that considers waste prevention and diversion. Diversion is reuse or recycling of construction or demolition materials to prevent them from entering landfills. Waste prevention can be achieved by salvaging and recycling materials and employing a waste minimizing design strategy.

§ 41:16-13-6 **Indoor Environmental Quality**

1. Low-emitting materials – All interior finish materials should be selected to minimize VOC (Volatile Organic Carbon) content and emissions. All wood products should be certified as ultra-low-emitting formaldehyde (ULEF) products or certified as no added formaldehyde resins (NAF) project.
2. Thermal comfort – Individual and group thermal comfort controls should be provided where appropriate to allow for the adjustment of one or more of air temperature, radiant temperature, air speed, and humidity.
3. Indoor air quality – Allow for naturally ventilated spaces or provide mechanical ventilation controls that provide for a consistent, minimum design outdoor airflow.

§ 41:16-13-7 **Hazard Reduction and Resiliency**

1. Flood proofing new commercial developments should be considered in the 0.2% chance of annual flood hazard zone and in areas modeled to be subject to flooding with future

sea level rise.

2. Locate mechanical systems on roofs or platforms even if not required in the 0.2% chance of annual flood hazard zone or in areas potentially impacted by sea level rise.
3. Consider sea level rise models when siting buildings, site infrastructure, and critical facilities.
4. Build new residential structures with extra freeboard beyond the minimum required by Ordinance and Code when in or near the flood hazard area.
5. Consider landscaping for resiliency by selecting flood tolerant species, and plants with durable root structures that are less likely to be damaged or destroyed by flooding.

§ 41:16-14 Additional Measures.

§ 41:16-14-1 Design Standards.

1. The Central Planning Board or the Zoning Board of Adjustments may require provisions of such additional measures as it deems necessary to protect public areas or neighborhood properties from adverse effects of the proposed development which would be harmful to health, safety, conservation of property values and general welfare.

Chapter 41:17

Storm Drainage

[Adopted by the City Council of the City of Newark February 4, 2015 by Ord. No. 6PSF-C, 2-4-2015. Amendments noted where applicable.]

§ 41:17-1 Scope and Purpose.

§ 41:17-1-1 Policy Statement.

Flood control, groundwater recharge, and pollutant reduction through nonstructural or low impact techniques shall be explored before relying on structural Best Management Practices (BMPs). Structural BMPs should be integrated with nonstructural stormwater management strategies and proper maintenance plans. Nonstructural strategies include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated quantity or amount of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

§ 41:17-1-2 Purpose.

It is the purpose of this Chapter to establish minimum stormwater management requirements and controls for "major development," as defined in Section **41:15-7-2**, and to set penalties for failure to comply with the requirements.

§ 41:17-1-3 Applicability.

1. This Chapter shall be applicable to all site plans and subdivisions.
2. This Chapter shall also be applicable to all major developments undertaken by the City of Newark.
3. This Chapter shall also be applicable to all major developments undertaken by any government, government agency, special district, school district, Federal government or subdivision thereof, State government or subdivision thereof, County government or subdivision thereof and/or Special Bi-State Agencies.
 - a. Compatibility with Other Permit and Ordinance Requirements. Development approvals issued for subdivisions and site plans pursuant to this Chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This Chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except that, where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards

shall control.

§ 41:17-2 Definitions Applicable Specifically to Chapter 17, Storm Drainage.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application. The definitions below are the same as, or are based on, the corresponding definitions in NJAC 7:8-1.2 (Stormwater Management Rules). When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

BOARD

Shall mean, where applicable, the Newark Central Planning Board or the Newark Zoning Board of Adjustment.

COMPACTION

Shall mean the increase in soil bulk density.

CORE

Shall mean a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

COUNTY REVIEW AGENCY

Shall mean an agency designated by the Board of County Commissioners to review municipal stormwater management plans and implementing ordinance(s). The County Review Agency may either be a County Planning Agency or a County water resource association created under NJSA 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinance.

DEPARTMENT

Shall mean the New Jersey Department of Environmental Protection (NJDEP).

DESIGN ENGINEER

Shall mean a person professionally qualified and duly licensed in New Jersey to perform engineering or architecture services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

DESIGNATED CENTER

Shall mean a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

DEVELOPMENT

Shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building

or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, NJSA 40:55D-1 et seq., including development by government agencies to which this Chapter applies.

DRAINAGE AREA

Shall mean a geographic area within which stormwater runoff, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

EMPOWERMENT NEIGHBORHOOD

Shall mean a neighborhood designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to NJSA 55:19-69.

ENVIRONMENTALLY CRITICAL AREAS

Shall mean an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the NJDEP's Landscape Project as approved by the NJDEP's Endangered and Nongame Species Program.

EROSION

Shall mean the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

IMPERVIOUS SURFACE

Shall mean a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

INFILTRATION

Shall mean the process by which water seeps into the soil from precipitation.

MAJOR DEVELOPMENT

Shall mean any "development" that provides for ultimately disturbing 1/2 acre or more land. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

Shall mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the City of Newark, New Jersey or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

MUNICIPALITY

Shall mean the City of Newark, New Jersey.

NJDEP

Shall mean the New Jersey Department of Environmental Protection.

NODE

Shall mean an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

NUTRIENT

Shall mean a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

PERSON

Shall mean any individual, corporation, company, partnership, firm, association, or political subdivision of this State, and in particular the City of Newark, New Jersey, its Planning Board, Board of Adjustment, or Council when acting pursuant to the Municipal Land Use Law, NJSA 40:55D-1 et seq.

POLLUTANT

Shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, groundwaters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

RECHARGE

Shall mean the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

SEDIMENT

Shall mean solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

SEWER, COMBINED

Shall mean a sewer system that takes sanitary waste and stormwater runoff in the same system.

SEWER, SANITARY

Shall mean a sewer system that takes only sanitary waste.

SEWER, STORMWATER

Shall mean a sewer system that takes only stormwater runoff.

SITE

Shall mean the lot or lots upon which a major development is to occur or has occurred.

SOIL

Shall mean all unconsolidated mineral and organic material of any origin.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)

Shall mean an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts. Newark, New Jersey is a designated center located in PA1.

STATE PLAN POLICY MAP

Shall mean the geographic application of the State Development and Redevelopment Plan's goals and Statewide policies, and the official map of these goals and policies.

STORM DRAIN INLET

Shall mean an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

STORMWATER

Shall mean water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

STORMWATER MANAGEMENT BASIN

Shall mean an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE

Shall mean any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

STORMWATER RUNOFF

Shall mean water flow on the surface of the ground or in storm sewers, resulting from precipitation.

TIDAL FLOOD HAZARD AREA

Shall mean a flood hazard area, which may be influenced by stormwater runoff from inland

areas, but which is primarily caused by the Atlantic Ocean.

UNIMPROVED

Shall mean land that has a preconstruction condition with good hydrologic condition.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD

Shall mean a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

URBAN ENTERPRISE ZONE

Shall mean a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, NJSA 52:27H-60 et seq.

URBAN REDEVELOPMENT AREA

Is defined as previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
2. Designated as CAFRA Centers, Cores or Nodes;
3. Designated as Urban Enterprise Zones; and
4. Designated as Urban Coordinating Council Empowerment Neighborhoods;
5. Designated as a State Development and Redevelopment Plan Metropolitan Planning Area (PA1). Newark, New Jersey is a Designated Center and is entirely in PA1.

WATERS OF THE STATE

Shall mean the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

WETLANDS OR WETLAND

Shall mean an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 41:17-3 General Standards.**§ 41:17-3-1 Design and Performance Standards for Stormwater Management Measures.**

1. Stormwater management measures for development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in Section **41:17-4** of this Chapter. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures necessary to meet these standards shall be incorporated

into the design.

2. The standards in this Chapter are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge.
3. No land area shall be developed by any applicant such that:
 - a. The volume and rate of stormwater runoff occurring from the property is increased over the volume and rate, which occurs under existing predevelopment conditions or preconstruction.
 - b. The drainage of the adjacent properties is adversely affected.
 - c. The existing drainage pattern of ditches, channels, and streams is not altered, nor their carrying capacities exceeded.
 - d. Stormwater runoff from impervious areas, such as parking lots, driveways or loading zones, flows over or across sidewalks, or out of driveways.

§ 41:17-4 Stormwater Management Requirements for Developments.

§ 41:17-4-1 Maintenance Plan.

For the stormwater management measures incorporated into the design of a major development, all developments shall incorporate a maintenance plan in accordance with Section **41:17-10** of this Chapter.

§ 41:17-4-2 Adverse Impacts.

Stormwater management measures shall avoid adverse impacts of concentrated flow on the storm or combined sewer system or habitat for threatened and endangered species as documented pursuant to the NJDEP's Landscape Project or Natural Heritage Database established under NJSA 13:1B15.147 through 15.150.

§ 41:17-4-3 Exempt Projects.

The following linear development projects are exempt from the groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections **41:17-4-6** and 41:17 4-7:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
3. The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

§ 41:17-4-4 Waiver.

A waiver from strict compliance from the groundwater recharge, stormwater runoff quantity, and

stormwater runoff quality requirements of Sections **41:17-4-6** and **41:17-4-7** may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:

1. The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
2. The applicant demonstrates through an alternatives analysis, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections **41:17-4-6** and **41:17-4-7** to the maximum extent practicable;
3. The applicant demonstrates that, in order to meet the requirements of Sections **41:17-4-6** and **41:17-4-7**, existing structures currently in use, such as homes and buildings, would need to be condemned; and
4. The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under Section **41:17-4-4**, Subsection 3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections **41:17-4-6** and **41:17-4-7** that were not achievable on-site.

§ 41:17-4-5 Nonstructural Stormwater Management Strategies.

1. To the maximum extent practicable, the standards in Sections **41:17-4-6** and **41:17-4-7** shall be met by incorporating nonstructural stormwater management strategies set forth in this Section into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any nonstructural stormwater management measures identified in Section **41:17-4-5**, Subsection 2 below into the design of a particular project, the applicant shall identify the strategy considered and provide a basis for the contention.
2. Nonstructural stormwater management strategies incorporated into site design shall:
 - a. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - b. Minimize impervious surfaces and break up, disconnect the flow of runoff over impervious surfaces, and utilize velocity reduction strategies;
 - c. Maximize the protection of natural drainage features and vegetation;
 - d. Minimize the decrease in the "time of concentration" from pre-construction to post-construction. "Time of concentration" is defined as the time it takes for runoff to travel from the hydraulically most distant point of the drainage area to the point of interest within a watershed;
 - e. Minimize land disturbance including clearing and grading;

- f. Minimize soil compaction;
- g. Provide low-maintenance landscaping that encourages retention and planting of native vegetation and minimizes the use of lawns, fertilizers and pesticides;
- h. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas provided that the approving board deems this arrangement to be safe for the public and that all safety regulations in Section **41:17-8** of this Chapter are met.
- i. Provide other source controls to prevent or minimize the use or exposure of pollutants at the site, in order to prevent or minimize the release of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - i. Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section **41:17-4-5**, Subsection 3 below;
 - ii. Site design features that help to prevent discharge of trash and debris from drainage systems;
 - iii. Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - iv. When establishing vegetation after land disturbance, applying fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, NJSA 4:24-39 et seq., and implementing rules.
- 3. Site design features identified under Section **41:17-4-5**, Subsection 2.i.i and 2.i.ii above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section **41:17-4-5**, Subsection 3.c.ii and 3.c.iii below.
 - a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - i. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - ii. A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.
- c. This standard does not apply:
 - i. Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
 - ii. Where flows from the water quality design storm as specified in Section **41:17-4-7**, Subsection 1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - A. A rectangular space 4 5/8 inches long and 1.5 inches wide (this option does not apply for outfall netting facilities); or
 - B. A bar screen having a bar spacing of 0.5 inch.
 - iii. Where flows are conveyed through a trash rack that has parallel bars with one inch spacing between the bars, to the elevation of the water quality design storm as specified in Section **41:17-4-7**, Subsection 1; or
 - iv. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at NJAC 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.
- d. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be found on the Department of Environmental Protection's Stormwater and Nonpoint Source Pollution website at www.njstormwater.org.

§ 41:17-4-6 Erosion Control, Groundwater Recharge and Runoff Quantity Standards.

- 1. This Section contains minimum design and performance standards to control erosion, encourage and control infiltration and groundwater recharge, and control stormwater runoff quantity impacts of major development.
 - a. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, NJSA 4:24-39 et seq., as well as Title XXVIII of the Municipal Code, Soil Erosion and Sediment Control, and implementing rules.
 - b. The minimum design and performance standards for groundwater recharge are as follows:

- i. No groundwater recharge is required for projects within the "urban redevelopment area," or at projects where stormwater is not permitted to be recharged as prescribed in Section **41:17-4-6**, Subsection 1.b.ii below. Newark is an "Urban Redevelopment Area."
- ii. The following types of stormwater shall not be recharged:
 - A. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.3 and listed in 40 CFR 302.4; areas where recharge would be inconsistent with NJDEP approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - B. Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- iii. If stormwater recharge is desired and allowed, the following applies. The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at Section **41:17-5**, either:
 - A. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site; or
 - B. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated.
- iv. The design engineer shall assess the hydraulic impact on the groundwater table and design the site so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table so as to cause superficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity or down gradient of the groundwater recharge area.
- c. For major developments, in order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at Section **41:17-5**, complete one of the following:

- i. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the two-, ten-, and 100-year storm events do not exceed, at any point in time, the preconstruction runoff hydrographs for the same storm events;
- ii. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the two-, ten-, and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of future phases of the development project.
- iii. Design of Stormwater Storage Facilities.
 - A. A minimum acceptable outlet pipe from all storage facilities shall be eight inches internal diameter, and be of material and class as approved by Title VII, the State Uniform Construction Code as adopted by the City.
 - B. In the case of detention facilities utilizing porous media for ground absorption, such as dry-wells, porous pavement, or the like, the volume of porous media shall be large enough to contain the total volume of rainfall excess, as required under Section **41:17-3-1** of this Chapter, within the voids. Ground absorption systems shall be used only where the infiltration rate of the receiving soil is acceptable as determined by percolation tests and performed under the guidelines and standards of NJAC 7:9A et seq. (Environmental Protection), and soil borings, or as determined by the Director of Engineering. The applicant must demonstrate to the Director of Engineering that the soil contains no contaminants that could leave the site by use of a detention facility where ground absorption occurs. Provisions shall be made to contain overflow of such systems on site or to surface drain the overflow in such a way as not to adversely affect any other property.
 - C. If detention facilities utilizing surface impoundment, such as detention basins or rooftop storage, are used, sufficient volume to fully contain the total volume of rainfall excess shall be provided. The outlets of such facilities shall be designed to limit the maximum discharge rate of stormwater runoff to what occurs at the site under existing conditions and shall discharge in such a way as not to adversely affect any other property. If rooftop storage is proposed, the weight of the impounded water on the roof shall be accounted for in the structural design of the building and the roof shall be designed to provide maximum protection against leakage.
 - D. If a combination of different stormwater detention techniques is used, the combined volume of the systems shall be large enough to fully contain the total volume of rainfall excess.
 - E. Stormwater detention facilities shall be maintained regularly by the owner to insure continual functioning of the systems at design capacity and to prevent the health hazards associated with debris buildup and stagnant water. In no case shall water be allowed to remain in any facility long enough to constitute a mosquito breeding, disease or any other type of health problem.

- F. Stormwater conduits shall be designed with full flow velocities ranging from a minimum of 2.5 feet per second to a maximum of 10 feet per second.
- G. All drainage and storage facilities shall be constructed to meet the requirements of the Director of Engineering.
- H. All stormwater conduits must be connected to storm sewers or combined sewers wherever available, but in no case will stormwater conduits be connected to sanitary sewers. In the event that the municipal system is surcharged even after storage facilities are designed, the Director of Engineering shall direct the point of connection to the system or require such changes as are necessitated.
- d. For Nonmajor Developments:
 - i. In order to accomplish the above objectives, the design of storm water drainage and storm water storage facilities may include (unless prohibited by Section 41:17-4-6 Subsection 1.b.iii), roof-top storage, oversized sewers with restricted outlet pipes, underground storage tanks, French drains, or where acceptable soil and groundwater conditions exist planted swale areas, recharge basins, dry wells, porous pavement, or any other innovative techniques, or a combination of the above as approved by the Director of Engineering.
 - ii. Design of Stormwater Storage Facilities.
 - A. On-tract stormwater facilities shall be designed to contain the amount of stormwater runoff, which is equal to the maximum difference in runoff between pre-development conditions and post development conditions.
 - B. Either the rational method or the soil conservation service method as outlined in the Soil Conservation Service National Engineering Handbook., Hydrology, shall be used for computing the volume and rate of runoff from existing and post development conditions.
 - C. The amount of runoff shall be compiled using a design storm with a ten-year return frequency for Essex County (See Graph on file in Office of City Clerk). The minimum initial time of concentration shall be 10 minutes.
 - D. For computation with the rational method, published runoff coefficients which reflect land use and topography shall be used. Acceptable runoff coefficients currently in practice include, but are not limited to the following:

TABLE 17-1. Land Use Types and Runoff Coefficients

Land Use Type	Runoff Coefficients
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Business

Central Business District

0.70 to 0.95

TABLE 17-1. Land Use Types and Runoff Coefficients

Land Use Type	Runoff Coefficients
Neighborhood areas	0.50 to 0.70
Residential	
Single-family areas	0.30 to 0.50
Multi-units, detached	0.40 to 0.60
Multi-units, attached	0.60 to 0.75
Apartment dwelling areas	0.50 to 0.70
Industrial	
Light areas	0.50 to 0.80
Heavy areas	0.60 to 0.90
Parks, Cemeteries	0.10 to 0.25
Playgrounds	0.20 to 0.35
Railroad yard areas	0.20 to 0.40
Unimproved Areas	0.10 to 0.30
SURFACE TYPE	
Streets	
Asphaltic	0.70 to 0.95
Concrete	0.80 to 0.95
Brick	0.75 to 0.85
Drives and Walks	0.75 to 0.85
Roofs	0.75 to 0.85
Lawns; Sandy Soil	

TABLE 17-1. Land Use Types and Runoff Coefficients

Land Use Type	Runoff Coefficients
Flat, 2%	0.05 to 0.10
Average, 2 to 7%	0.10 to 0.15
Steep, 7%	0.15 to 0.20
Lawns; Heavy Soil	
Flat, 2%	0.13 to 0.17
Average 2 to 7%	0.18 to 0.22
Steep, 7%	0.25 to 0.35

- E. A minimum acceptable outlet pipe from all storage facilities shall be eight inches internal diameter, and be of material and class as approved by Title vii, State Uniform Construction Code, as adopted by the City.
- F. In the case of detention facilities utilizing porous media for ground absorption, such as dry-wells, porous pavement, or the like, the volume of porous media shall be large enough to contain the total volume of rainfall excess, as required within the voids. Ground absorption systems shall be used only where the infiltration rate of the receiving soil is acceptable as determined by percolation tests and performed under the guidelines and standards of NJAC 7:9A et seq. [Environmental Protection], and soil borings, or as determined by the Director of Engineering. Provisions shall be made to contain overflow of such systems on site or to surface drain the overflow in such a way as not to adversely affect any other property.
- G. If detention facilities utilizing surface impoundment, such as detention basins or rooftop storage, are used, sufficient volume to fully contain the total volume of rainfall excess shall be provided. The outlets of such facilities shall be designed to limit the maximum discharge rate of stormwater runoff to what occurs at the site under existing conditions and shall discharge in such a way as not to adversely affect any other property. If rooftop storage is proposed, the weight of the impounded water on the roof shall be accounted for in the structural design of the building and the roof shall be designed to provide maximum protection against leakage.
- H. If a combination of different stormwater detention techniques is used, the combined volume of the systems shall be large enough to fully contain the total volume of rainfall excess.
- I. Stormwater detention facilities shall be maintained regularly by the owner to insure continual functioning of the systems at design capacity and to prevent the health hazards associated with debris buildup and stagnant water. In no case shall water be allowed to remain in any facility long enough to constitute a mosquito breeding, disease or any other

type of health problem.

- J. Stormwater conduits shall be designed with full flow velocities ranging from a minimum of 2.5 feet per second to a maximum of 10 feet per second.
- K. All drainage and storage facilities shall be constructed to meet the requirements of the Director of Engineering.
- L. All stormwater conduits must be connected to storm sewers or combined sewers wherever available, but in no case will stormwater conduits be connected to sanitary sewers. In the event that the municipal system is surcharged even after storage facilities are designed, the Director of Engineering shall direct the point of connection to the system or require such changes as are necessitated.
- e. In tidal flood hazard areas, stormwater runoff quantity analysis shall only be applied if the increased volume of stormwater runoff could increase flood damages below the point of discharge.

§ 41:17-4-7 Stormwater Runoff Quality Standards for Major Developments That Do Not Discharge into Newark's Combined Sewer System.

- 1. Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff by 80% of the anticipated load from the developed site, expressed as an annual average. The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, NJAC 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 17-2 (below). The calculation of the volume of runoff may take into account the implementation of nonstructural and structural stormwater management measures.

Table 17-2: Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)
0	0.0000
5	0.0083
10	0.0166
15	0.0250

Table 17-2: Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)
20	0.0500
25	0.0750
30	0.1000
35	0.1330
40	0.1660
45	0.2000
50	0.2583
55	0.3583
60	0.6250
65	0.8917
70	0.9917
75	1.0500
80	1.0840
85	1.1170
90	1.1500
95	1.1750
100	1.2000
105	1.2250
110	1.2334
115	1.2417

Table 17-2: Water Quality Design Storm Distribution

Time (minutes)	Cumulative Rainfall (inches)
120	1.2500

- For purposes of TSS reduction calculations, Table 17-3 below presents the presumed removal rates for certain BMPs designed in accordance with the New Jersey Stormwater Best Management Practices Manual, available online at http://www.nj.gov/dep/stormwater/bmp_manual2.htm. The BMP Manual may be obtained from the address identified in Section 41:17-7 or found on the Department of Environmental Protection's Stormwater and Nonpoint Source Pollution website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 41:17-7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 17-3 below. Alternative removal rates and methods of calculating removal rates may be used if the design engineer provides documentation demonstrating the capability of these alternative rates and methods to the review agency. A copy of any approved alternative rate or method of calculating the removal rate shall be provided to the NJDEP at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418, Trenton, New Jersey, 08625-0418.
- If more than one BMP in series is necessary to achieve the required 80% TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100$$

Where:

- R = total TSS percent load removal from application of both BMPs, and
- A = the TSS percent removal rate applicable to the first BMP
- B = the TSS percent removal rate applicable to the second BMP

Table 17-3: TSS Removal Rates for BMPs

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60

Infiltration Structure	80
Manufactured Treatment Device	See Section 41:17-6 , Subsection 3
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

4. If there is more than one on-site drainage area, the 80% TSS removal rate shall apply to each drainage area, unless the runoff from the subareas converge on site in which case the removal rate can be demonstrated through a calculation using a weighted average.
5. Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections **41:17-4-6** and **41:17-4-7**.
6. Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section **41:17-7** hereof.
7. In accordance with the definition of FW1 at NJAC 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to fresh waters classified as FW1.
8. There are no Category One Rivers in Newark, but in the case that such a river is so designated, the following shall apply. Special water resource protection areas shall be established along all waters designated Category One at NJAC 7:9B-1.15(c) through (g), and perennial or intermittent streams that drain into or upstream of the Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. These areas shall be established for the protection of water quality, aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, and exceptional fisheries significance of those established Category One waters. These areas shall be designated and protected as follows:
 - a. The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following:
 - i. A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession is provided.

- ii. Encroachment within the designated special water resource protection area in the paragraph above shall only be allowed where previous development or disturbance has occurred (for example, active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the NJDEP.

- b. All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the "Standards For Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, NJSA 4:24-39 et seq., as well as Title XXVIII of the Municipal Code, Soil Erosion and Sediment Control.

- c. If stormwater, discharged outside of and flowing through the special water resource protection area, cannot comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey," established under the Soil Erosion and Sediment Control Act, NJSA 4:24-39 et seq., as well as Title XXVIII of the Municipal Code, Soil Erosion and Sediment Control, then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:
 - i. Stabilization measures shall not be placed within 150 feet of the Category One waterway;
 - ii. Stormwater associated with discharges allowed by this Section shall achieve a 95% TSS post-construction removal rate;
 - iii. Temperature shall be addressed to ensure no impact on the receiving waterway;
 - iv. The encroachment shall only be allowed where the applicant demonstrates that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable;
 - v. A conceptual project design meeting shall be held with the appropriate NJDEP staff and Soil Conservation District staff to identify necessary stabilization measures; and
 - vi. All encroachments proposed under this Section shall be subject to review and approval by the NJDEP.

- d. A stream corridor protection plan may be developed by a regional stormwater management planning committee as an element of a regional stormwater management plan, or by a municipality through an adopted municipal stormwater management plan. If a stream corridor protection plan for a waterway subject to Section **41:17-4-7**, Subsection 8 has been approved by the Department of Environmental Protection, then the provisions of the plan shall be the applicable special water resource protection area requirements for that waterway. A stream corridor protection plan for a waterway subject to Section **41:17-4-7**,

Subsection 8 shall maintain or enhance the current functional value and overall condition of the special water resource protection area as defined in Section 41:17-4-7, Subsection 8.ai above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this Subsection.

§ 41:17-5 Calculation of Stormwater Runoff and Groundwater Recharge for Major Development.

§ 41:17-5-1 Calculation of Runoff.

Stormwater runoff shall be calculated in accordance with the following:

1. Design stormwater management measures so that the post-construction peak runoff rates for the two-, ten- and 100-year storm events are 50%, 75% and 80%, respectively, of the preconstruction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed. The percentages shall not be applied to post-construction stormwater runoff into tidal flood hazard areas if the increased volume of stormwater runoff will not increase flood damages below the point of discharge; or
2. Computation and Design Standards:
 - a. For computation with the rational method, published runoff co-efficient which reflects land use and topography shall be used. Acceptable runoff co-efficient currently in practice includes, but are not limited to the following:

Table 17-4

Land Use Type	Runoff Coefficient
Business	
Central Business District	0.70 to 0.95
Neighborhood areas	0.50 to 0.70
Residential	
Single-family areas	0.30 to 0.50
Multi-units, detached	0.40 to 0.60
Multi-units, attached	0.60 to 0.75
Apartment dwelling areas	0.50 to 0.70

Industrial

Table 17-4

Land Use Type	Runoff Coefficient
Light areas	0.50 to 0.80
Heavy areas	0.60 to 0.90
Parks, Cemeteries	0.10 to 0.25
Playgrounds	0.20 to 0.35
Railroad yard areas	0.20 to 0.40
Unimproved Areas	0.10 to 0.30

Table 17-5

Surface Type	Runoff Coefficient
Streets	
Asphaltic	0.70 to 0.95
Concrete	0.80 to 0.95
Brick	0.75 to 0.85
Drives & Walks	0.75 to 0.85
Roofs	0.75 to 0.85
Lawns; Sandy Soil	
Flat, 2%	0.05 to 0.10
Average, 2 to 7%	0.10 to 0.15
Steep, 7%	0.15 to 0.20
Lawns; Heavy Soil	
Flat, 2%	0.13 to 0.17
Average, 2 to 7%	0.18 to 0.22

Table 17-4

Land Use Type	Runoff Coefficient
Steep, 7%	0.25 to 0.35

- b. The USDA Natural Resources Conservation Services (NRCS) methodology, including the NRCS runoff Equation and Dimensionless Unit Hydrograph, as described in the NRCS National Engineering Handbook Section 4 - Hydrology and Technical Release 55 - Urban Hydrology for Small Watersheds; or the Rational Method for peak flow and the Modified Rational Method for hydrograph computations.
3. For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the preconstruction condition of a site or portion thereof is unimproved land with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology in Table 17-1 and the Rational and Modified Rational Methods at Section 41:17-5-1, Subsection 2b. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is lawn, or park), with good cover or with good hydrologic condition and conservation treatment.
4. In computing preconstruction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts that may reduce pre-construction stormwater runoff rates and volumes.
5. In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS Technical Release 55 - Urban Hydrology for Small Watersheds and other methods may be employed.
6. If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at NJAC 7:13, Flood Hazard Control Area Act Rules, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

§ 41:17-5-2 Groundwater Recharge Calculation.

Groundwater recharge may be calculated in accordance with the following:

1. The New Jersey Geological Survey Report GSR32 A Method for Evaluating Ground-Water Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; available online at <http://www.state.nj.us/dep/njgs/>; or at New Jersey Geological Survey, 29 Arctic Parkway, P.O. Box 427, Trenton, New Jersey 08625-0427.

§ 41:17-6 Standards for Structural Stormwater Management Measures.

1. Standards for structural stormwater management measures are as follows:
 - a. Structural stormwater management measures shall be designed to take into account the existing site conditions, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone).
 - b. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than 1/3 the width of the diameter of the orifice or 1/3 the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section **41:17-8-2**.
 - i. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant.
 - ii. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of 2.5 inches in diameter.
 - iii. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section **41:17-8-2**.
2. Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual online at http://www.nj.gov/dep/stormwater/bmp_manual2.htm. Other stormwater management measures may be utilized provided the design engineer demonstrates that the proposed measure and its design will accomplish the required water quantity, groundwater recharge and water quality design and performance standards established by Section **41:17-4** of this Chapter.
3. Manufactured treatment devices may be used to meet the requirements of Section **41:17-4** of this Chapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the NJDEP.

§ 41:17-7 Sources for Technical Guidance.**§ 41:17-7-1 Technical Guidance.**

Technical guidance for stormwater management measures can be found in the documents listed at Subsections 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625.

1. Guidelines for stormwater management measures are contained in the New Jersey

Stormwater Best Management Practices Manual, available online at http://www.nj.gov/dep/stormwater/bmp_manual2.htm, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds.

2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, as amended.

§ 41:17-7-2 Additional Guidance.

Additional technical guidance for stormwater management measures can be obtained from the following:

1. The "Standards for Soil Erosion and Sediment Control in New Jersey" promulgated by the State Soil Conservation Committee and incorporated into NJAC 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee or any of the Soil Conservation Districts listed in NJAC 2:90-1.3(a)3. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625;
2. The Rutgers Cooperative Extension Service, and
3. The Soil Conservation Districts listed in NJAC 2:90-1.3(a)3. The location, address, and telephone number of each Soil Conservation District may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey, 08625.

§ 41:17-8 Safety Standards for Stormwater Management Basins.

§ 41:17-8-1 Applicable to New Stormwater Management Basin.

This Section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This Section applies to any new stormwater management basin.

§ 41:17-8-2 Requirements for Trash Racks, Overflow Grates and Escape Provisions.

1. A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the stormwater management basin to ensure proper functioning of the basin outlets in accordance with the following:
 - a. The trash rack shall have parallel bars, with no greater than six inch spacing between the bars.
 - b. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure.
 - c. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack.

- d. The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square feet.
- 2. An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
 - a. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance;
 - b. The overflow grate spacing shall be no less than two inches across the smallest dimension;
 - c. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square feet.
- 3. For purposes of this Section, escape provisions mean the permanent installation of ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management basins. Stormwater management basins shall include escape provisions as follows:
 - a. If a stormwater management basin has an outlet structure, escape provisions shall be incorporated in or on the structure. With the prior approval of the reviewing agency identified in Section **41:17-8-3** a freestanding outlet structure may be exempted from this requirement.
 - b. Safety ledges shall be constructed on the slopes of all new stormwater management basins having a permanent pool of water deeper than 2.5 feet. Such safety ledges shall be comprised of two steps. Each step shall be four feet to six feet in width. One step shall be located approximately 2.5 feet below the permanent water surface, and the second step shall be located one to 1.5 feet above the permanent water surface. See Section **41:17-8-3** for an illustration of safety ledges in a stormwater management basin.
 - c. In new stormwater management basins, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical (3:1).

§ 41:17-8-3 Variance or Exemption from Safety Standards.

- 1. A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency of the City of Newark that the variance or exemption will not constitute a threat to public safety.

[\[Image\]](#)

§ 41:17-9 Additional Requirements for a Site Development Stormwater Plan for a Site Plan

Review Application.**§ 41:17-9-1 Submission of Site Development Stormwater Plan for Major Development.**

1. Whenever an applicant seeks municipal approval of a development subject to this Section, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section **41:17-9-3** as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate that the project meets the standards set forth in this Section.
3. The applicant shall submit eight copies of the materials required by the reviewing board and listed in the checklist for site development stormwater plans in accordance with Section **41:17-9-3**.

§ 41:17-9-2 Site Development Stormwater Plan Approval.

The applicant's site development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from whom municipal approval is sought. That municipal board's staff shall consult the Engineering Department and Department of Water and Sewer Utilities to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Section.

§ 41:17-9-3 Checklist Requirements.

The following information shall be required:

1. Topographic Base Map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals 200 feet or greater, showing two-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing manmade structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
2. Environmental Site Analysis. A written and graphic description of the natural and manmade features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
3. Project Description and Site Plan(s). A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Land Use Planning and Source Control Plan. This plan shall provide a demonstration of how the goals and standards of Sections **41:17-2** through **41:17-5** are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
5. Stormwater Management Facilities Map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - a. Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - b. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.
6. Calculations.
 - a. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section **41:17-4**.
 - b. When the proposed storm-water management control measures (e.g., infiltration basins) depends on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
7. Maintenance and Repair Plan. The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 41:17 10.
8. Waiver from Submission Requirements. The municipal official or board reviewing an application under this Section may, in consultation with the Departments of Engineering and Water and Sewer Utilities, waive submission of any of the requirements in Sections **41:17-9-3**, Subsections 1 through 5 of this Section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process and such waiver would not be a violation of NJDEP Rules and Regulations.

§ 41:17-10 **Maintenance and Repair.**

§ 41:17-10-1 **Applicability.**

1. Projects subject to review shall comply with the requirements of Sections **41:17-10-2** and **41:17-11**.

§ 41:17-10-2 **General Maintenance.**

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
2. The maintenance plan shall contain specific preventative maintenance tasks and schedules.
3. The maintenance plan for major developments shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). Maintenance guidelines for stormwater management measures are available in the New Jersey Stormwater Best Management Practices Manual, available online at http://www.nj.gov/dep/stormwater/bmp_manual2.htm. If the maintenance plan identifies a person other than the developer (for example, a property owner or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable section or regulation.
4. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. Under no circumstances shall the responsibility for maintenance be assigned, designated, assumed or transferred to the City of Newark unless the development is undertaken by the City.
5. The maintenance plan shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
6. Preventative and corrective maintenance shall be performed to maintain the function of the stormwater management measure, including repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
7. For major development projects, the person responsible for maintenance identified under Section **41:17-10-2**, Subsection 3 above shall maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
8. For major development projects, the person responsible for maintenance identified under Section **41:17-10-2**, Subsection 3 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
9. The person responsible for maintenance identified under Section **41:17-10-2**, Subsection 3 above shall retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections **41:17-10-2**, Subsections 7 and 8 above.

10. The requirements of Sections **41:17-10-2**, Subsections 3 and 4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency.
11. In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the City of Newark shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have 14 days to effect maintenance and repair of the facility in a manner that is approved by the Departments of Engineering and Water and Sewer Utilities. The City of Newark, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the City of Newark may immediately proceed to do so and shall impose a lien or use other remedies to collect the cost thereof from the responsible person.

For major development projects, nothing in this Section shall preclude the City of Newark in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with NJSA 40:55D-53.

§ 41:17-11 Refuse Containers/Dumpsters.

§ 41:17-11-1 Requirements to Cover.

All dumpsters and other refuse containers that are outdoors or exposed to stormwater must be covered at all times and prohibited from spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the City of Newark, New Jersey and/or the waters of the State so as to protect public health, safety and welfare.

§ 41:17-11-2 Prohibited Conduct.

1. Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.
2. Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system operated by the City of Newark, New Jersey.

§ 41:17-11-3 Exceptions to Prohibition.

1. Permitted temporary demolition containers.
2. Litter receptacles (other than dumpsters or other bulk containers).
3. Individual homeowner trash and recycling containers.
4. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
5. Large bulky items (e.g., furniture, bound carpet and padding, white goods, such as

refrigerator, dishwasher, freezer, washer and dryer, placed curbside for pickup).

§ 41:17-12 Private Storm Drain Inlet Retrofitting.

§ 41:17-12-1 Requirement.

Existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property must be retrofitted to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm or combined sewer system operated by the City of Newark, New Jersey so as to protect public health, safety and welfare.

1. Prohibited Conduct. No person in control of private property (except a residential lot with one single-family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:
 - a. Already meets the design standard below to control passage of solid and floatable materials; or
 - b. Is retrofitted or replaced to meet the standard in Section **41:17-12-2** below prior to the completion of the project.

§ 41:17-12-2 Design Standard.

Storm drain identified in Section **41:17-12** above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this Section, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section **41:17-12-2**, Subsection 3 below.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - b. A different grate, if each individual clear space in that grate has an area of no more than seven square inches, or is no greater than 0.5 inch across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.
2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening

(or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven square inches, or be no greater than two inches across the smallest dimension.

3. This standard does not apply:
 - a. Where the Municipal Engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards:
 - i. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - A. A rectangular space 4 5/8 inches long and 1 1/2 inches wide (this option does not apply for outfall netting facilities); or
 - B. A bar screen having a bar spacing of 0.5 inch. Where flows are conveyed through a trash rack that has parallel bars with one inch spacing between the bars; or
 - ii. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at NJAC 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 41:17-13 Penalties.

§ 41:17-13-1 Violation.

Any person(s) found to be in violation of the provisions of the City of Newark Stormwater Control Ordinance or who willfully or negligently fail(s) to comply with the rules and regulations noted herein above shall be subject to a fine as follows:

1. Fine related to Section **41:17-1** through Section **41:17-10**, a fine of not more than \$1,000 or imprisonment not to exceed 90 days, or both, for each offense;
2. Fine related to Section **41:17-11**, Refuse Containers/Dumpsters, a fine not to exceed \$100,000;
3. Fine related to Section **41:17-12**, Private Storm Drain Inlet Retrofitting, a fine not to exceed \$10,000 for each storm drain inlet that is not retrofitted to meet the design standard.
 - a. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City of Newark may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person(s) found to have violated the regulations issued recited herein above.

§ 41:17-14 Enforcement.

This Chapter shall be enforced by the Police Division, Department of Engineering and/or other Municipal Officials of the City of Newark, New Jersey.

Chapter 41:18

Administration, Enforcement and Violations

[Adopted by the City Council of the City of Newark February 4, 2015 by Ord. No. 6PSF-C, 2-4-2015. Amendments noted where applicable.]

§ 41:18-1 Administration.**§ 41:18-1-1 Enforcement of Title.**

The provision of this Title shall be enforced by the Office of Inspections and Enforcement in the Department of Engineering.

§ 41:18-1-2 Construction Code Official.

1. Certificate of Occupancy, Issuance by Construction Code Official, Fees.
 - a. Certificate of Occupancy. It shall be unlawful to use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly in its use or structure until a Certificate of Occupancy to the effect that the building or premises, or part thereof so created, erected, changed, converted, or enlarged and the proposed use thereof conform to the provisions of this Title, shall have been issued by the Construction Code Official. In the case of such buildings or premises, it shall be the duty of the Construction Code Official to issue a Certificate of Occupancy within 30 days after application for approval has been filed in his/her office by any owner of a building or premises, or the part thereof so created, erected, changed, converted or enlarged and if the proposed use thereof conforms with all the requirements herein set forth.
 - b. A temporary Certificate of Occupancy under Subsection 1a hereof for a part of a building may be issued by the Construction Code Official. Upon application from the owner, the Construction Code Official shall issue a Certificate of Occupancy for any building or premises existing at the time of passage of this zoning ordinance (1-17-79) certifying, after inspection, the use of the building or premises and whether such use conforms to the provisions of this Title.
 - c. It shall be unlawful to use or permit the use of any building or premises or part thereof, for which a Certificate of Occupancy has been issued and the use of which is changed at any time, unless the owner, tenant or other occupant of the building or premises shall notify the Construction Code Official in writing at least 10 days prior to such change in use, specifying in such notice the prior use and the proposed use after such change. Upon receiving such notice, the Construction Code Official shall cause an inspection of the premises to be made and if he/she finds that the proposed new use does not conform to the

provisions of this Title or does not comply with all State Laws and City ordinances and regulations governing and concerning the location, construction, utilities, their repair and maintenance, of the building and such premises, he/she shall revoke the Certificate of Occupancy upon 10 days' notice in writing to the owner, tenant or other occupant of the premises.

- d. Every Certificate of Occupancy heretofore or hereafter issued shall expire at the end of every calendar year, beginning with the year 1971, unless it is renewed prior to the expiration of such calendar year by application to the Construction Code Official on forms prescribed by him/her. It shall be unlawful to use or permit the use of any building or premises, or part thereof, unless a currently valid Certificate of Occupancy for the premises is in effect. This Section, however, shall not apply to premises used and continued to be used as a dwelling for three families or less.
- e. It shall be unlawful to use or permit the use of any building or premises, or part thereof, presently in existence and for which a Certificate of Occupancy has not previously been issued, unless a Certificate of Occupancy is obtained within 60 days after the effective date of this Chapter, in accordance with the provisions of Section 1a of this Section.

It shall be unlawful to use or permit the use of any building or premises; or part thereof for which a Certificate of Occupancy is received under this Section other than a one-family dwelling, unless such certificate is displayed in some prominent place in such building or premises.

2. Issuance by Construction Code Official.

- a. It shall be unlawful to use or for the owner to permit to be used for dwelling purposes any building or part of a building designed or constructed for commercial or industrial, or other than dwelling purposes, or to convert any such premises for dwelling use unless and until a Certificate of Occupancy for dwelling use has been issued by the Construction Code Official.
- b. It shall be unlawful to use or for the owner to permit to be used for commercial and industrial purposes any building or part of a building designed or constructed for dwelling purposes, or other than commercial and industrial purposes, or to convert any such premises for commercial and industrial use unless and until a Certificate of Occupancy for commercial and industrial use has been issued by the Construction Code Official.

3. Fees.

- a. A Certificate of Occupancy shall not be issued unless and until the owner has complied with all State and Federal laws and City ordinances and regulations, governing and concerning the location, construction, utilities, facilities, their repair and maintenance, of the building and such premises for which application has been made nor shall it issue after the creation, erection, change, conversion or enlargement, wholly or partly, of any building or structure unless and until the plans for such creation, erection, change, conversion or enlargement shall have been approved (i) by the Fire Division as conforming to applicable laws, ordinances and regulations within its jurisdiction, and (ii) by every other municipal agency

having jurisdiction thereof as conforming to applicable laws, ordinances and regulations within such agency's jurisdiction. The Construction Code Official shall have the power and authority to promulgate rules and regulations specifying the procedure and forms of determining the necessity for and manner of obtaining all approvals required under this Section.

- b. Applications, accompanied by the required fee shall be paid by the owner to the Construction Code Official, on forms provided therefor. The fee shall become the property of the City as cost of processing application.

The determination as to approval or disapproval shall be made within 30 days, but no occupancy permit shall become effective before 30 days from date of application.

- c. No permit for change from commercial and industrial use to a dwelling use or from a dwelling use to a commercial and industrial use shall become effective until at least 30 days after the date of the application.
- d. Upon approval, an Occupancy Permit or renewal shall issue upon payment of the required fee. If the application is rejected, written notice is to be given to the applicant.
- e. Every application for a Certificate of Occupancy submitted to the City shall be accompanied by certification that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of the application. The certification shall be made by the City's Tax Collector on a form provided by the City. If it is found that taxes or assessments are due or delinquent on the property, a Certificate of Occupancy shall not be issued until such payment is received by the City or adequate provision for the payment thereof is made in such a manner that the City will be adequately protected.

§ 41:18-2 Certificate of Code Compliance.

§ 41:18-2-1 Certificate of Code Compliance.

Any person who intends to sell, transfer or convey, by deed or otherwise, any residence, dwelling, apartment house or structure intended for human habitation must make application to and receive from the Director, Department of Engineering, of the City of Newark, New Jersey or his/her designee, a certification that such residence conforms to the housing and zoning ordinances of the City of Newark. The granting of any certification of code compliance shall not free an owner, seller or buyer of property of their obligation to comply with any other ordinance or statute applicable to the property, and in particular, shall not free the owner of the obligation of complying with the Uniform Construction Code. The seller or seller's realtor, attorney or broker shall be permitted to procure the Certification of Code Compliance once available for distribution.

§ 41:18-2-2 Fees for Certificate of Code Compliance.

Fees for inspections for a Certificate of Code Compliance shall be as follows:

Type	Fee
1 to 2 unit dwelling	\$400
3 to 10 unit dwelling	\$500
11 to 20 unit dwelling	\$1,000
21 to 40 unit dwelling	\$2,000
41 to 100 unit dwelling	\$5,000
Over 100 unit dwelling	\$10,000

Minimum plus \$25 for each unit over 100 units.

§ 41:18-2-3 Violation.

It shall be a violation of this Chapter to transfer, convey or sell the title to property, subject to this ordinance prior to the issuance of a Certificate of Code Compliance. It shall also be a violation if, upon an inspection it shall be determined that any violation of the housing and/or zoning regulations exists. A Certificate of Code Compliance shall not be issued when there are existing violations but instead a list of violations shall be issued to the seller within 15 days after the inspection has been completed. A copy of the inspection shall be made available to the seller's realtor and/or broker upon request. If the seller fails to abate the violations listed by the Inspector, no Certificate of Code Compliance shall be issued. Any violation described by the Inspector shall be abated within 20 days of the receipt of the list of violations.

§ 41:18-2-4 Exclusions.

This Chapter shall not apply to the initial sale of newly constructed structures. This Chapter shall not apply to judicial sales or the sale of property owned by the United States, the State of New Jersey or the City of Newark nor shall it apply to the sale, transfer or conveyance of residential structures between husband and wife, parent and child and siblings or to the transfer of residential property by an executor/administrator of an estate or to any other transfer of residential premises for a consideration of less than \$100.

If the premises are sold, transferred or conveyed within six months from the date of the issuance of the Certificate of Code Compliance, no further inspection shall be required. If sold, transferred or conveyed after six months from the date of issuance, a further inspection shall be required and a new Certificate of Code Compliance shall be issued as set forth herein.

§ 41:18-2-5 Appeals.

A notice of any violation of the Housing and Zoning Regulations of the Department of Engineering may be appealed by the seller to the Director by sending a notice of appeal to the Director at his/her office, which shall be received within 10 days of the date of the notice of violation. The Director shall set the matter down for a hearing before him/her or his/her designee. The determination of the Director or his/her designee shall be final.

§ 41:18-2-6 Regulations.

The Director of the Department of Engineering is authorized and empowered to issue such regulations as he/she may deem reasonably necessary to carry out the purpose of this Chapter. Such regulations shall be in writing and shall be given to the seller at the time that he or she files their application and shall be on file with the City Clerk of the City of Newark.

§ 41:18-2-7 Extensions for Compliance.

The seller or buyer of any residence who requests an extension to comply with the requirements of this Chapter shall be granted such an extension, if the estimated repairs to the property exceed \$5,000 or otherwise appear because of inclement weather or other conditions to be so expensive or difficult to complete that they cannot be finished within the time allowed by the Director of the Department of Engineering. In regard to a request for an extension, the Director shall consider a certified statement of costs from the contractor in charge of the repairs. If an extension has been granted, the Director of the Department of Engineering may permit the structure to be sold with a Conditional Certificate of Compliance if it appears that the seller or buyer will abate the violations within the time described in the notice of extension. Where such a sale is allowed the Conditional Certificate permitting the sale shall state the conditions that are to be remedied as well as the time for compliance. The final Certificate of Compliance shall be issued only after the conditions in the Conditional Certificate have been met.

§ 41:18-2-8 Penalty.

Failure of any seller to abate a violation of these Housing and Zoning Regulations or a violation of this Chapter concerning sales, transfers and/or conveyances of residential property without a Certificate of Code Compliance, shall be punishable by a fine not exceeding \$2,000 but not less than \$500 or by imprisonment for a term not exceeding 90 days, or both.

§ 41:18-2-9 Effective Date.

This Chapter upon final passage and publication in accordance with the law shall be deemed effective retroactively as of January 5, 1990 in regard to residential structures that are listed for sale after January 5, 1990 by a realtor licensed in the State of New Jersey. This Chapter shall not affect the sale of property listed for sale by a realtor, or agreed to be sold by a seller or buyer as evidenced by a contract prior to January 5, 1990.

§ 41:18-3 Violations.**§ 41:18-3-1 Penalties.**

1. Unless otherwise provided herein or by law, any person who violates any provision of this Title XLI shall upon conviction thereof, be punished by one or more of the following penalties: (1) a fine not exceeding \$1,000; (2) imprisonment for any term not exceeding 90 days; or (3) a period of community service not exceeding 90 days, provided however, that when the maximum penalty fixed by an applicable State Statute is less, by force of said State Statute or by judicial construction, than any penalty fixed in these Revised General Ordinances, then the limitation of such State Statute shall be applicable.
2. For any and every violation of any other provision of this Title, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violation has

been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who commits, takes part, or assists in such violation shall exist, shall, for each and every violation, be punished by one or more of the following penalties: (1) a fine not exceeding \$1,000; (2) imprisonment for any term not exceeding 90 days; or (3) a period of community service not exceeding 90 days, provided, however, that when the maximum penalty fixed by an applicable State Statute is less, by force of said State Statute or by judicial construction, than any penalty fixed in the Revised General Ordinances, then the limitations of such State Statute shall be applicable.

3. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
4. Any building or part thereof which has been constructed in violation of this Title and for which a subsequent application and request for a variance has been denied, shall be demolished at the expense of the owner, general agent or contractor of the premises.

Chapter 41:19

Escrow Fees for Redevelopment Matters

[Adopted by the City Council of the City of Newark March 16, 2016 by Ord. No. 6PSF-A, 3-16-2016. Amendments noted where applicable.]

§ 41:19-1 Purpose.

[Ord. No. 6PSF-A, 3-16-2016]

Pursuant to N.J.S.A. 40A:12A-8(f) of the Local Housing and Redevelopment Law, potential redevelopers with the City of Newark ("City") shall be required to enter into a Redevelopment Escrow Funding Agreement ("Funding Agreement") to cover the City's administrative expenses, evaluations, negotiation and approval of agreements, and other costs associated with the implementation and administration of redevelopment projects (collectively "Redevelopment Project Costs and Expenses") with the City. This Funding Agreement shall be a prerequisite to all Redevelopment Agreements with the City where the cost of the Redevelopment Project is as described below.

§ 41:19-2 Escrow Funding Agreement and Procedures.

[Ord. No. 6PSF-A, 3-16-2016]

The Funding Agreement acknowledges and binds the Developer to post an escrow with the City of Newark to pay the City's Redevelopment Project Costs and Expenses. This includes, but is not limited to, all legal, engineering and planning costs associated with the redevelopment. The Director of the City's Finance Department will establish an escrow account for the Redevelopment Project. The escrow deposit will be held by the City of Newark's Finance Department, for the Department of Economic and Housing Development, and disbursed,

pursuant to a Funding Agreement.

§ 41:19-3 Escrow Amounts.

[Ord. No. 6PSF-A, 3-16-2016; Ord. No. 6PSF-C, 5-10-2018]

Potential Redevelopers shall be required to make payments to an escrow account to cover the City's Redevelopment Project Costs and Expenses towards the potential redeveloper's project. The initial deposit requirement and, if necessary, the amount to be replenished shall be based on the cost of the potential redeveloper's project as described below:

Cost of Redevelopment Project	Escrow Deposit
Up to \$500,000	\$2,500
\$500,000 to \$1,000,000	\$5,000
\$1,000,000 to \$5,000,000	\$10,000
\$5,000,000 to \$15,000,000	\$15,000
\$15,000,000 to \$25,000,000	\$25,000
Above \$25,000,000	\$50,000

If, when and as often as may occur that the Escrow is drawn down to or below \$5,000 for escrow amounts greater than \$5,000 or is drawn down to or below \$1,500 for escrow amounts \$5,000 or less, the Potential Redeveloper shall be notified and shall within 10 days of the notification provide to the Escrow Agent an additional amount sufficient to replenish the Escrow to the amounts set forth in this Ordinance.

Chapter 41:20

Environmental Justice and Cumulative Impact

[Adopted by the City Council of the City of Newark July 7, 2016 by Ord. No. 6PSF-E, 7-7-2016. Amendments noted where applicable.]

§ 41:20-1 Purpose.

[Ord. No. 6PSF-E, 7-7-2016]

The City of Newark Municipal Code is hereby amended to include the requirements enumerated herein, which shall assist the Environmental Commission, Newark Central Planning Board and Zoning Board of Adjustment in better understanding the environmental impacts of development

projects, and support improved long-term planning in order to enhance, protect and preserve a healthy urban environment for the benefit of all present and future residents and workers.

§ 41:20-2 Policy Statement.
[Ord. No. 6 PSF-E, 7-7-2016]

The goal of the Environmental Justice and Cumulative Impacts Ordinance No. 6PSF-E, 7-7-2016, is to advance environmental justice (as defined herein), good stewardship, and sustainable economic development in furtherance of the priorities outlined in the Newark Sustainability Action Plan and the Newark Master Plan. Through this Chapter 20, the City of Newark seeks to:

1. Protect the health of all residents, regardless of race, culture or income, from exposure to pollution linked to adverse health effects, including the cumulative impacts that may be worsened as an unintended by-product of new development or redevelopment, and to ensure the enforcement of laws, regulations, and policies in a manner consistent with the principles of environmental justice.
2. Take appropriate action to avoid, minimize and mitigate pollution from all sources within Newark's jurisdiction through partnerships, innovation, and enforcement.
3. Encourage proposals for development or redevelopment that contribute positively to Newark's environmental, economic, and social health or, at minimum, that do not contribute net new pollution to the environment or adversely impact public health.
4. To the extent permitted by law, discourage and advocate against development or redevelopment proposals that contribute net additional pollution; particularly, types of pollution linked to human health problems, and avoid taking actions or decisions that add to the total amount of pollution impacting an area deemed disproportionately impacted by pre-existing pollution.
5. To create a better basis of information for decision-making with regard to public health and the environment with regard to new project proposals, and to require development and redevelopment applicants seeking approval for projects that have the potential to generate additional pollution to provide information in the form of an Environmental Review Checklist as provided herein, which shall be added to the checklist requirements and provided to development and redevelopment applicants pursuant to N.J.S.A. 40:55D-10.3.
6. To create a better basis of information for decision-making with regard to public health, the environment and pre-existing pollution by developing a Natural Resources Index that identifies areas that can be considered disproportionately burdened with existing pollution pursuant to standards of environmental justice and that, upon approval, will become a required reference document for the Environmental Review Checklist.
7. Promote meaningful public participation and transparent decision-making by identifying risks to public health and the environment, and by providing an opportunity to select alternatives and/or mitigation measures that remedy, avoid or minimize such risks.

§ 41:20-3 Definitions.**[Ord. No. 6PSF-E, 7-7-2016]****ADMINISTRATIVE OFFICER**

Shall generally mean the respective Board Secretary or Board Clerk assigned to receive applications and plan documents on behalf of the Central Planning Board or Zoning Board of Adjustment.

COMMERCIAL

Shall have the same definition as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2.

COVERED APPLICANT

Shall mean an applicant for major site plan approval from the Newark Central Planning Board or a variance from the Newark Zoning Board of Adjustment that (i) is seeking approval for a commercial, light manufacturing or industrial use project, as defined hereinafter; and (ii) requires one or more approvals or permits from the U.S. Environmental Protection Agency ("EPA") or the New Jersey Department of Environmental Protection, or requires inclusion in the Essex County Solid Waste Management Plan, upon advice from the Essex County Solid Waste Advisory Council. Said approvals or permits shall include, but shall not be limited to, any approval or permit required pursuant to the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Clean Water Act, 33 U.S.C. § 1251 et seq. (including any approval or permit issued thereunder by the U.S. Army Corps of Engineers); the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; the Water Quality Planning Act, N.J.S.A. 58:11A-1, et seq.; the Waterfront Development Law, N.J.S.A. 12:5-3 et seq.; the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.; the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. A covered applicant shall include an applicant that is seeking approval for a mixed-use project which includes a residential use.

CRITERIA POLLUTANTS

Shall mean any pollutants listed by the EPA Administrator pursuant to Section 108(a) of the Clean Air Act, 42 USC Section 7408(a) as Criteria Air Pollutants which includes carbon monoxide, lead, nitrogen dioxide, ozone, particle pollution (PM 10 and PM 2.5) and sulfur dioxide.

ENVIRONMENTAL JUSTICE

Shall mean the fair treatment of and right of all persons, regardless of race, color, national origin, ethnicity, income or other demographic or geographic characteristics, to have access to a safe, healthy living environment. Fair treatment means that no group of people, including racial, ethnic, or socio-economic groups, should bear disproportionately high exposure to pollution or adverse human health or environmental impacts, which disproportionately high exposure is known as environmental injustice, as further described in Presidential Executive Order 12898, State of New Jersey Executive Order #96 (February

18, 2004), and State of New Jersey Executive Order #131 (February 5, 2009).

ENVIRONMENTAL REVIEW CHECKLIST ("CHECKLIST")

Shall mean an informational document covering specific environmental impact information, as specified herein, that must be submitted by covered applicants in addition to other required submissions for major site plan approval from the Newark Central Planning Board or approval of a variance from the Zoning Board of Adjustment. This document shall provide information to be used by the Newark Environmental Commission, City staff and members of the Central Planning Board and Zoning Board of Adjustment to improve public understanding of the potential cumulative environmental impacts of proposed development and provide a basis for more informed policy decisions on municipal land use. This Checklist will be in the format attached hereto as Chapter 20 Exhibit A.: Environmental Review Checklist.

GREENHOUSE GAS

Shall have the same definition as provided in the Global Warming Response Act, N.J.S.A. 26:2C-37 et seq.

HAZARDOUS AIR POLLUTANTS

Shall mean any air pollutants listed in Section 112(b) of the Clean Air Act, 42 USC 7412(b) and amended by 40 CFR 63, Subpart C.

INDUSTRIAL

Shall have the same definitions for "Manufacturing, Heavy," and "Manufacturing, Medium" as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2.

LIGHT MANUFACTURING

Shall have the same definition as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2, Manufacturing, Light.

NATURAL RESOURCES INDEX (NRI)

Shall mean a document that compiles and analyzes information about baseline environmental and socio-economic conditions in the City of Newark, for purposes of long-term planning that promotes public health, vibrant communities, and sustainable economic development. The NRI may include maps, tables, and narrative describing the extent, type, and location of factors that may affect environmental health both positively and negatively.

§ 41:20-4 **Natural Resources Index (NRI).**

[Ord. No. 6PSF-E, 7-7-2016]

1. The Newark Environmental Commission, in consultation with City of Newark departmental staff, as coordinated by the Office of Sustainability in the Department of Administration, is hereby directed to research, draft, and present to the Central Planning Board and Zoning Board of Adjustment a Natural Resources Index (NRI), pursuant to N.J.S.A. 40:55D-27b. The NRI will include data on built, natural, environmental, health and demographic features that occur within Newark's boundaries. The NRI will also seek to make visible to the public

geospatial information about environmental features, both positive and negative, as juxtaposed to demographic and health data, in order to develop a better understanding of the relationships among environment, land use, public health, and neighborhood quality of life. The NRI is intended to be a work in progress, bringing diverse sources of information together to form the basis of improved policy making over time. The NRI shall include information on:

- a. Natural resources and physical infrastructure within the boundaries of the City of Newark, including but not limited to: highways, railyards, railways, roadways, designated truck routes, industrial areas, seaports, airports, utilities, waterways, trees, parks, wetlands, and gardens;
 - b. Available health indicators data, including asthma rates, lung cancer, low birth weight infants, cardiovascular disease, and other illnesses associated with environmental hazards;
 - c. Existing permitted, point, non-point and area sources of pollution, toxins registered or required to be registered with the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq., Superfund (CERCLA) and Brownfield sites, hazardous waste storage facilities, and other known sources of pollution affecting Newark residents, which may be obtained from City, federal or state databases such as those created or maintained by the EPA;
 - d. Location of vulnerable populations and land uses, including flood zones, location of schools, daycares, senior centers, hospitals, jails, dialysis centers, recreation centers, public housing and detention centers;
 - e. Data on socio-economic conditions of residents, including poverty, income, race, ethnicity, gender, unemployment, and age including information on the number and location of residents over 65 and under five years old;
 - f. Any other information deemed appropriate or necessary by the Newark Environmental Commission.
2. An NRI shall be developed and approved by the Newark Environmental Commission within 12 months of the passage of this Ordinance No. 6PSF-E, adopted July 7, 2016. The approved NRI shall be forwarded to the Central Planning Board and the Zoning Boards.
 3. The Newark Environmental Commission shall organize and hold at least one public hearing to solicit public information and increase public awareness on the NRI prior to preparation of the final draft thereof.
 4. The NRI shall be updated every three years.
 5. The NRI shall be a required reference document for any Environmental Review Checklist submitted following the publication of an approved version of the NRI by the City of Newark.

§ 41:20-5 Newark Environmental Review Checklist ("Checklist").
[Ord. No. 6PSF-E, 7-7-2016]

1. Covered applicants shall prepare and submit an Environmental Review Checklist to the Central Planning Board or Zoning Board, as appropriate, as a required component of any application for major site plan approval or for a variance in the form attached to this Chapter 20 as Exhibit A. The checklist for projects which meet the criteria of Section **41:20-3**, Covered Applicant, hereof shall be amended to include said Environmental Review Checklist and shall be provided to all covered applicants.
2. In the event that the covered applicant fails to submit a complete Environmental Review Checklist, the application shall be deemed incomplete.
3. A conforming copy of the Environmental Review Checklist shall also be submitted by the covered applicant to the Administrative Officer within the Newark Division of City Planning.
4. Upon receipt, the Administrative Officer shall forward a copy of the Environmental Review Checklist to the Chair(s) of the Newark Environmental Commission, the Sustainability Officer, the Director of Engineering, the Director of Community Health and Community Wellness, and the Director of the Department of Recreation, Cultural Affairs and Senior Services or its successor Department. The Environmental Review Checklist will be made available as part of the complete major site plan application or variance application to members of the public.
5. Upon receipt of the Newark Environmental Review Checklist, the Newark Environmental Commission members shall review the material and provide a written advisory opinion as soon as reasonably practicable to the Secretary of the Boards for transmittal to the members of the Central Planning Board or Zoning Board of Adjustment, as appropriate.
6. Nothing in this Chapter 20 shall limit the statutory powers of the Central Planning Board or Zoning Board of Adjustment under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
7. Nothing in this Chapter 20 shall limit the statutory powers of the Newark Environmental Commission under Title 40, Chapter 56A, of the New Jersey Statutes.

§ 41:20-6 Escrow Fees for Covered Redevelopment Projects.
[Ord. No. 6PSF-E, 7-7-2016]

1. For projects which meet the criteria of Section **41:20-3**, Covered Applicant, hereof, and which are also redevelopment projects subject to a redevelopment plan adopted pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., a covered applicant shall be required, as a potential redeveloper, to comply with the provisions of Chapter 19, Escrow Fees for Redevelopment Matters, in Title XLI, Zoning and Land Use Regulations.

§ 41:20-7 Environmental Justice Policy Review.
[Ord. No. 6PSF-E, 7-7-2016]

Based on the trends and patterns in the NRI and the Environmental Review Checklists for each new development or redevelopment project, the Newark Environmental Commission shall make annual recommendations to the Mayor and the Municipal Council regarding projects and policies that may serve to (i) reduce health-harmful pollution, (ii) improve the environmental impacts of private development projects, and (iii) promote the adoption of best practices for reducing environmental impacts into City capital projects, as well as appropriate updates to the NRI.

Chapter 41:20A

Exhibit A: Environmental Review Checklist

[Adopted by the City Council of the City of Newark July 7, 2016 by Ord. No. 6PSF-E, 7-7-2016. Amendments noted where applicable.]

§ 41:20A-1 Environmental Review Checklist.

1. Cover Sheet:
 - a. Name of applicant entity.
 - b. Contact information (name, email, phone, address).
 - c. Location of Proposed Project (address and block and lot).
 - d. Summary description of proposed project (one paragraph only) including proposed dimensions of any buildings and total project cost.
 - e. Existing land use at project site and existing land use zoning designation.
 - f. Requested variance, if any.
2. Permits:
 - a. List of all permits and approvals needed.
 - b. Copy of any permits already obtained from the United States Environmental Protection Agency, the New Jersey Department of Environmental Protection, or evidence of inclusion in the Essex County Solid Waste Management Plan after advice of the Essex County Solid Waste Advisory Council.
3. Basic Form - For Covered Applicants with a Commercial or Light Manufacturing Use, including those uses within an MX-1 or MX-2 Zone.

- a. Environmental Impact Activities: Information should be excerpted from documents filed elsewhere; e.g., environmental permit applications, approved permits or stormwater management plans, as applicable. If project involves a permit for any category below, applicant shall identify such permit. Applicant shall provide information for a category only if a permit is involved for the category. Applicant is not required to provide information for the residential component of a mixed-use project.
 - i. AIR POLLUTION: Chart listing tons per year of all Criteria Pollutants and Hazardous Air Pollutants to be emitted as a result of project operation.
 - ii. STORMWATER RETENTION & DISCHARGE: Brief narrative summary of on-site stormwater capture including total volume to be controlled; Brief narrative summary of permitted sewer and stormwater discharge including total volume to be discharged.
 - iii. HAZARDOUS or TOXIC MATERIALS: List, including name and estimated quantity of, any substance used or stored on-site that must be registered with either the State or a local emergency responder office pursuant to State or Federal law, such as the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A.34:5A-1 et seq. State whether an emergency management plan has been filed with the City's Office of Emergency Management.
 - iv. TRUCK TRIPS: Estimated number of truck trips per day anticipated during normal operations. Indicate if trucks will be owned or contracted.
 - v. FUEL USE: List type of fuel to be used for heating, cooling, and operations (e.g., Number 4 or 6 Heating Oil; Natural Gas, Solar or Wind).
 - vi. HAZARDOUS AND SOLID WASTE & RECYCLING: Provide copy of applicable Waste Permit or application, if applicable and available. Brief narrative description of plan for compliance with City of Newark Recycling Ordinance Title XV, Chapter 12.
- b. Optional - Additional Information on Environmental Mitigation Activities: At the applicant's discretion, information may be submitted to highlight elements of design, construction or operation intended to mitigate, minimize, or avoid negative environmental impacts. Information should be in the form of a brief narrative description in each relevant category. The list below is intended to serve as a suggested menu of possible topics and is not exhaustive.
 - i. Air pollution reduction technologies for stacks, exhaust pipes, cooking equipment, or other such equipment or facilities.
 - ii. On-site or off-site Green Stormwater Infrastructure.
 - iii. Energy efficiency or renewable energy elements.
 - iv. Waste minimization or re-use programs.
 - v. Water conservation measures.

- vi. Green supply chain efforts.
 - vii. Clean fleet (alternative fuel, retrofitted diesel engines, or other such fuel types or engines).
 - viii. Indoor air quality controls.
 - ix. Plans to minimize noise, dust, odor and light pollution.
 - x. Public space design and landscaping elements.
 - xi. Voluntary arrangement to provide a first-interview opportunity for employment to Newark residents, beyond that required by Newark ordinances.
 - xii. Voluntary contribution (in-kind or funding) to support community initiatives.
 - xiii. Measures taken to inform or engage neighbors about the project prior to submission of plans.
4. FULL FORM - For Covered Applicants with an Industrial Use:
- a. Detailed Project Description: Brief summary of types of products or services to be produced, a physical description of proposed building and grounds, including any pre-improvement contamination issues and clean-up plans, and overview of anticipated environmental impact, controls to comply with environmental regulations, and any voluntary activities undertaken to go beyond legally required environmental control standards.
 - b. Pre-existing Environmental Conditions Description: To the extent such information is available in an approved NRI, a brief summary of pre-existing environmental conditions within a half-mile radius of proposed project site, including name and location of any other properties in that area with air pollution emission permits from the federal or state government; location of known contaminated sites and properties storing or using toxic chemicals; location of receptor populations including schools, day-cares, residential blocks, detention centers or prisons, and senior centers; and location of any environmentally-sensitive areas such as wetlands, waterways or parks.
 - c. Environmental Impact Description: Information should be excerpted from documents filed elsewhere; e.g., environmental permit applications, approved permits or stormwater management plans, as applicable. If project involves a permit for the category below, applicant should identify such permit. Applicant must provide a description for each category regardless of whether a permit is involved, to the extent such information is available or can be readily obtained.
 - i. AIR POLLUTION: Chart listing tons per year of all Criteria Pollutants, Hazardous Air Pollutants, and Greenhouse Gas emission equivalents. Include maximum permitted tons per year and anticipated actual tons per year.
 - ii. STORMWATER RETENTION & DISCHARGE: Brief narrative summary of on-site

stormwater capture including total volume to be controlled; Brief narrative summary of permitted sewer and stormwater discharge including total volume to be discharged and any onsite treatment technology.

- iii. WATER USE: Estimate of volume of water to be used annually for operations.
- iv. ENERGY USE: Estimate of kilowatt hours of energy to be used annually for operations.
- v. HAZARDOUS or TOXIC MATERIALS: List, including name and estimated quantity of, any substance used or stored on-site that must be registered with either the State or a local emergency responder office pursuant to State or Federal law such as the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq. State whether an emergency management plan has been filed with the City's Office of Emergency Management.
- vi. TRUCK TRIPS: Estimated number of truck trips per day anticipated during normal operations. Indicate if trucks will be owned or contracted. Provide information about how deliveries and pick-ups will comply with the City of Newark's truck route regulations.
- vii. FUEL USE: List type of fuel to be used for heating, cooling, and operations (e.g. Number 4 or 6 Heating Oil; Natural Gas, Solar or Wind).
- viii. WASTE & RECYCLING: Provide copy of applicable Waste Permit or application, if applicable and available. Brief narrative description of plan for compliance with City of Newark Recycling Ordinance Title XV, Chapter 12.
- ix. NUISANCE ISSUES: Provide a brief description of both projected impact of and plans to avoid, minimize, and control the following:
 - A. Dust.
 - B. Noise.
 - C. Light.
 - D. Odors.
- d. Economic Opportunity Description: List estimated number of new jobs to be generated as a result of both construction and operation of the proposed project. Include a brief narrative description of any activities undertaken to provide Newark residents with access to these job opportunities.
- e. Public Engagement Description: Briefly describe any efforts undertaken prior to filing for major site plan and/or variance approval to inform or engage the residents living and businesses operating in the vicinity of the proposed project.
- f. Quality of Life and Public Health Protection Measures: Briefly describe any efforts to avoid, minimize, and mitigate any pollution emissions or environmental impacts both

during construction and during operation. Such efforts may include but are not limited to:

- i. Pollution reduction technologies.
- ii. Stormwater management via Green Infrastructure.
- iii. Energy efficiency or renewable energy elements.
- iv. Waste minimization and/or re-use programs.
- v. Water conservation measures.
- vi. Green supply chain.
- vii. Clean fleet commitments (2010 or newer truck engines, retrofit filters on older trucks, alternative fuel, zero emissions vehicles or other such commitments).
- viii. Indoor air quality controls.
- ix. Tree canopy expansion or vegetative buffers.
- x. Greenhouse Gas emission reduction technology or design.
- g. Alternative Design (Optional): Provide a brief comparative description of at least one alternative design scheme, site location, engineered system, equipment choice or operational approach that was considered for reductions in negative environmental or public health impacts or increases in positive public impacts such as increased green space, energy reduction, air quality, water quality, stormwater runoff absorption and waste reduction.
- h. Optional: Provide additional information about community benefits; for example, a relationship with a local organization to receive trained potential candidates for job openings, voluntary measures taken to inform or engage the neighborhood residents prior to finalization of plans, or an in-kind or funding contribution to a project with community benefits in the neighborhood of the proposed project site.

Chapter 41:21

Inclusionary Zoning for Affordable Housing

[Adopted by the City Council of the City of Newark October 4, 2017 by Ord. No. 6PSF-B, 10-4-2017. Amendments noted where applicable.]

§ 41:21-1 **Purpose and Definitions.**

§ 41:21-1-1 **Purpose.**

[Ord. No. 6PSF-B, 10-4-2017]

The purpose of this Chapter is to create mixed-income housing through new construction, and substantial rehabilitation development, to assist the City in providing a realistic opportunity for affordable housing as the City grows and attracts new market-rate residential development.

§ 41:21-1-2 **Definitions.**
[Ord. No. 6PSF-B, 10-4-2017]

The following terms, when used in this Chapter, shall have the following definitions:

100% AFFORDABLE DEVELOPMENT

Shall mean a development in which all of the residential units are income-restricted units.

ADMINISTRATIVE AGENT

Shall mean the Division of Housing and Real Estate Development within the City of Newark Department of Economic and Housing Development, or such other qualified entity which may be duly approved by the City from time to time.

AFFORDABILITY AVERAGE

Shall mean an average of the percentage of median income at which income-restricted units are affordable to low-and moderate-income households. For example, if the rents for the five restricted rental units in an affordable housing development were affordable at 46, 48, 50, 52 and 54% of median income, respectively, the average affordability for those units would be 50% of median income.

AFFORDABLE

Shall mean in the case of an income-restricted ownership unit, a sales price for the unit that conforms to the standards set forth in NJAC 5:80-26.6, as may be amended and supplemented, and in the case of an income-restricted rental unit, a rent for the unit that conforms to the standards set forth in NJAC 5:80-26.12, as may be amended or supplemented.

AFFORDABLE DEVELOPMENT

Shall mean a housing development all or a portion of which consists of income-restricted units.

AGE-RESTRICTED UNIT

Shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of the household is a minimum age of either 62 years, or 55 years and meets the provisions of the 42 U.S.C. §§ 3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside.

AGENCY

Shall mean the New Jersey Housing and Mortgage Finance Agency established by NJSA 55:14K-1 et seq. and in, but not of, the Division of Community Affairs (DCA).

ASSISTED LIVING RESIDENCE

Shall mean a facility licensed by the New Jersey Department of Health and Senior Services (NJ DHS) to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

BALANCED HOUSING

Shall mean the Neighborhood Preservation Balanced Housing Program of the DACE as set forth at NJSA 52:27D-320 and NJAC 5:43 as may be amended or supplemented.

CERTIFIED HOUSEHOLD

Shall mean a household that has been certified by an administrative agent as a low-income household or moderate-income household.

COUNCIL OF AFFORDABLE HOUSING (COAH)

Shall mean the Council on Affordable Housing in, but not of, the DCA, established under the New Jersey Fair Housing Act, NJSA 52:27D-301 et seq., or its successor.

DEPARTMENT OF COMMUNITY AFFAIRS (DCA)

Shall mean the State of New Jersey Department of Community Affairs.

DEVELOPER

Shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DIVISION

Shall mean the Division of Housing in the DCA.

HOUSING AFFORDABILITY SERVICE

Shall mean the Housing Affordability Service, formerly known as the "Affordable Housing Management Service," in the Department of Community Affairs (DACE), Division of Housing.

HOUSING AND URBAN DEVELOPMENT

Shall mean the United States Department of Housing and Urban Development.

INCOME-RESTRICTED UNITS

Shall mean low and moderate income housing, as each term is defined in this Section.

LOW INCOME HOUSING

Shall mean housing Affordable according to Federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to

50% or less of the median gross household income for households of the same size within the housing region in which the housing is located.

MARKET ORIENTED NEIGHBORHOOD INVESTMENT

Shall mean the New Jersey Housing and Mortgage Finance Agency's Market Oriented Neighborhood Investment Program, as it may be authorized from time to time by that Agency.

MARKET-RATE UNITS

Shall mean housing not restricted to low or moderate-income households that may sell or rent at any price.

MEDIAN INCOME

Shall mean the median income by household size for the housing region that includes the City of Newark, as adopted annually by COAH or its successor, and if no such successor, then by an appropriate State or federal government agency.

MIX-USE DEVELOPMENT

Shall mean development containing a mix of but not limited to multi-family residential, single-family residential, commercial, and institutional.

MODERATE INCOME HOUSING

Shall mean housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50% but less than 80% of the median gross household income for households of the same size within the housing region in which the housing is located.

NEW CONSTRUCTION

Shall mean any structure change of use, reconstruction, or addition as defined in the New Jersey Uniform Construction Code, NJAC 5:23-1 et al.

NON-EXEMPT SALE

Shall mean any sale or transfer of ownership other than the transfer of ownership between spouses; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary; and the transfer of ownership by court order.

RANDOM SELECTION PROCESS

Shall mean a process by which currently income-eligible households are selected for placement in income-restricted units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (for example, by lottery).

RENT

Shall mean the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DACE for its Section 8 program. With respect to income-restricted units in an assisted living residence, rent does not include charges for food and services.

RESIDENTIAL

Shall mean residential property shall mean any real property and the improvements, buildings, structures or house thereon, whether single or multi-family, whether or not owner occupied, used for residential purposes.

SHOVEL READY

Shall mean a development project that is in advance stages of development. Advance stages implies planning and engineering is advanced enough with sufficient funding, construction can begin immediately.

SUBSTANTIAL REHABILITATION

Shall mean any rehabilitation of a vacant structure or any rehabilitation that involves the replacement of two or more major systems.

URBAN HOMEOWNERSHIP RECOVERY PROGRAM

Shall mean the New Jersey Housing and Mortgage Finance Agency's Urban Homeownership Recovery Program, as it may be authorized from time to time by that Agency's Board.

§ 41:21-2 Mandatory Set-Aside.

[Ord. No. 6PSF-B, 10-4-2017; Ord. No. 6PSF-B(s), 07-26-2022]

1. All new Residential, Mix-Use Development or Substantial Rehabilitation having 15 or more Residential units shall set aside 20% of the total number of Residential units as Income-Restricted Units in accordance with the Standards set forth in Section **41:21-3**. Of that 20%
 - a. 5% shall be Income-Restricted Units not exceeding 40% of the AMI,
 - b. 5% shall be Income-Restricted Units not exceeding 60% of the AMI, and
 - c. 10% shall be Income-Restricted Units not exceeding 80% of the AMI.
2. The following compensatory benefits are provided to facilitate the inclusion of affordable housing:
 - a. Density bonus. Except where a density variance is granted, as set forth in paragraph 1b of this section, a 15% residential density bonus shall be permitted for all projects that comply with this Chapter. Where the calculated density bonus results in a fraction, the density bonus shall be rounded up to the next whole unit.
 - b. Density variances. A compensatory benefit will be deemed to have been awarded, and the

density bonus referred to in paragraph 2a above will not apply where the City's Zoning Board of Adjustment approves an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5), (known as a density variance).

- c. Relaxation of zoning standards. In all cases, the City's approving land use board shall consider the granting of variances and waivers including but not limited to reduced setbacks, reduced coverage, increased floor area, increased building heights and/or additional stories so as to accommodate the increased number of units and to reasonably result in an opportunity to provide affordable housing.
- d. Additional incentives. Additional incentives to subsidize the creation of affordable housing may be included in a developer's or redeveloper's agreement at the discretion of the City.
- e. Further incentives. Further incentives including expedited board approval and permit processing, partial or full waivers of planning fees, permitting fees, ten to twenty percent reduction in parking space requirement as required by the City-wide or redevelopment plan regulations and parking study waiver for projects with affordable housing component.

§ 41:21-3 Standards.

[Ord. No. 6PSF-B, 10-4-2017]

1. The income-restricted units required by Section **41:21-2** of this Chapter shall be constructed on-site. Provision of any of the required income-restricted units off-site is prohibited.
2. Rounding. When any calculation of the mandatory set-aside results in a fractional income-restricted unit of 1/2 or more, the fraction shall be rounded up to the next whole unit. When such a calculation results in a fraction of less than 1/2, the fraction shall be rounded down to the previous whole unit.
3. Income-restricted units shall be integrated with and interspersed among the market-rate units.
4. Any residential unit which is reserved for the superintendent of a residential development that is subject to this Chapter shall not be credited towards satisfaction of the mandatory set-aside.
5. The marketer of income-restricted units created pursuant to this Chapter shall, without unduly delaying occupancy, affirmatively market with best efforts said units to give income-eligible Newark residents priority for occupancy of said units.
6. It is the intent of this Chapter to prevent evasion of its requirements by the artificial subdivision, separation, construction or rehabilitation of a project into smaller developments through the manipulation of the design or implementation schedule. The Zoning Board of Adjustment, therefore, shall review each application, including the completed checklist required by Section **41:21-6** of this Chapter, to determine whether the project has been artificially subdivided, separated, constructed or rehabilitated through the manipulation of the design or implementation schedule in order to evade the provisions of this Chapter. If the Zoning Board so finds, the application shall not be approved.

§ 41:21-4 Exemptions.**[Ord. No. 6PSF-B, 10-4-2017; Ord. No. 6PSF-B(s), 07-26-2022]**

The following shall be exempt from the provisions of this Chapter:

1. All new Residential, Mix Use Development or Substantial Rehabilitation having less than 15 Residential units. Any project that seeks amended site plan application, which increases the number of units to 15 and over should not be exempt from complying with this Chapter.
2. Any new Residential, Mix-Use Development or Substantial Rehabilitation undertaken by the Newark City Housing Authority or a non-profit entity in which at least 50% of the total Residential units in the development are for Low or Moderate Income Housing.
3. Projects that have submitted a complete development application in accordance with N.J.S.A. 40:55D-10.5 prior to the effectiveness of this Chapter, unless the developer seeks a substantial change, modification or amendment

§ 41:21-5 Payment In Lieu of Constructing or Substantially Rehabilitating Income-Restricted Units.**[Ord. No. 6PSF-B, 10-4-2017; Ord. No. 6PSF-B(s), 07-26-2022]**

1. Projects may, with the approval of the Office of City Planning, make a voluntary cash payment into the City of Newark's Affordable Housing Trust Fund in lieu of constructing all or part of the income-restricted units required by this Chapter.
2. The amount of the payment-in-lieu figure is \$180,000 per unit.

The Municipal Council, in consultation with the City of Newark, Department of Economic and Housing Development, should review this construction cost figure every five years.

3. The City may also consider a reduction in the payment-in-lieu should the Developer provide the following community benefits:
 - a. Construction of retail space within specific neighborhoods;
 - b. The rehabilitation of residential homes, to be sold at cost, in specific neighborhood.
4. The Office of City Planning is authorized to approve voluntary cash payment-in-lieu only upon written findings, supported by the record, that such a contribution will further the housing policies of the City of Newark more than the construction of income-restricted units at the time of the development application. In making such findings, the Office of City Planning shall consider and determine the following factors:
 - a. The number of income-restricted units that can be provided with the payment-in-lieu, as compared with the number of new income-restricted units otherwise required to be constructed in the subject development.
 - b. The availability and stage of readiness of any plans for the actual provision of income-

restricted units within the City of Newark on which the payment-in-lieu can be expended.

- c. The reasons which make construction of the required income-restricted units impractical.
- 5. The opportunity to make a voluntary payment in lieu of constructing income-restricted units is not intended to be and should not be construed as a right available to developers at their sole option. The policy of this Chapter favors construction of income-restricted units.
- 6. The Office of City Planning approval of any payment-in-lieu shall be conditioned upon the developer and the City entering into a developer's agreement that details the manner in which the payment-in-lieu commitment will be fulfilled.
- 7. A Developer will not receive a Certification of Occupancy (CO), until the City has received the agreed upon payment in lieu of construction.
- 8. 10% of the voluntary payment in lieu of construction acquired shall be applied or expended within the ward where the development is located. No moratorium or suspension of this allocation requirement may be authorized, except upon Resolution adopted by Municipal Council.
- 9. The Municipal Council, at its discretion and by Ordinance, has the authority to make changes to the amount of the payment-in-lieu on a specific development project.

§ 41:21-6 Compliance Checklist.
[Ord. No. 6PSF-B, 10-4-2017]

A checklist for compliance with this Chapter, in the form attached to and incorporated into this Chapter as Exhibit A ("Checklist"), is hereby adopted. The Zoning Board of Adjustment shall provide the Checklist to each applicant for development who is subject under this chapter. Pursuant to NJSA 40:55D-10.3, applications for development which are subject to this Chapter, but lack information indicated on the Checklist, shall be deemed incomplete.

- 1. Upon receipt of each submitted Checklist, the Zoning Board of Adjustment Clerk or Secretary shall forward a copy of same to the Manager of the City of Newark Division of Housing Assistance in the Department of Economic and Housing Development.
- 2. As soon as reasonably practicable, the Manager of the Division of Housing and Real Estate Development shall submit any written comments which the Manager may have on a completed Checklist to the Zoning Board Clerk or Secretary. Upon receipt, the Zoning Board Clerk or Secretary shall distribute the Manager's written comments to the Zoning Board members.
- 3. Nothing in this Chapter shall be construed as altering any applicable time periods established by New Jersey statute or City of Newark Ordinance for Zoning Office action on a development application.

§ 41:21-7 Phasing.
[Ord. No. 6PSF-B, 10-4-2017]

Construction of income-restricted units shall take place simultaneously with the balance of the development triggering the requirements of this Chapter, and shall be governed by the following phasing schedule:

Maximum % of Market-Rate Units Issued Certificates of Occupancy	Minimum % of Income-Restricted Units Issued Certificates of Occupancy
25% +1 unit	10%
50%	50%
75%	75%
90%	100%

1. Certificates of Occupancy for the last 10% of the market-rate units shall not be issued until Certificates of Occupancy have been issued for all of the required income-restricted units.
2. A schedule setting forth the phasing of the actual number of total units and income-restricted units, by unit size, for each development shall be incorporated into the resolution of approval for any development subject to the provisions of this Chapter.

§ 41:21-8 Affordability Average; Bedroom Distribution.
[Ord. No. 6PSF-B, 10-4-2017]

All income restricted units must be comparable to market rate units. The intent of this Section is to ensure that any development which is subject to this Chapter satisfies the affordability average and bedroom distribution standards set forth at NJAC 5:80-26.3, as same may be amended or supplemented.

§ 41:21-9 Occupancy Standards.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this section is to ensure that any development which is subject to this Chapter satisfies the occupancy standards set forth at N.J.A.C. 5:80-26.4, as same may be amended or supplemented.

1. In determining the initial rents and initial sales prices for compliance with the affordability average requirements for income-restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one person household;
 - b. A one bedroom unit shall be affordable to a 1 1/2 person household;
 - c. A two bedroom unit shall be affordable to a three person household;

- d. A three bedroom unit shall be affordable to a 4 1/2 person household; and
- e. A four bedroom unit shall be affordable to a six person household.
2. For assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one person household;
 - b. A one-bedroom unit shall be affordable to a 1 1/2 person household; and
 - c. A two-bedroom unit shall be affordable to a two person household or to two one-person households.
3. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
 - a. Provide an occupant for each unit bedroom;
 - b. Provide children of different sex with separate bedrooms; and
 - c. Prevent more than two persons from occupying a single bedroom.

§ 41:21-10 Control Periods for Income-Restricted Ownership Units.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section **41:21-10** is to ensure that any development which is subject to this Chapter satisfies the control periods for ownership units set forth at NJAC 5:80-26.5, as same may be amended or supplemented.

1. Each income-restricted ownership unit shall remain subject to the requirements of this Chapter for a period of 30 years; provided, however, that:
 - a. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant agreement or contract.
2. The affordability control period for an income-restricted ownership unit shall commence on the date the initial certified household takes title to the income-restricted unit and shall terminate only at such time as is applicable under Subsection 1 above.
3. Prior to the issuance of the initial Certificate of Occupancy for an income-restricted ownership unit and upon each successive sale during the period of income-restricted ownership, the administrative agent shall determine the income-restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value. At the time of the sale of the unit, the

purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Chapter, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price. The recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit. The recapture note and recapture mortgage lien shall be in favor of the Agency if the unit was financed New Jersey Housing and Mortgage Finance Agency (NJHMFA) contributed to the financing of the unit, and, in all other cases, in favor of the City of Newark. The recapture note and recapture mortgage lien shall be in the form prescribed in Subchapter Appendices L, M, N, O, P and Q of NJAC 5:80-26, as may be amended or supplemented, incorporated herein by reference, and as applicable.

- a. The recapture lien shall also provide that the recapture amount shall be reduced by the cumulative dollar value of capital expenditures by all owners during the control period for improvements and/or upgrades to the unit, as approved by the administrative agent.
- b. In the event that the City of Newark exercises the option to purchase income-restricted ownership units pursuant to Subsection f below, the City of Newark shall not be required to satisfy the recapture lien.
- c. Upon termination of the affordability control period pursuant to Subsection 7 below, and satisfaction of the recapture of the lien, the unit may be sold at fair market value and the proceeds retained by the seller.
4. All conveyances of income-restricted ownership units shall be made by deeds and restrictive covenants substantially in the form prescribed in Subchapter Appendices A, B, C, D, L, M, N, O, P and Q of NJAC 5:80-26, as same may be amended or supplemented, incorporated herein by reference, as applicable.
5. The affordability controls set forth in this Chapter and incorporated in instruments in the forms presented Appendices A, D, E, F, G, H, I, J, K, L, M, N, O, P and Q of NJAC 5:80-26, as same may be amended or supplemented, incorporated herein by reference, shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to income-restricted ownership units.
6. At the time of the first non-exempt sale following a thirty-year interval from the date of the issuance of the initial Certificate of Occupancy, the City of Newark shall have the right of first refusal to purchase an income-restricted ownership unit at the maximum restricted price, with the exceptions noted under Subsection 1 above, provided that:
 - a. The City of Newark enters into a contract to purchase the unit within 60 days of notification of intent to sell by the owner of the restricted unit; and
 - b. The recapture lien described in Subsection 3 above remains in full force and effect.
7. All income-restricted ownership units created pursuant to this Chapter shall be released from the requirements of this Chapter upon the expiration of the applicable control period specified under Subsection 1 above, provided that:

- a. The recapture lien described in Subsection 3 above remains in full force and effect; and
 - b. If the lien required under Subsection 3 above is in favor of the City of Newark, the City of Newark has a COAH-approved spending plan pursuant to NJAC 5:94-6.5(c), as may be amended or supplemented, and to the extent applicable, requiring that all proceeds from the satisfaction of a recapture lien on an income-restricted ownership unit be used to create one new affordable unit for every unit released from affordability controls within the City of Newark.
8. In those instances in which control periods expire pursuant to this Section, the administrative agent shall, within 60 days of the expiration of the control period, execute a release, substantially in form set forth in Appendix F to NJAC 5:80-26, as same may be amended or supplemented, incorporated herein by reference, of all restriction instruments with respect to the unit. The owner of the income-restricted unit is responsible for recording the release instruments and returning the recorded originals promptly to the administrative agent. Upon the expiration of the control period for an income-restricted ownership unit established in this section, the owner of the unit shall be entitled to sell it to any purchaser at the fair market price.

§ 41:21-11 Price Restrictions for Ownership Units.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the price restrictions for ownership units set forth at NJAC 5:80-26.6, as same may be amended or supplemented.

1. The initial purchase price for an income-restricted ownership unit shall be approved by the administrative agent and, if the unit is receiving assistance under the balanced housing program, shall be consistent with the balanced housing grant agreement.
2. The initial purchase price for all income-restricted ownership units except those financed under NJHMFA shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve HR15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of an appropriate household size as determined under NJAC 5:80-26.4, as many be amended or supplemented; provided, however, that the price shall be subject to the affordability average requirement of NJAC 5:80-26.3, as may be amended or supplemented.
3. The initial purchase price of an income-restricted ownership unit financed under NJHMFA unit shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve HR15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of a household whose income does not exceed 45% of median income, in the case of a low-income unit, or 72% of median income, in the case of a moderate-income unit, and that is of an appropriate household size as determined under NJAC 5:80 — 26.4, as may be

amended or supplemented.

4. The maximum resale price for an income-restricted ownership unit, if the resale occurs prior to the one-year anniversary of the date on which title to the unit was first transferred to a certified household, is the initial purchase price. If the resale occurs on or after such anniversary date, the maximum resale price shall be consistent with the regional income limits most recently published by COAH and calculated pursuant to NJAC 5:94-7.2(b), as same may be amended or supplemented. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
5. The master deeds of developments subject to this Chapter shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low-and moderate-income purchasers and those paid by market purchasers.

§ 41:21-12 Buyer Income Eligibility for Ownership Units.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the price restrictions for ownership units set forth at NJAC 5:80-26.7, as same may be amended or supplemented.

1. Low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income. Moderate income ownership units shall be reserved for households with a gross household income less than 80% of median income. For example, a household earning 48% of median income may be placed in any low-income unit; however, a household earning 53% does not qualify for a low-income unit. A household earning 67% of median may be placed in any moderate income housing unit. A household earning less than 50% of median may be placed in a moderate income housing unit. Notwithstanding the foregoing, however, the administrative agent may permit moderate-income purchasers to buy low-income units in housing markets where, as determined by COAH or the Division, as applicable, low-income prices are required but there is an insufficient number of low-income purchasers to permit prompt occupancy of the units. A certified household that purchases an income-restricted ownership unit must occupy it as the principal residence and not lease the unit; provided, however, the administrative agent may permit the owner of an income-restricted ownership unit, upon a showing of hardship, to lease the unit to a certified household for a period not to exceed one year.
2. The administrative agent shall certify a household as eligible for an income-restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees as applicable) does not exceed 33% of the household's eligible monthly income. The administrative agent, however, may exercise the discretion to certify a low-or moderate-income household as eligible despite the fact that the unit's monthly housing cost would exceed the 33% level, if the household obtains a firm

mortgage loan commitment at the higher level from a licensed financial institution, under terms consistent with the requirements of the New Jersey Home Ownership Security Act of 2002, NJSA 46:10B-22 et seq., including certification from a non-profit counselor approved by HUD or the New Jersey Department of Banking and Insurance that the borrower has received counseling on the advisability of the loan transaction.

§ 41:21-13 Limitations on Indebtedness Incurred by Income-Restricted Ownership Unit; Subordination.

[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the indebtedness limitations and subordination standards set forth at NJAC 5:80-26.8, as same may be amended or supplemented.

1. Prior to incurring any indebtedness to be secured by an income-restricted ownership unit, the owner shall submit to the Deputy Mayor/Director of the Department of Economic and Housing Development and the administrative agent a notice of intent to incur such indebtedness, in such form and with such documentary support as determined by the administrative agent, and the owner shall not incur any such indebtedness unless and until the administrative agent has determined in writing that the proposed indebtedness complies with the provisions of this section.
2. With the exception of original purchase money mortgages, during a control period, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by an income-restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the Deputy Mayor/Director of the Department of Economic and Housing Development in accordance with N.J.A.C. 5:80-26.6(c), as same may be amended or supplemented.

§ 41:21-14 Capital Improvements to Ownership Units.

[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the standards for capital improvements to ownership units set forth at NJAC 5:80-26.9, as same may be amended or supplemented.

1. The owners of income-restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits for affordability for the larger household.
2. Upon the resale of an income-restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser

at a reasonable price that has been approved by the administrative agent at the time of signing the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, subject to ten-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at resale.

**§ 41:21-15 Maintenance of Income-Restricted Ownership Units.
[Ord. No. 6PSF-B, 10-4-2017]**

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the standards for maintenance of restricted ownership units set forth at NJAC 5:80-26.10, as same may be amended or supplemented.

1. An income-restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the City of Newark Building Inspector stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended or supplemented.

**§ 41:21-16 Control Periods for Income-Restricted Rental Units.
[Ord. No. 6PSF-B, 10-4-2017]**

The intent of this Section is to ensure that any development which is subject to this Chapter satisfies the control periods for rental units set forth at N.J.A.C. 5:80-26.11, as same may be amended or supplemented.

1. Each income-restricted rental unit created pursuant to this Chapter shall remain subject to the requirements of this Chapter for a period of 30 years; provided, however, that:
 - a. Any unit that, prior to December 20, 2004, received substantive certification from COACH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant agreement or contract.
2. The affordability control period for the income-restricted rental units in a development subject to this Chapter shall commence on the first date that a certified household occupies a unit and shall terminate only at such time that the City of Newark opts to release the unit from the requirements of this Chapter in accordance with Subsection 5 below, except that the affordability controls set forth in this Chapter shall remain in effect until the date on which a rental unit shall become vacant, provided that the occupant household continues to earn a gross annual income of less than 80% of the applicable median income. If, at that time, a rental household's income is found to exceed 80% of the regional median income,

the rental rate restriction shall expire at the later of either the next scheduled lease renewal or 60 days.

3. Deeds of all real property that include income-restricted rental units shall contain deed restriction language substantially in the form set forth in Appendix E to N.J.A.C. 5:80-26, as may be amended or supplemented, incorporated herein by reference. The deed restriction shall have priority over all mortgages on the property. The deed restriction shall be filed by the developer or seller with the records office of Essex County, and a copy of the filed document shall be provided to the administrative agent within 30 days of the receipt of a certificate of occupancy. The preparer of the foregoing instrument shall certify to the administrative agent that the deed restriction language in Appendix E has been included therein.
4. An income-restricted rental unit shall remain subject to the affordability controls of this Chapter despite the occurrence of any of the following events:
 - a. A sublease or assignment of the lease of the unit;
 - b. A sale or other voluntary transfer of the ownership of the unit; or
 - c. The entry and enforcement of any judgment of foreclosure.
5. All income-restricted rental units in any development created pursuant to this Chapter shall be released from the requirements of this Chapter upon the expiration of the minimum control period specified under subsection a above, provided that:
 - a. The administrative agent shall, within 60 days of the expiration of the minimum control period specified under Subsection a above, execute a release, in the form set forth in Appendix F to N.J.A.C. 5:80-26, as may be amended or supplemented, incorporated herein by reference, of all restriction instruments with respect to the unit(s). The owner of the income-restricted unit(s) is responsible for recording the release instruments and returning the recorded originals promptly to the administrative agent. Upon the expiration of the control period for a restricted rental unit established in this Section, the owner of the unit shall be entitled to lease it to any tenant at the fair market rent.

§ 41:21-17 Restrictions on Rents.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the rent restrictions set forth at N.J.A.C. 5:80-26.12, as same may be amended or supplemented.

1. The initial rent for an income-restricted rental unit shall be approved by the administrative agent and, if the unit is receiving assistance under the Balanced Housing Program, shall be consistent with the Balanced Housing grant agreement. The initial rent shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended or supplemented; provided,

however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended or supplemented.

2. At the anniversary date of the tenancy of the certified household occupying an income-restricted rental unit, the rent may be increased, if such increase is consistent with the regional income limits most recently published by COACH, calculated pursuant to N.J.A.C. 5:94-7.2(b), as may be amended or supplemented, and has been filed with the administrative agent. If the landlord has charged a tenant less than the initial maximum allowable rent for a restricted unit, the landlord may, with the approval of the administrative agent, use the maximum allowable rent instead of the current rent in performing this multiplication to establish the rent for the next tenant under a new lease.
3. Approved initial rents may not be increased when an announcement of a COACH-adopted increase occurs during initial lease-up activity. Rents may not be increased more than once a year. Rents may not be increased by more than one COACH-approved increment at one time. Rents may not be increased at the time of a new occupancy if the new occupancy occurs within a year of the last occupancy and prior to the next published COACH-adopted increase. No additional fees or charges may be added to the approved rent (except, in the case of units in an assisted living residence, for the customary charges for food and services) without the express written approval of the administrative agent. Application fees (including the charge for any credit check) may not exceed 5% of the monthly rental of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs of administering the controls in this Section as applicable to the unit.
4. A written lease is required for all income-restricted rental units, except for units in an assisted living residence. Final lease agreements are the responsibility of the landlord and the prospective tenant. Tenants are responsible for security deposits and the full amount of the rent as stated on the lease. All lease provisions shall comply with applicable law. The landlord shall provide the administrative agent with sufficient information for a preparation of a unit inventory form for entry into the centralized affordable housing unit inventory system. The landlord shall submit a copy of each lease entered into with a certified household to the administrative agent within 10 business days after the execution of each lease.
5. Those tenant-paid utilities that are included in the utility allowance shall be so stated in the lease. The allowance for utilities shall be consistent with the utility allowance approved by DACE for its Section 8 program.

§ 41:21-18 Tenant Income Eligibility.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the standards for tenant income eligibility set forth at NJAC 5:80-26.13, as same may be amended or supplemented.

1. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income. Moderate income rental units shall be reserved

for households with a gross household income less than 80% of median income.

2. The administrative agent shall certify a household as eligible for an income-restricted rental unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to NJAC 5:80-26.16, as may be amended or supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - a. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce its housing costs;
 - b. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - c. The household is currently in substandard or overcrowded living conditions;
 - d. The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
 - e. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
3. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection 2 above with the administrative agent, who shall counsel the household on budgeting.

§ 41:21-19 Administrative Agent.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the administrative agent provisions set forth at NJAC 5:80-26.14, as same may be amended or supplemented.

1. The affordability controls set forth in this Chapter shall be administered and enforced by the administrative agent. The primary responsibility of the administrative agent shall be to ensure that the income-restricted units under administration are sold or rented, as applicable, only to low and moderate-income households. Among the responsibilities of the administrative agent are the following:
 - a. Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the provisions of NJAC 5:80-26.15, as may be amended or supplemented;
 - b. Soliciting, scheduling, conducting and following up on interviews with interested households;

- c. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low-or moderate-income unit;
- d. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- e. Creating and maintaining a referral list of eligible applicant households living within the City;
- f. Creating and maintaining a referral list of eligible applicant households living in the COAH region and eligible applicant households with members working in the COAH region where the units are located;
- g. Subject to Section **41:21-3**, Subsection 5 of this Chapter, employing a random selection process when referring households for certification to affordable units;
- h. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- i. Creating and maintaining a file on each income-restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- j. Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of income-restricted units for resale or rental;
- k. Instituting and maintaining an effective means of communicating information to low and moderate-income households regarding the availability of restricted units for resale or rental;
- l. Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
- m. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems;
- n. Processing requests and making determinations on requests by owners of restricted units for hardship waivers;
- o. Communicating with lenders regarding foreclosures;
- p. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to NJAC 5:80-26.10, as may be amended or supplemented;
- q. Notifying the City of an owner's intent to sell a restricted unit;

- r. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's Register of Deeds or County Clerk's Office after the termination of the affordability controls in this Section for each restricted unit;
 - s. Providing annual reports to COAH as required; and
 - t. Such other responsibilities as may be necessary to carry out the provisions of this Chapter.
2. (Reserved)
 3. The administrative agent shall create and shall publish in plain English, and in such other languages as may be appropriate to serving its client base, a written operating manual, as approved by COAH, to the extent applicable, setting forth procedures for administering such affordability controls, including procedures for long-term control of restricted units; for enforcing the covenants set forth in Appendices A, B, C, D and E of NJAC 5:80-26, as may be amended or supplemented, consistent with the provisions of NJAC 5:80-26.18, as may be amended or supplemented; and for releasing income-restricted units promptly at the conclusion of applicable control periods. The administrative agent shall have authority to take all actions necessary and appropriate to carrying out its responsibilities hereunder. The operating manual shall have a separate and distinct Chapter or Section setting forth the process for identifying applicant households seeking certification to restricted units, for reviewing applicant household eligibility, and for certifying applicant households in accordance with the household certification and referral requirements set forth in NJAC 5:80-26.16, as may be amended or supplemented.
 - a. Such process shall require that an applicant household be notified in writing of the results of its application for certification within 20 days of the administrative agent's determination thereof.
 - b. At the discretion of the administrative agent, such process may include either or both an outreach requirement and a face-to-face applicant interview process.
 - c. The administrative agent shall establish and maintain a ready database of applicant households as a referral source for certifications to restricted units, and shall establish written procedures to ensure that selection among applicant households be via the database, and in accordance with a uniformly applied random selection process and all applicable State and Federal laws relating to the confidentiality of applicant records.
 4. Except in the case of income-restricted units created pursuant to this Chapter receiving UHORP or MONI funding, the City of Newark, Division of Housing Assistance shall serve as the administrative agent for income-restricted units which are created pursuant to this Chapter.
 5. The administrative agent shall have the authority to discharge and release any or all instruments filed of record to establish affordability controls.

§ 41:21-20 Affirmative Marketing.
[Ord. No. 6PSF-B, 10-4-2017]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the affirmative marketing standards set forth at NJAC 5:80-26.15, as same may be amended or supplemented.

1. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of income-restricted housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for income-restricted units in the housing region. It is a continuing program that directs all marketing activities toward the housing region and covers the period of deed restriction.
2. The administrative agent shall assure the affirmative marketing of income-restricted units which are created pursuant to this chapter, and shall be responsible for implementing the affirmative marketing plan. The administrative agent shall attend an affirmative marketing training program approved by COAH, if such program is available.
3. The City shall ensure that all original applicant and sales records of income-restricted units are returned to the City for reporting purposes and to aid with future resales.
4. In implementing the affirmative marketing plan, the administrative agent shall designate an experienced staff person approved by COAH, to the extent applicable, to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law. Alternatively, the administrative agent may contract with an experienced agency approved by COAH, to the extent applicable, to provide such counseling services.
5. The affirmative marketing plan shall provide the following information:
 - a. The name and address of the project;
 - b. The number of units, including the number of sales and/or rental units;
 - c. The price of sales and/or rental units;
 - d. The name of the sales agent and/or rental manager;
 - e. A description of the random selection method that will be used to select occupants of affordable housing; and
 - f. Disclosure of required application fees.
6. The affirmative marketing plan shall describe the media to be used in advertising and publicizing the availability of housing. In developing the plan, the administrative agent shall

consider the use of language translations. The plan shall include the following:

- a. The names of specific newspapers of general circulation within the housing region;
 - b. The names of specific radio and television stations broadcasting throughout the housing region;
 - c. The names of other publications circulated within the housing region, such as neighborhood oriented weekly newspapers, religious publications and organizational newsletters;
 - d. The names of employers throughout the housing region that will be contacted to post advertisements and distribute flyers regarding available affordable housing;
 - e. The names of specific community and regional organizations that will aid in soliciting low and moderate income applicants. Such organizations may include non-profit, religious, governmental, fraternal, civic, and other organizations; and
 - f. Other advertising and outreach efforts to groups that are least likely to be reached by commercial media efforts.
7. The affirmative marketing process for available income-restricted units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the administrative agent shall undertake all of the following strategies:
- a. Publication of one advertisement in a newspaper listed under Subsection 6.a above;
 - b. Broadcast of one advertisement by a radio or television station listed under Subsection 6.b above; and
 - c. At least one additional regional marketing strategy using one of the sources listed under Subsections 6.c through 6.f above.
8. Such advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been leased or sold. The advertisement shall include at least the following:
- a. The location of the units;
 - b. Directions to the housing units;
 - c. A range of prices for the housing units;
 - d. The size, as measured in bedrooms, of the housing units;
 - e. The maximum income permitted to qualify for the housing units;
 - f. The location of applications for the housing units;
 - g. The business hours when interested households may obtain an application for a housing

unit; and

- h. Application fees, if any.
9. Applications for income-restricted housing shall be made available in several locations, including, the Essex County Administrative Building; Newark City Hall and the City of Newark Municipal Library; and the developer's sales office. Applications shall be mailed to prospective applicants upon request.
10. The costs of advertising income-restricted units created pursuant to this Chapter shall be the developer's responsibility, and said responsibility shall be a condition of Zoning Board of Adjustment approval.

**§ 41:21-21 Household Certification and Referral; Related Project Information.
[Ord. No. 6PSF-B, 10-4-2017]**

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the provisions for household certification and referral and related project information set forth at NJAC 5:80-26.16, as same may be amended or supplemented.

1. The administrative agent shall secure all information from applicant households necessary and appropriate to determine that income-restricted units are occupied by properly sized households with appropriate low or moderate-income levels. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed and dated certification, as set forth in this Section, and has executed a certificate in the form set forth in Appendices J or K to NJAC 5:80-26, as may be amended or supplemented and as applicable.
2. The administrative agent shall prepare a standard form of certification and shall sign and date one for each household when certified. An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event, certifications shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing at the request of a certified household for an additional period of 180 days at the discretion of the administrative agent.
 - a. When reviewing an applicant household's income to determine eligibility, the administrative agent shall compare the applicant household's total gross annual income to the regional low- and moderate-income limits then in effect. For the purposes of this chapter, income includes, but is not limited to, wages, salaries, tips, commissions, alimony, regularly scheduled overtime, pensions, social security, unemployment compensation, TANF, verified regular child support, disability, net income from business or real estate, and income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds and imputed income from non-income producing assets, such as equity in real estate.
 - b. Except as otherwise specifically provided in this chapter, the sources of income considered

by the administrative agent shall be the types of regular income reported to the Internal Revenue Service and which can be used for mortgage loan approval. Household annual gross income shall be calculated by projecting current gross income over a twelve-month period.

- c. Assets not earning a verifiable income shall have an annual imputed interest income using a current average annual savings interest rate. Assets not earning income include present real estate equity. Applicants owning real estate must produce documentation of a market value appraisal and outstanding mortgage debt. The difference shall be treated as the monetary value of the asset and the imputed interest added to income. If the applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied by the administrative agent, unless the applicant's existing monthly housing costs (including principal, interest, taxes, homeowner and private mortgage insurance, and condominium and homeowner association fees as applicable) exceed 38% of the household's eligible monthly income.
 - d. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance and reasonable property management expenses as reported to the Internal Revenue Service. Other expenses are not deductible. If actual rent is less than fair market rent, the administrative agent shall impute a fair market rent.
 - e. Income does not include benefits, payments, rebates or credits received under any of the following: Federal or State low-income energy assistance programs, food stamps, payments received for foster care, relocation assistance benefits, income of live-in attendants, scholarships, student loans, personal property such as automobiles, lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements, and part-time income of persons enrolled as full-time students. Income, however, does include interest and other earnings from the investment of any of the foregoing benefits, payments, rebates, or credits.
3. The administrative agent shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify the member's income, including income received by adults on behalf of minor children for their benefit. Household members 18 years of age or older who do not receive income must produce documentation of current status.
 4. Income verification documentation may include, but is not limited to, the following for each and every member of a household who is 18 years of age or older:
 - a. Four consecutive pay stubs, not more than 120 days old, including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure;
 - b. Copies of Federal and State income tax returns for each of the preceding three tax years;
 - c. A letter or appropriate reporting form verifying monthly benefits such as Social Security, unemployment, welfare, disability or pension income (monthly or annually);

- d. A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support;
 - e. Income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds; and
 - f. Evidence or reports of income from directly held assets such as real estate or businesses.
5. Court ordered payments for alimony or child support to another household, whether or not it is being paid regularly, shall be excluded from income for purposes of determining income eligibility.
 6. At the discretion of the administrative agent, households may also be required to produce documentation of household composition for determining the correct unit size and applicable median income guide.
 7. A certificate of eligibility may be withheld by the administrative agent as a result of an applicant's inability to demonstrate sufficient present assets for down payment or security deposit purposes, subject to development phasing that may provide opportunity for future savings.
 8. A certificate of eligibility may be withheld by the administrative agent as a result of an applicant's inability to verify funds claimed as assets, household composition or other facts represented.
 9. A certificate of eligibility shall be denied by the administrative agent as a result of any willful and material misstatement of fact made by the applicant in seeking eligibility.
 10. The administrative agent shall screen households that apply for low-and moderate-income housing for preliminary income eligibility, by comparing their total gross annual income to the regional low-and moderate-income limits adopted for that year by COAH.
 11. The following information shall promptly be provided to the administrative agent by the developer or sponsor of any project containing any affordable units subject to the requirements of this chapter, upon the latter of either final municipal land use approval or issuance of a grant contract by a governmental authority:
 - a. The total number of units in the project, and number of income-restricted units, broken down by bedroom size, identifying which are low-and which are moderate-income units, and including street addresses of restricted units;
 - b. Floor plans of all income-restricted units, including complete and accurate identification of uses and dimensions of all rooms;
 - c. A project map identifying the locations of income-restricted units and market units;
 - d. A list of project principals or partners, together with a list of all other affordable projects in which they have been involved over the previous five years;

- e. Projected construction schedule;
 - f. Proposed pricing for all units, including any purchaser options and add-on items;
 - g. A list of all public funding sources, and copies of grant or loan agreements for those sources;
 - h. Condominium fees or homeowner association and any other maintenance or other fees;
 - i. Estimated real property taxes for sale units;
 - j. Sewer, trash disposal and any other utility assessments;
 - k. Flood insurance requirement, if applicable;
 - l. A description of all HVAC systems;
 - m. Location of any common areas and elevators;
 - n. Proposed form of lease for any rental units;
 - o. The name of the person who will be responsible for official contact with the administrative agent for the duration of the project; and
 - p. The State-approved Planned Real Estate Development public offering statement and/or master deed where available.
12. Subject to Section **41:21-3**, Subsection 5 of this Chapter, the administrative agent shall employ a random selection process when referring households for certification to income-restricted units which are created pursuant to this Chapter.

§ 41:21-22 **Enforcement.**

[Ord. No. 6PSF-B, 10-4-2017; Ord. No. 6PSF-B(s), 07-26-2022]

The intent of this Section is to ensure that any development which is subject to this Chapter complies with the enforcement provisions set forth at NJAC 5:80-26.18, as same may be amended or supplemented.

- 1. The Deputy Mayor/Director of the Department of Economic and Housing Development shall liaison with the administrative agent on all matters related to this Section as may be necessary and appropriate from time to time.
- 2. The City shall ensure that all income-restricted units are identified as affordable within the Tax Assessor's Office and any Municipal Utility Authority (MUA). The City and any MUA shall promptly notify the administrative agent of a change in billing address, payment delinquency of two consecutive billing cycles, transfer of title, or institution of a writ of foreclosure on all income-restricted units.

3. The City shall provide all reasonable and necessary assistance in support of the administrative agent's efforts to ensure effective compliance with the controls set forth in this Chapter.
4. Administrative agent practices and procedures shall include the following:
 - a. Securing from all developers and sponsors of income-restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;
 - b. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of NJAC 5:80-26, as may be amended or supplemented;
 - c. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent can be made;
 - d. Annual mailings to all owners of income-restricted units, reminding them of the following notices and requirements:
 - i. If the unit is owner-occupied, that the unit may be resold only to a household that has been approved in advance and in writing by the administrative agent;
 - ii. That no sale of the unit shall be lawful, unless approved in advance and in writing by the administrative agent, and that no sale shall be for a consideration greater than regulated maximum permitted resale price, as determined by the administrative agent;
 - iii. That no refinancing, equity loan, secured letter of credit, or any other mortgage obligation or other debt secured by the unit may be incurred except as approved in advance and in writing by the administrative agent, and that at no time will the administrative agent approve any debt, if incurring the debt would make the total of all such debt exceed 95% of the then applicable maximum permitted resale price;
 - iv. That the owner of the unit shall at all times maintain the unit as his or her principal place of residence, which shall be defined as residing at the unit at least 260 days out of each calendar year;
 - v. That, except as set forth in NJAC 5:80-26.18(c)4vii, as may be amended or supplemented, at no time shall the owner of the unit lease or rent the unit to any person or persons, except on a short-term hardship basis, as approved in advance and in writing by the administrative agent;
 - vi. That the maximum permitted rent chargeable to income-restricted tenants is as stated in the notice required to be posted in accordance with NJAC 5:80- 26.18(d)3, as may be amended or supplemented, a copy of which shall be enclosed, and that copies of all leases for income-restricted rental units must be submitted annually to the administrative agent;

- vii. If the income-restricted unit is a two-family home, that the owner shall lease the rental unit only to certified households approved in writing by the administrative agent, shall charge rent no greater than the maximum permitted rent as determined by the administrative agent, and shall submit for written approval of the administrative agent copies of all proposed leases prior to having them signed by any proposed tenant; and
- viii. That no improvements may be made to any unit that would affect its bedroom configuration, except as provided in subsection (a) of NJAC 5:80-26.9(a), as may be amended or supplemented, and in any event, that no improvement made to the unit will be taken into consideration to increase the maximum permitted resale price, except for improvements approved in advance and in writing by the administrative agent;
- e. Securing annually from the City lists of all income-restricted units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- f. Establishing a program for diverting unlawful rent payments to the City of Newark Affordable Housing Trust Fund or other appropriate municipal fund approved by the DCA. For purposes of this subsection, unlawful rent payments shall mean:
 - i. All rent monies paid by a person who has not been duly certified in accordance with the provisions of NJAC 5:80-26.16, as may be amended or supplemented;
 - ii. All rent paid by a person or persons renting an ownership unit from an owner who has moved out of his or her unit illegally;
 - iii. Rent paid by a lawful tenant in excess of amounts permitted by law; and
 - iv. Rent paid to an income-restricted unit owner who is claiming a hardship, when the owner has not received prior authorization from the administrative agent as is provided for under the provisions of NJAC 5:80-26.7(a), as may be amended or supplemented; and
- g. Establishing a rent-to-equity program, to be implemented in situations where an income-restricted unit owner has unlawfully rented out his or her unit, and where the tenant has entered into a tenancy without knowledge of its unlawful nature. Under such rent-to-equity program, the tenant, including the immediate family of such tenant, shall be given an opportunity to purchase the unit from the owner, and the owner shall be compelled to sell the unit to the tenant, with the total of all rent paid to the owner being credited to tenant as down payment money paid to the affordable owner. Anything herein to the contrary notwithstanding, any person offered a unit under such a rent to equity program must first be certified as eligible under the provisions of NJAC 5:80-26.16, as may be amended or supplemented.
- h. Each development subject to this Chapter shall pay a \$2,000 fee to the City of Newark to cover the administrative costs associated with the administration and enforcement hereof. The Municipal Council, in consultation with the City of Newark, Department of Economic and Housing Development, should appoint staff to oversee inclusionary zoning ordinance compliance from board approval to permit and/or certificate of occupancy. Once

inclusionary units are completed, monitoring and stewardship of rental units and especially homeownership units by dedicated staff on an ongoing basis to ensure that units remain affordable and that the program is meeting its stated goals is crucial to the success of the ordinance. In addition, the Municipal Council, in consultation with the City of Newark, Department of Economic and Housing Development, should appoint staff for ongoing program administration.

§ 41:21-23 COAH Action.
[Ord. No. 6PSF-B, 10-4-2017]

Where the provisions of this Chapter are dependent upon COAH adopting or publishing certain increases, increments or limits, and if COAH has in fact not adopted or published such increases, increments or limits within two years of the date when such publication or adoption was to be made by COAH, then the administrative agent shall make a reasonable determination, based on appropriate standards used by State or Federal government agencies, as to the applicable increase, increment or limit.

§ 41:21-24 When Effective.
[Ord. No. 6PSF-B, 10-4-2017]

This Chapter shall take effect in all Wards in the City of Newark as follows:

1. Any developer subject to this Chapter that is substantially rehabilitating a residential and/or mixed use development 40 or more units in the City of Newark, this Chapter shall be effective January 1, 2019;
2. Any developer subject to this Chapter that is not requesting a tax abatement and/or subsidy from the City of Newark, this Chapter shall be effective January 1, 2019
3. Any developer subject to this Chapter, except those developers subject to Subsections 1 and 2 under this Section, this Chapter shall be effective on January 1, 2018;
4. Any development that has received its new foundation permit by the above-listed deadline of January 1, 2018, will not be subject to the provisions of this Chapter.

§ 41:21-25 Severability.
[Ord. No. 6PSF-B, 10-4-2017]

If any Section, Subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

§ 41:21-26 Repealer.
[Ord. No. 6PSF-B, 10-4-2017]

All ordinances or parts of ordinances inconsistent herewith are repealed as to such

inconsistencies.

§ 41:21-27 **Effective Date.**
[Ord. No. 6PSF-B, 10-4-2017]

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

Chapter 41:22

Shipping Containers

[Adopted by the City Council of the City of Newark October 21, 2020 by Ord. No. 6PSF-Q, 10-21-2020. Amendments noted where applicable.]

§ 41:22-1 **DEFINITIONS.**
[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020]

As used in this chapter:

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 section, owner may also mean "shipping container operator."

SHIPPING CONTAINER OPERATOR

Means any owner, manager, company, or other entity that stores shipping containers, ISO containers, ISO shipping containers, or TEU's on property within the City of Newark.

SHIPPING CONTAINER(S)

Shall be defined as any ISO Container(s), TEU, or any other storage unit utilized for the shipment of goods.

SHIPPING CONTAINER, ISO CONTAINER, or ISO SHIPPING CONTAINER

Means any standardized shipping container 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 20 feet in length and eight feet in width, 40 feet in length and eight feet in width, and 53 feet in length and eight feet in width.

STORAGE PERIOD

Means the period of time during which the Shipping Container has been stored on the property.

STORED

Means placed or left on a property and otherwise not placed in transit for a period of more than 30 days.

TEU or TWENTY-FOOT EQUIVALENT UNIT

Means a measure of capacity of ISO shipping containers used to approximate the comparable size of the various types of ISO containers. For the purposes of this legislation, the TEU measure for any ISO container shall be the result of dividing the base area measured in feet of any ISO container, determined by multiplying its external length by its external width, by the number 160.

§ 41:22-2 SHIPPING CONTAINERS PROHIBITED IN CERTAIN ZONES AND REDEVELOPMENT AREAS.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020]

1. Prohibition of shipping containers within residential zones (R-1 through R-6), commercial zones (C-1, C-2, and C-3), mixed use zones (MX-1, MX-2, and MX-3), institutional zones, and all redevelopment areas subject to a redevelopment plan, unless expressly permitted in the plan, including Newark's River Public Access and Redevelopment Plan, which includes industrial districts.
2. No property within the prohibited zones and redevelopment areas shall contain any stored shipping containers on such property. Any owner violating this chapter shall be assessed fines per container, as specified below:

Storage Period	Maximum Fine Per Day of Storage
From day 1 through day 30	\$100
From day 31 through day 60	\$125
From day 61 through day 90	\$150
In excess of 90 days	\$200

§ 41:22-3 LICENSE REQUIREMENT OF SHIPPING CONTAINERS OPERATORS.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020; amended 4-6-2022 by Ord. No. 6PSF-d, 04-06-2022]

Any operator or owner of a company storing shipping containers within any zoning district in the City of Newark must apply for a "Shipping Container Storage License" from the Zoning Office of the City of Newark to continue operations. The license must be renewed yearly. Any shipping container operator that satisfies the conditions for an exemption under § 41:22-6 paragraph 5 will not be required to obtain a "Shipping Container Storage License."

§ 41:22-4 FEES FOR SHIPPING CONTAINER LICENSES; STORAGE FEES.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020]

1. Fees for the shipping container license are specified as follows:

Number of Containers	License Fee (per year)
1-500	\$1,000
501-1000	\$2,000
Greater than 1000	\$2,000 for the first 1,000 containers plus \$500 for each additional container over 1000 containers.

2. Daily fee for storage of shipping containers that are stored for more than 30 days shall be as follows:

From day 1 through day 30	No daily fee.
From day 31 through day 60	\$0.20 per container per day
From day 61 through day 90	\$0.30 per container per day
In excess of 90 days	\$1 per container per day

§ 41:22-5 REPORTING.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020]

1. On the last business day of each month, shipping container operators shall provide the following information to the City of Newark's Office of Planning and Zoning:
 - a. Report indicating total number of containers at the site.
 - b. The report must indicate how many containers have been at the site for periods of 30 days, 60 days, 90 days, and greater than 90 days.
 - c. Shipping container operator must indicate in its report any fees or penalties owed to the City, based upon the fee schedule in Section **41:22-4**, and remit payment with report.
 - d. Shipping container operator must certify to the reported figures under penalty of perjury, license revocation, and personal liability of the owner.
2. Reporting shall be administered by the Office of Special Taxes and Licensing, which shall create a publicly accessible form and a report submission protocol.

§ 41:22-6 SHIPPING CONTAINER ZONING REGULATIONS.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020; amended 4-6-2022 by Ord. No. 6PSF-

d, 04-06-2022]

1. Applications for storage of shipping containers that are compliant with the zoning regulations shall be reviewed and permitted by site plan approval by the Central Planning Board of the City of Newark. The Central Planning Board shall review issues regarding whether the stored shipping containers occupy a substantial area of the parcel, grading, drainage, environmental conditions, and other aspects of site plan. Prior to the Central Planning Board review, a preliminary review shall be performed by the Board Planner and Department of Engineering.
2. Maximum stack height within permitted zones shall be four shipping containers.
3. Sufficient spacing must be created between containers to permit proper inspection and rodent control.
4. Surveillance cameras must be installed on site to prevent trespassers and criminal activity.
5. Shipping Container Operators whose: (a) principal business is shipping; (b) business is located on property leased by the Port Authority from the City of Newark and is contiguous to shipping waterways; (c) has received proof from Port Newark Container Terminal of acceptable safety protocols; (d) allows the City of Newark to conduct periodic inspections of its facility and/or property; and (e) submits a safety report to the City of Newark, Department of Engineering, are exempt from obtaining a Shipping Container Storage License and shall be permitted to stack a maximum height of eight (8) shipping containers within the permitted zones.

§ 41:22-7 PENALTY FOR OPERATING WITHOUT A LICENSE OR FOR VIOLATION OF SHIPPING CONTAINER ZONING REGULATIONS.

[Added 10-21-2020 by Ord. No. 6PSF-Q, 10-21-2020]

1. Any shipping container operator found to store shipping containers within the City of Newark without a shipping container license shall be subject to daily fines as specified below:

Storage period	Maximum fine per day of storage
From day 1 through day 30	\$100 plus \$0.10 for each container
From day 31 through day 60	\$125 plus \$0.13 for each container
From day 61 through day 90	\$150 plus \$0.15 for each container
In excess of 90 days	\$200 plus \$0.20 for each container

2. Violators shall be additionally obligated to remit unpaid license fees based upon the fee schedule in Section **41:22-4**.

