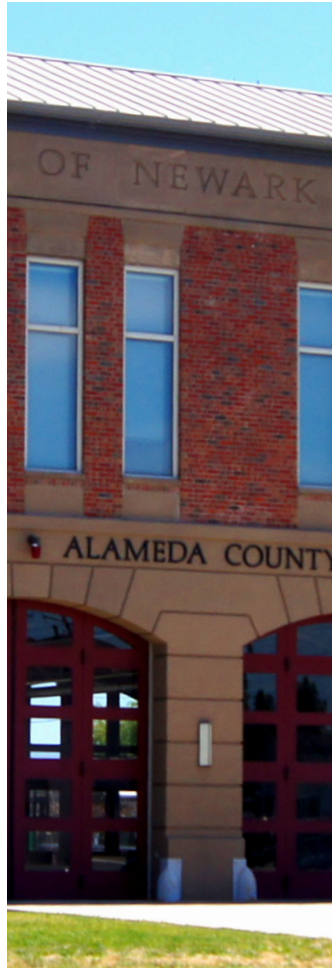


City of Newark

# NEW ZONING ORDINANCE



*Adopted*

January 25, 2018





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## **Chapter 17.01 Purpose and Effect of the Zoning Ordinance**

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### **17.01.010 Title**

Title 17 of the Newark Municipal Code shall be known and cited as the “Newark Zoning Ordinance,” “Zoning Ordinance of the City of Newark,” “Zoning Ordinance,” or “Ordinance.”

### **17.01.020 Authority**

The Newark Zoning Ordinance is adopted pursuant to the authority contained in Section 65850 of the California Government Code.

### **17.01.030 Purpose**

The purpose of this Ordinance is to implement the City’s General Plan and to protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Ordinance is adopted to achieve the following objectives:

- A. Provide standards for the orderly growth and development of the City, and guide and control the use of land to provide a safe, harmonious, attractive, and sustainable community.
- B. Achieve the arrangement of land uses depicted in the Newark General Plan, consistent with the goals and policies of the General Plan.
- C. Enhance the appearance of the City.
- D. Preserve and enhance the quality of life and character of residential neighborhoods.
- E. Promote economic growth and the creation of jobs.
- F. Promote and support a multi-modal transportation system.
- G. Facilitate the appropriate location of community facilities, institutions and parks and recreational areas.
- H. Allow for public participation in government decision-making regarding land use and development in a manner consistent with State law.
- I. Define duties and powers of administrative bodies and officers responsible for implementation of the Ordinance.

### **17.01.040 Relationship to General Plan**

This Ordinance implements the goals and policies of the Newark General Plan by regulating the use of land and structures within the City. This Ordinance and the General Plan shall be consistent with one another. Any permit, license or approval issued pursuant to this Ordinance must be consistent with the General Plan and all applicable specific plans. In any case where there is a conflict between this Ordinance and the General Plan, the General Plan shall prevail.

### 17.01.050 Applicability

- A. **Applicability to Property.** This Ordinance shall apply, to the extent permitted by law, to all property within the corporate limits of the City of Newark and to property for which applications for annexation and/or subdivisions have been submitted to the City of Newark, including all uses, structures and land owned by any private person, firm, corporation or organization, or the City of Newark or other local, State or federal agencies. Any governmental agency shall be exempt from the provisions of this Ordinance only to the extent that such property may not be lawfully regulated by the City of Newark.
- B. **Minimum Requirements.** The provisions of this Ordinance shall be minimum requirements for the promotion of the public health, safety, and general welfare. Where this Ordinance provides for more discretion on the part of a City official or body, that discretion may be exercised to impose more stringent requirements than set forth in this Ordinance as may be necessary to promote orderly land use development and the purposes of this Ordinance.
- C. **Compliance with Regulations.** No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district, except in accordance with the provisions of this Ordinance, including the development and performance standards herein, and any permit issued pursuant hereto. The temporary or transitory nature of a use does not exempt it from this requirement.
- D. **Conflicting Regulations.** The regulations of this Ordinance and requirements or conditions imposed pursuant to this Ordinance shall not supersede any other regulations or requirements adopted or imposed by the Newark City Council, the State of California, or any federal agency that has jurisdiction by law over uses and development authorized by this Ordinance. All uses and development authorized by this Ordinance shall comply with all other such regulations and requirements. Where conflict occurs between the provisions of the Ordinance and any other City ordinance, chapter, resolution, guideline or regulation, the more restrictive provisions shall control, unless otherwise specified.
- E. **Private Agreements.** This Ordinance shall not interfere with or annul any recorded easement, covenant, or other agreement now in effect, provided that where this Ordinance imposes greater restriction than imposed by an easement, covenant, or agreement, this Ordinance shall control. The City of Newark shall not be responsible for monitoring or enforcing private agreements.
- F. **Prior Ordinance.** The provisions of this Ordinance supersede all prior Zoning Ordinances codified in Title 17 of the Newark Municipal Code and any amendments. No provision of this Ordinance shall validate any land use or structure established, constructed or maintained in violation of the prior Zoning Ordinance, unless such validation is specifically authorized by this Ordinance and is in conformance with all other regulations.
- G. **Effect on Previously Approved Projects and Projects in Progress.**
  - 1. **Building Permit.** Any building or structure for which a Building Permit has been issued may be completed and used in accordance with the plans, specifications and permits on which said Building Permit was granted, provided at least one inspection has been requested and posted for the primary structure on the site where the permit is issued and provided construction is diligently pursued and completed within six months of permit issuance. No extensions of time except as provided for in the Building Code shall be

granted for commencement of construction, unless the applicant has secured an allowed permit extension from the Planning Division.

2. ***Previously Approved Land Use Authorization.*** This Zoning Ordinance shall not interfere with, repeal, abrogate, or annul any previously granted land use authorization. All allowances, requirements, and conditions of approval of previous land use authorizations shall apply until the applicable review authority specifically repeals the allowance, requirement, or condition.
3. ***Land Use Authorization in Process.*** An application for a discretionary land use authorization that has been accepted by the Planning Division as complete for processing prior to the adoption of this Ordinance or any applicable amendment shall be processed according to the requirements of this Zoning Ordinance or the prior Ordinance upon written request from the project applicant. The written request shall be made no later than 30 days after the effective date of this Zoning Ordinance and at least one action must be taken by the review authority within 210 days of the effective date of this Ordinance.

- H. **Application During Local Emergency.** The City Council may authorize a deviation from a provision of this Ordinance during a local emergency declared and ratified under the Newark Municipal Code. The City Council may authorize a deviation by resolution without notice or public hearing.

#### **17.01.060 Responsibility for Administration**

The Zoning Ordinance shall be administered by the Newark City Council, Planning Commission, Zoning Administrator, and Community Development Department as established in Chapter 17.30, Planning Authorities.

#### **17.01.070 Severability**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Newark City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, regardless of the fact that any or one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

#### **17.01.080 Fees**

The City Council shall establish by resolution, and may amend and revise from time to time, fees for processing the discretionary entitlement applications and other permits authorized or required by this Ordinance. All fees shall be paid at the time an application is filed, and no processing shall commence until the fees are paid in full.

## Chapter 17.02 Interpretation of the Zoning Ordinance

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### 17.02.010 Purpose

The purpose of this Chapter is to provide precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this Chapter apply throughout the Ordinance, except where the context indicates a different meaning.

### 17.02.020 Rules of Interpretation

In interpreting the various provisions of the Ordinance, the following rules of interpretation shall apply:

- A. **General Rules.** The following general rules apply to the interpretation and application of the Zoning Ordinance.
1. The specific controls the general.
  2. In case of conflict between the text and a figure, illustration, heading, caption, diagram or graphic, the text controls.
  3. Sections and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section.
  4. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
    - a. "And" indicates that all connected words or provisions shall apply.
    - b. "And/or" indicates that the connected words or provisions may apply singularly or in any combination.
    - c. "Or" indicates that the connected words or provisions may apply singularly or in any combination.
    - d. "Either . . . or" indicates that the connected words or provisions shall apply singularly but not in combination.
  5. The words "shall," "will," "must" and "is to" are always mandatory and not discretionary. "Should" is a regulation that is not mandatory, but must be either fulfilled or the applicant must demonstrate an alternative that fulfills the intent of the regulation. "May" is permissive.
  6. The present tense includes the past and future tenses, and the future tense includes the past.
  7. The singular number includes the plural, and the plural, the singular.
  8. All references to departments, committees, commissions, boards, or other public agencies are to those of the City of Newark, unless otherwise indicated.
  9. All references to public officials are to those of the City of Newark, and include designated deputies of such officials, unless otherwise indicated.



- B. **Calendar Days.** All references to days are to calendar days, unless otherwise indicated. If a deadline falls on a weekend or holiday, or a day when the City offices are closed, it shall be extended to the next working day. The end of a time period shall be the close of business on the last day of the period.
- C. **Definitions.** The Director shall make the interpretation for any definition not expressly identified in this Ordinance.
- D. **Uncertainty of Boundaries.** If an uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply:
  - 1. Boundaries indicated as approximately following the centerlines of alleys, lanes, streets, highways, streams or railroads shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following lot lines, city limits, or extraterritorial boundary lines shall be construed as following such lines, limits or boundaries.
- E. **Parcels Containing Two or More Zoning Districts.**
  - 1. For parcels containing two or more zoning districts, the location of the zoning district boundary shall be determined by the Director.
  - 2. For parcels containing two or more zoning districts, the applicable regulations for each district shall apply.

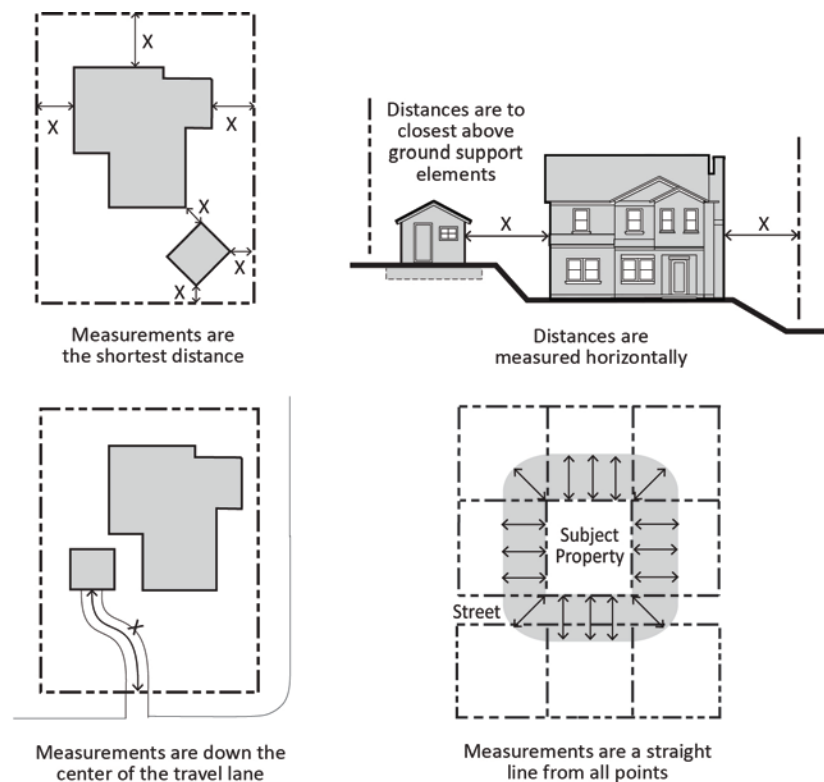
### 17.02.030 Rules of Measurement

For all calculations, the applicant shall be responsible for supplying drawings illustrating the measurements that apply to a project. These drawings shall be drawn to scale and of sufficient detail to allow easy verification upon inspection by the Director.

- A. **Fractions.** Whenever this Ordinance requires consideration of distances, parking spaces, dwelling units or other aspects of development or the physical environment expressed in numerical quantities, and the result of a calculation contains a fraction of a whole number, the results will be rounded as follows:
  - 1. **General Rounding.** Fractions of one-half (0.5) or greater shall be rounded up to the nearest whole number and fractions of less than one-half (0.5) shall be rounded down to the nearest whole number, except as otherwise provided.
  - 2. **Exception for State Affordable Housing Density Bonus.** The calculation of fractions related to permitted bonus density units for projects eligible for bonus density pursuant to Government Code Section 65915 or any successor statute, and Chapters 17.18, Affordable Housing Program and 17.19, Density Bonus for Affordable Housing, any fractional number of units shall be rounded up to the next whole number.
- B. **Measuring Distances.**
  - 1. **Measurements are Shortest Distance.** When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.
  - 2. **Distances are Measured Horizontally.** When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the

appropriate line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography or slope of the land.

3. **Measurements Involving a Structure.** Measurements involving a structure are made to the closest support element of the structure. Structures or portions of structures that are entirely underground are not included in measuring required distances.
4. **Measurement of Vehicle Stacking or Travel Areas.** Measurement of a minimum travel distance for vehicles, such as garage entrance setbacks and stacking lane distances, are measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the center arc of the driveway or traffic lane.
5. **Measuring Radius.** When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject project, in all directions.



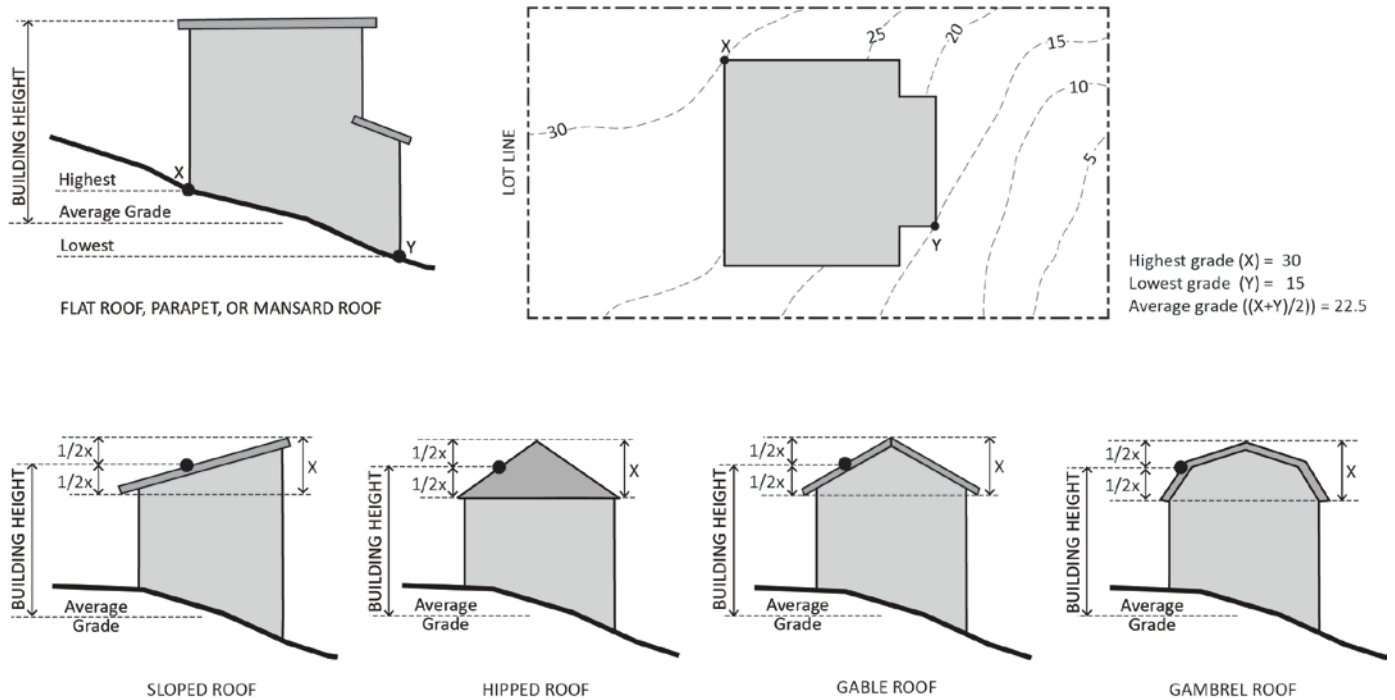
**FIGURE 17.02.030.B: MEASURING DISTANCES**

**C. Measuring Height.**

1. **Measuring Building Height.** Building height is measured from the average level of the highest and lowest points where the vertical plane of the exterior walls touch existing or finished grade, whichever is lower, to the highest point on the roof, the top of the parapet

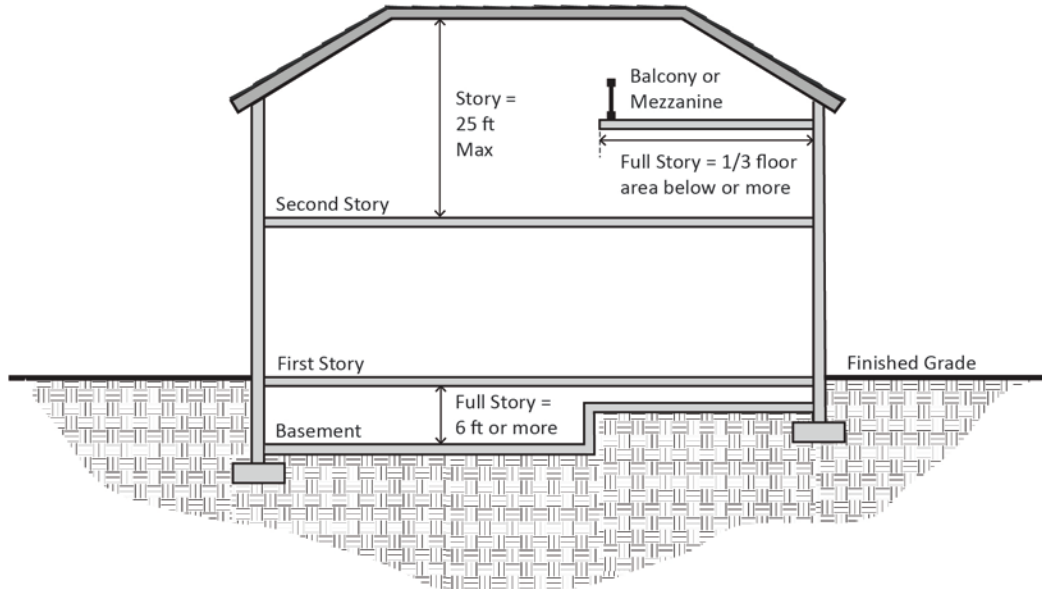
wall, the wall coping of a flat roof, or the deck line of a mansard roof except as provided below.

- a. *Sloped, Hipped, Gable, or Gambrel Roof.* The height of a building with a sloped, hipped, gables, or gambrel roof is measured to a point that is half the distance between the highest point on the ridge and where the eave meets the plate.



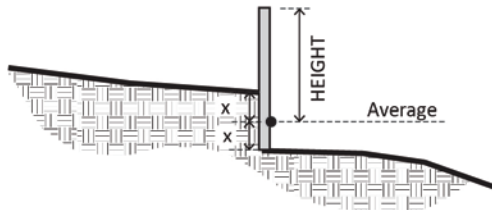
**FIGURE 17.02.030.C.1: MEASURING BUILDING HEIGHT**

2. **Measuring the Number of Stories.** In measuring the number of stories in a building, the following rules shall apply:
  - a. An interior balcony or mezzanine shall be counted as a full story if its floor area exceeds one-third of the total area of the nearest full floor directly below it or if it is enclosed on more than two sides.
  - b. A basement shall be counted as a full story if the vertical distance between finished grade and the finished surface of the floor above the basement is more than six feet at any point.
  - c. A story shall not exceed 25 feet in height from the upper surface of the floor to the ceiling above.



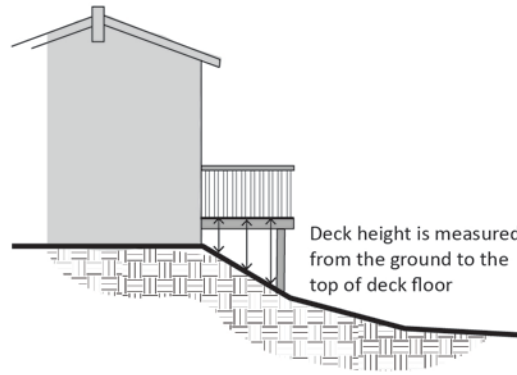
**FIGURE 17.02.030.C.2: MEASURING THE NUMBER OF STORIES**

3. **Measuring Height of Fences or Walls.** The height of a fence or wall is measured as the vertical distance from the average of the ground levels immediately adjacent to both sides of the fence or wall to the highest point of such fence or wall.



**FIGURE 17.02.030.C.3: MEASURING HEIGHT OF FENCES OR WALLS**

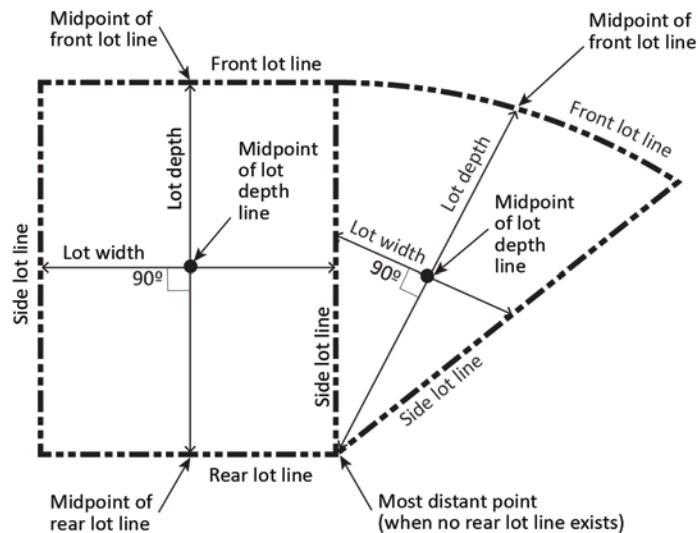
4. **Measuring the Height of Decks.** Deck height is determined by measuring from the ground to the top of the floor of the deck directly above the ground below.



**FIGURE 17.02.030.C.4: MEASURING THE HEIGHT OF DECKS**

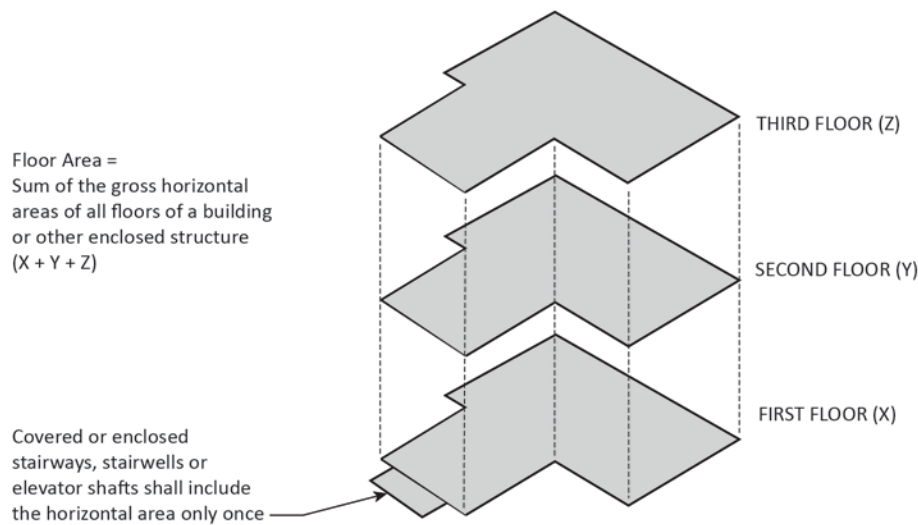
**D. Measuring Lot Width and Depth.**

1. **Lot Width.** Lot width is the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
2. **Lot Depth.** Lot depth is measured along a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line or to the most distant point on any other lot line where there is no rear lot line.



**FIGURE 17.02.030.D: MEASURING LOT WIDTH AND DEPTH**

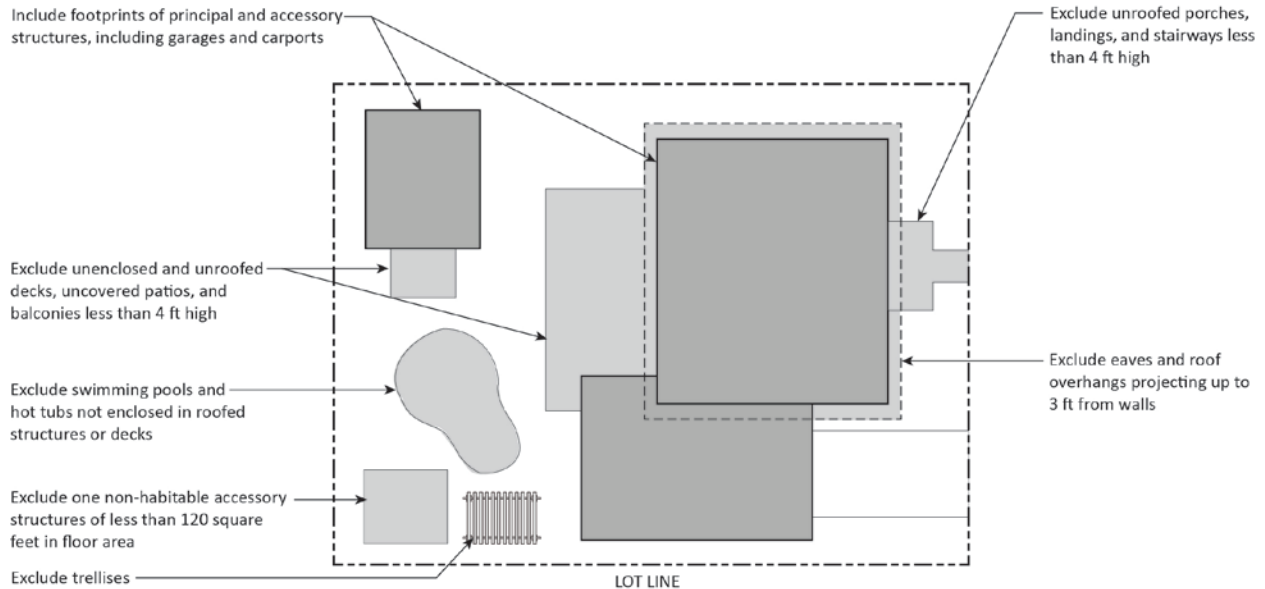
- E. **Determining Average Slope.** The average slope of a parcel is calculated using the following formula:  $S = 100(I)(L)/A$ , where:
1. S = Average slope (in percent)
  2. I = Contour interval (in feet)
  3. L = Total length of all contour lines on the parcel (in feet)
  4. A = Area of subject parcel (in square feet)
- F. **Determining Floor Area.** The floor area of a building is the sum of the gross horizontal areas of all floors of a building or other enclosed structure, measured from the outside perimeter of the exterior walls and/or the centerline of interior walls.
1. **Included in Floor Area.** Floor area includes, but is not limited to, all habitable space (as defined in the Building Code) that is below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of party walls separating such buildings or portions thereof or within lines drawn parallel to and two feet within the roof line of any building without walls. In the case of a multi-story building that has covered or enclosed stairways, stairwells or elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.
  2. **Excluded from Floor Area.** Floor area does not include mechanical, electrical, and communication equipment rooms that do not exceed two percent of the building's gross floor area; bay windows or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is 30 inches or greater; areas that qualify as usable open space; and in non-residential buildings, areas used for off-street parking spaces or loading spaces, driveways, ramps between floors of a multi-level parking garage, and maneuvering aisles that are located below the finish grade of the property.
  3. **Non-Residential Uses.** For non-residential uses, gross floor area includes pedestrian access interior walkways or corridors, interior courtyards, walkways, paseos, or corridors covered by a roof or skylight. Non-residential gross floor area does not include arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.



**FIGURE 17.02.030.F: MEASURING FLOOR AREA**

- G. **Determining Floor Area Ratio.** The floor area ratio (FAR) is the ratio of the floor area, excluding the areas described below, of all primary and accessory buildings on a site to the site area. To calculate the FAR, floor area is divided by site area, and typically expressed as a decimal. For example, if the floor area of all buildings on a site totals 20,000 square feet, and the site area is 10,000 square feet, the FAR is expressed as 2.0.
1. **Excluded from Floor Area in Calculating FAR.**
    - a. *Underground Areas.* Floor area located below finished grade.
    - b. *Parking.* Parking areas located below finished grade or finished floor of habitable space where the vertical distance between finished grade and finished floor is less than six feet.
- H. **Determining Lot Coverage.** Lot coverage is the ratio of the total footprint area of all structures on a lot to the net lot area, typically expressed as a percentage. The footprints of all principal and accessory structures, including garages, carports, covered patios, and roofed porches, shall be summed in order to calculate lot coverage. The following structures shall be excluded from the calculation:
1. Unenclosed and unroofed decks, uncovered patio slab, porches, landings, balconies and stairways less than four feet in height;
  2. Eaves and roof overhangs projecting up to three feet from a wall;
  3. Trellises and similar structures that have roofs that are at least 50 percent open to the sky through with uniformly distributed openings;
  4. Swimming pools and hot tubs that are not enclosed in roofed structures or decks; and

5. One small, non-habitable accessory structure under 120 square feet. Structures above quantity of one shall be included in lot coverage.



**FIGURE 17.02.030.H: DETERMINING LOT COVERAGE**

**I. Determining Lot Frontage.**

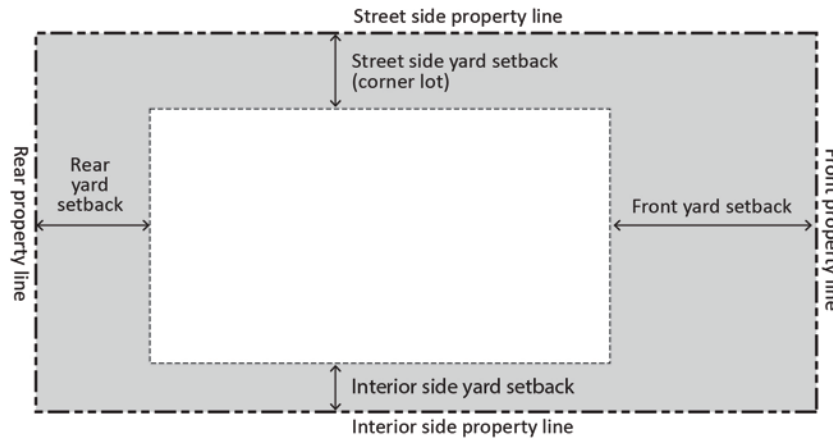
1. **Corner Lot.** The front of a lot is the narrowest dimension of the lot with street frontage.
2. **Through Lot.** The front of a through lot abuts the street that neighboring lots use to provide primary access.

**J. Determining Setbacks (Yards).** A setback line defining a required yard is parallel to and at the specified distance from the corresponding front, side, or rear property line. Required setbacks shall be unobstructed from the ground to the sky except where allowed pursuant to Section 17.17.090, Projections into Yards and Required Building Separations, subject to compliance with the Building Code. The following special regulations for determining yards apply when a lot abuts a proposed street or alley.

1. **Yards Abutting Planned Street Expansions.** If a property abuts an existing or proposed street for which the existing right-of-way is narrower than the right-of-way ultimately required for the street, the required setback shall be established from the future right-of-way rather than the property line.
2. **Yards on Alleys.**
  - a. If a side lot line abuts an alley, the yard shall be considered an interior side yard rather than a corner side yard.



- b. In computing the minimum yard for any lot where such yard abuts an alley, no part of the width of the alley may be considered as part of the required yard.



**FIGURE 17.02.030.J: DETERMINING SETBACKS (YARDS)**

- K. **Measuring Signs.** The calculations of measurements related to signs are described in Chapter 17.25, Signage Standards.

## Chapter 17.03 Zoning Districts and Zoning Map

### 17.03.010 Districts Established

The City shall be classified into districts or zones, the designation and regulation of which are set forth in this Ordinance and as follows.

- A. **Base Zoning Districts.** Base zoning districts into which the City is divided are established as shown in Table 17.03.010, Base and Overlay Zoning Districts.
- B. **Overlay Zoning Districts.** Overlay zoning districts, one or more of which may be combined with a base district, are established as shown in Table 17.03.010, Base and Overlay Zoning Districts.

<b>TABLE 17.03.010: BASE AND OVERLAY ZONING DISTRICTS</b>		
<i>Zoning District Symbol</i>	<i>Zoning District Name</i>	<i>General Plan Land Use Designation Implemented by Zoning District</i>
<b>Residential Districts</b>		
RS	Residential Single Family	Low Density Residential
RL	Residential Low Density	Low-Medium Density Residential
RM	Residential Medium Density	Medium Density Residential
RH	Residential High Density	High Density Residential
<b>Commercial and Mixed Use Districts</b>		
NC	Neighborhood Commercial	Neighborhood Commercial
CMU	Commercial Mixed Use	Commercial Mixed Use
CR	Commercial Retail	Community Commercial
CC	Community Commercial	Community Commercial
RC	Regional Commercial	Regional Commercial
<b>Employment Districts</b>		
PO	Professional Office	Office Commercial
BTP	Business and Technology Park	Special Industrial
LI	Limited Industrial	Limited Industrial
GI	General Industrial	General Industrial
<b>Public and Semi-Public Districts</b>		
PF	Public Facilities	Public-Institutional
TS	Transit Station	Public-Institutional
PK	Park	Parks and Recreation Facilities
OS	Open Space	Conservation-Open Space

<b>TABLE 17.03.010: BASE AND OVERLAY ZONING DISTRICTS</b>		
<i>Zoning District Symbol</i>	<i>Zoning District Name</i>	<i>General Plan Land Use Designation Implemented by Zoning District</i>
<b>Resource Production District</b>		
RP	Resource Production	Salt Harvesting, Refining, and Production
<b>Overlay District</b>		
-FBC	Form Based Code	Not Applicable
-PD	Planned Development	Not Applicable

**17.03.020 Official Zoning Map and District Boundaries**

The boundaries of the zoning districts established by this Ordinance are not included in this Ordinance but are shown on the Official Zoning Map maintained by the City Clerk. The Official Zoning Map, together with all legends, symbols, notations, references, zoning district boundaries, map symbols, and other information on the maps, have been adopted by the Council and are hereby incorporated into this Ordinance by reference, together with any amendments previously or hereafter adopted, as though they were fully included here.

## **Chapter 17.04 Reserved**

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## **Chapter 17.05 Reserved**

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## **Chapter 17.06 Reserved**

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## Chapter 17.07 Residential Districts

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### 17.07.010 Purpose and Applicability

The specific purposes of Residential Districts are to:

- A. Provide for a full range of housing types consistent with the General Plan;
- B. Preserve, protect and enhance the character of the City's different residential neighborhoods and the quality of life of City residents;
- C. Ensure adequate light, air, privacy, and open space for each dwelling;
- D. Ensure that the scale and design of new development and alterations to existing structures are compatible with surrounding homes and appropriate to the physical characteristics of the site and the area where the project is proposed; and
- E. Provide sites for public and semi-public land uses such as parks, schools, day care, and other community uses that will serve City residents and will complement surrounding residential development.

Additional purposes of each Residential District are as follows:

**RS Residential Single Family.** This District is intended for residential densities up to 8.7 units per net acre. It provides for single-family residential developments on lots typically larger than 5,000 square feet. In addition to single-family homes, this District provides for other compatible uses, such as schools, childcare centers, parks, and community facilities that may be appropriate in a single-family residential neighborhood. This District implements the Low Density Residential General Plan Land Use Designation.

**RL Residential Low Density.** This District is intended for residential densities up to 15 units per net acre. Densities at the higher end of this range are only allowed on properties which have their primary access on an arterial or collector street and which are found to be compatible with the character and intensity of residential development in the area. This District provides for small lot single family homes, zero lot line and patio homes, mobile home parks, and other areas characterized by a mix of older single-family homes and small multi-unit buildings. These areas have the basic characteristics of single-family neighborhoods. In addition, this District provides for other compatible uses, such as schools, childcare centers, parks, and community facilities that may be appropriate in a low density residential neighborhood. This District implements the Low-Medium Density Residential General Plan Land Use Designation.

**RM Residential Medium Density.** This District is intended for residential densities from 14 to 30 units per net acre. Densities at the higher end of this range are only allowed on properties which have their primary access on an arterial or collector street and which are found to be compatible with the character and intensity of residential development in the area. This District provides for garden apartments and condominiums, townhomes, row houses, four- to eight-plexes, and older areas that contain a mix of multi-family and single-family homes within this range. These areas tend to be multi-family in character but retain some of the characteristics of suburban neighborhoods. In addition, this District provides for other compatible uses, such as schools, childcare centers, parks, and community facilities that may be

appropriate in a medium density residential neighborhood. This District implements the Medium Density Residential General Plan Land Use Designation.

**RH Residential High Density.** This District is intended for residential densities from 25 to 60 units per net acre. It provides for apartment and condominium complexes that are generally three stories or more. On larger parcels with this designation, common open space and other shared amenities are typically provided. In addition, this District provides for other compatible uses, such as schools, childcare centers, parks, and community facilities that may be appropriate in a high density residential neighborhood. This District implements the High Density Residential General Plan Land Use Designation.

**17.07.020 Land Use Regulations**

Table 17.07.020, Land Use Regulations-Residential Districts, prescribes the land use regulations for Residential Districts. Use classifications are defined in Chapter 17.45, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. Section numbers in the right hand column refer to other sections of this Ordinance.

<b>TABLE 17.07.020: LAND USE REGULATIONS-RESIDENTIAL DISTRICTS</b>					
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>					
<i>Use Classification</i>	<i>RS</i>	<i>RL</i>	<i>RM</i>	<i>RH</i>	<i>Additional Regulations</i>
<b>Residential Uses</b>					
Residential Housing Types					
<i>Single-Unit Dwelling, Detached</i>	P	P	P	P	
<i>Single-Unit Dwelling, Attached</i>	-	P	P	P	See Section 17.07.040.D, Single Unit Attached and Multi-Unit Development
<i>Two-Unit Dwelling</i>	-	P	P	P	
<i>Multi-Unit Development</i>	-	P	P	P	See Section 17.07.040.D, Single Unit Attached and Multi-Unit Development
<i>Accessory Dwelling Unit</i>	P	P	P	P	See Section 17.26.040, Accessory Dwelling Units
Family Day Care					
<i>Small</i>	P	P	P	P	
<i>Large</i>	M	M	M	M	See Section 17.26.090, Day Care
Group Residential	-	-	M	M	
Residential Care Facilities					
<i>Small</i>	P	P	P	P	
<i>Large</i>	-	M	M	M	See Section 17.26.220, Residential Care Facilities
Residential Facility, Assisted Living	-	M	M	M	



<b>TABLE 17.07.020: LAND USE REGULATIONS-RESIDENTIAL DISTRICTS</b>					
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>					
<i>Use Classification</i>	<i>RS</i>	<i>RL</i>	<i>RM</i>	<i>RH</i>	<i>Additional Regulations</i>
Single Room Occupancy	-	-	-	C	See Section 17.26.230, Single Room Occupancy Units
Supportive Housing	Transitional and supportive housing constitute a residential use and are subject only to those restrictions that apply to other residential uses of the same type in the same district.				
Transitional Housing					
<b>Public/Semi-Public Uses</b>					
Community Assembly	-	C	C	C	
Community Garden	P	P	P	P	See Section 17.26.080, Community Gardens
Cultural Institutions	-	C	C	C	
Day Care Centers	-	C	C	C	See Section 17.26.090, Day Care
Emergency Shelter	-	-	M	P	See Section 17.26.110, Emergency Shelters
Hospital and Clinics					
<i>Skilled Nursing Facility</i>	-	-	C	C	
Park and Recreation Facilities	P	P	P	P	
Public Safety Facilities	C	C	C	C	
Schools	C	C	C	C	
Social Service Facilities	-	-	M	M	
<b>Transportation, Communication, and Utility Uses</b>					
Communication Facilities					
<i>Telecommunication</i>	See Section 17.26.250, Telecommunication Facilities				
Public Works and Utilities	C	C	C	C	
<b>Other Applicable Types</b>					
Accessory Uses and Structures	See Section 17.17.020, Accessory Buildings and Structures, and Section 17.26.030, Accessory Uses				
Home Occupations	See Section 17.26.140, Home Occupations				
Nonconforming Use	See Chapter 17.22, Nonconforming Provisions				
Solar Energy Systems	See Section 17.26.240, Solar Energy Systems				
Temporary Use	See Section 17.26.260, Temporary Uses				

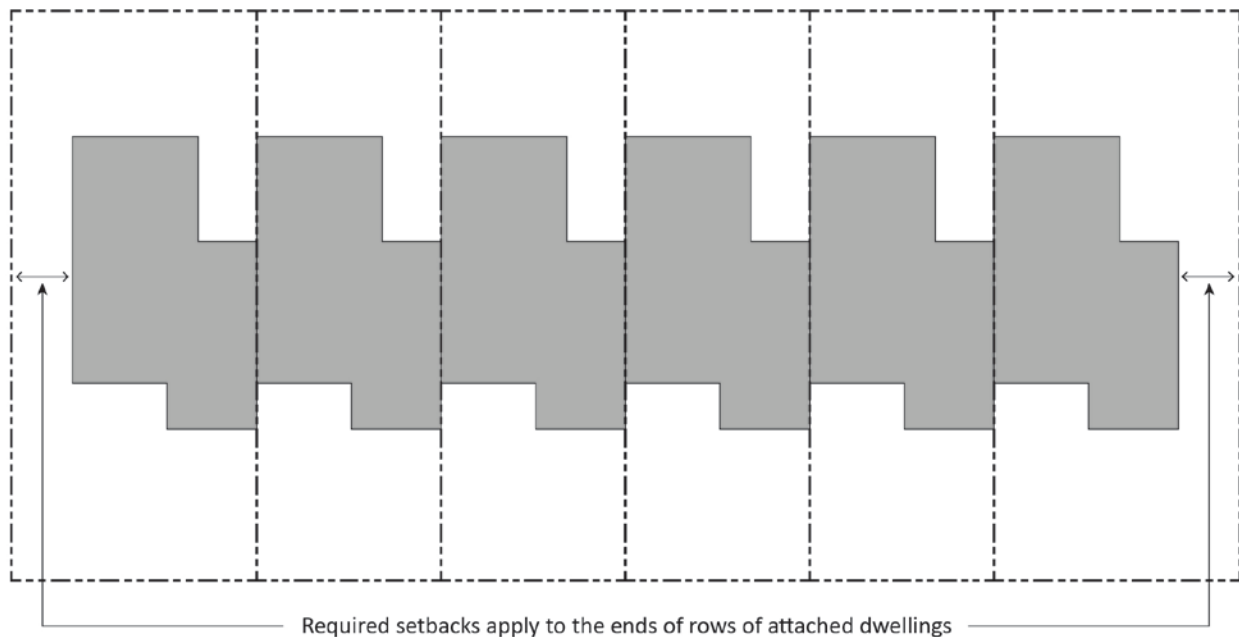
### 17.07.030 Development Standards

Table 17.07.030, Development Standards-Residential Districts, prescribes the development standards for Residential Districts. Additional regulations are denoted in the right hand column. Section numbers in this column refer to other sections of this Ordinance.

<b>TABLE 17.07.030: DEVELOPMENT STANDARDS-RESIDENTIAL DISTRICTS</b>					
<i>Standard</i>	<i>RS</i>	<i>RL</i>	<i>RM</i>	<i>RH</i>	<i>Additional Regulations</i>
<b>Lot and Density Standards</b>					
Density (units/net acre)					
<i>Maximum</i>	8.7	11; up to 15 subject to (A) below	22; up to 30 subject to (A) below	60	
<i>Minimum</i>	n/a	n/a	14	25	
Minimum Lot Size (sq ft)	RS-10,000: 10,000 RS-8,000: 8,000 RS-7,000: 7,000 RS-6,000: 6,000	6,000, 3,000 for Single-Unit Dwelling, Detached	6,000	6,000	
Minimum Lot Width (ft)	RS-10,000: 80 RS-8,000: 70 RS-7,000: 65 RS-6,000: 60	60	60	60	
Minimum Lot Depth (ft)	100	80	100	100	
Minimum Frontage on a Public Street (ft)	60	40	40	40	
<b>Building Form and Location</b>					
Maximum Height (ft)	30	35	75, 35 within 20 ft of an RS or RL District	100, 35 within 20 ft of an RS or RL District	See Section 17.17.050, Height and Height Exceptions
Minimum Setbacks (ft)					
<i>Front</i>	20	20	15	15	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Interior Side</i>	5	5(B)	5(B)	5(B)	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Street Side</i>	10	10	8	8	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Rear</i>	20	15	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations

TABLE 17.07.030: DEVELOPMENT STANDARDS-RESIDENTIAL DISTRICTS					
Standard	RS	RL	RM	RH	Additional Regulations
Distance Between Main Structures (ft)	n/a	n/a	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations
Lot Coverage, Landscape, and Open Space Standards					
Maximum Lot Coverage (% of lot)	50	50	55	55	
Minimum Landscaping (% of lot)	25	25	25	25	At least half of the landscape area shall be provided along public rights-of-way or near sidewalks. See Chapter 17.21, Landscaping
Minimum Open Space (sq ft per residential unit)	n/a	400(C)	300(C)	200(C)	

- A. **Additional Density, RL and RM Districts.** Up to 15 units/net acre in the RL District and up to 30 units/net acre in the RM District are allowed on properties which have their primary access on an arterial or collector street and which are found to be compatible with the character and intensity of residential development in the immediate area subject to Conditional Use Permit approval.
- B. **Attached Single-Unit Dwellings.** Required setbacks apply to the ends of rows of attached single-unit dwellings.



**FIGURE 17.07.030.B: ATTACHED SINGLE-UNIT DWELLINGS**

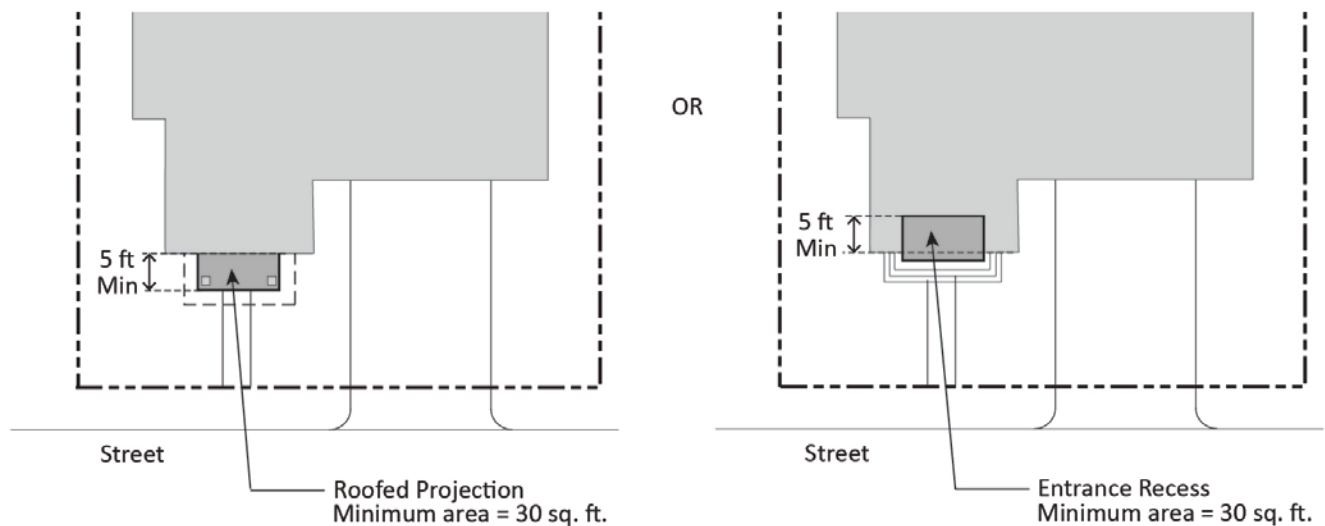
- C. **Open Space.** Open space, unoccupied by main or accessory structures and open and unobstructed to the sky, shall be provided in accordance with the following standards.
1. **Single-Unit and Two-Unit Development.** Required usable open space may consist of a single area or several adjacent or separate areas.
    - a. *Minimum Dimensions.* Minimum dimension of 15 feet.
    - b. *Location.*
      - i. Must be provided on the site at ground level.
      - ii. Required open space shall not be located in a required front or street side setback.
      - iii. No portion of required open space shall be used for driveways of off-street parking facilities.
  2. **Multi-Unit Development.** Required usable open space may consist of a single area or several adjacent or separate areas. All occupants shall have access to and use of one or more of such areas.
    - a. *Type of Open Space.* A minimum 50 percent of the required open space shall be provided as Common Open Space. The rest of the required open space shall be provided as Private Open Space.
      - i. Private areas typically consist of balconies, decks, patios, fenced yards, and other similar areas outside the residence.
      - ii. Common areas typically consist of landscaped areas, patios, swimming pools, barbeque areas, tennis courts, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the development.
    - b. *Minimum Dimensions.*
      - i. Private Open Space. Private open space located on the ground level (e.g., yards, decks, patios) shall have no dimension less than 10 feet. Private open space located above ground level (e.g., balconies) shall have no dimension less than six feet.
      - ii. Common Open Space. Minimum dimension of 20 feet.
    - c. *Usability.* A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, decking, or other serviceable, dust-free surfacing. Slope shall not exceed 10 percent.
    - d. *Location.*
      - i. Required open space shall not be located in a required front or street side setback.
      - ii. No portion of required open space shall be used for driveways of off-street parking and loading facilities or as access to more than one dwelling unit.

- iii. Open space may be located on the roof of buildings or required off-street parking facilities
- e. *Accessibility.*
  - i. Private Open Space. The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
  - ii. Common Open Space. The space shall be accessible to the living units on the lot. It shall be served by any stairway or other access way qualifying as an egress facility from a habitable room.
- f. *Screening.* Required private open space shall be screened by a solid fence or visually solid fence not less than six feet in height when located at ground level and by a solid railing or visually solid railing not less than 42 inches in height when located on a balcony or balconies.

#### **17.07.040 Supplemental Regulations**

- A. **Paving.** The maximum amount of paving in street-facing yards is 50 percent of the required yard.
- B. **Parking of Commercial Vehicles Prohibited.** No commercial vehicle in excess of 10,000 pounds manufacturer's gross vehicle weight rating shall be parked or stored on any lot in a Residential District. This section shall not prohibit temporary parking of any such vehicle while making pickups or deliveries or providing services for the residents of the lot on which the vehicle is parked.
- C. **Vehicle and Equipment Repairs or Fabrication.** Repair, fabrication or other work on automobile or vehicle or equipment on residential premises shall be subject to the following conditions and restrictions:
  - 1. Such work shall be limited to those vehicles or equipment which may be stored within a private garage upon residential premises.
  - 2. Such work shall be done only upon such vehicles or equipment which are owned by an occupant of the residential premises.
  - 3. Such work shall be done only between the hours of 8:00 a.m. and 8:00 p.m.
  - 4. Such work shall not be done in a public right-of-way.
  - 5. Storage of parts for such vehicles or equipment on the premises shall be limited to those parts reasonably necessary for the repair of the occupant's vehicle or equipment.
  - 6. Such work shall be limited to minor repair and service on noncommercial vehicles to include such things as battery replacement, tire repair, brake servicing, changing of small parts, oil changes and lubrication, engine tune-up and similar routine maintenance and preventative maintenance work.
- D. **Single Unit Attached and Multi-Unit Development.** All attached single unit and multi-unit development shall meet the following development standards. Exceptions may be granted through Design Review to accommodate alternative design solutions.
  - 1. **Building Entrances.**

- a. *Orientation.* All units located along public rights-of-way must have the primary entrance facing this right-of-way. Exceptions to this requirement may be approved for projects where multi-unit housing is located on four-lane streets carrying high traffic volumes and/or streets that do not allow on-street parking. In such cases, the project may be oriented around courtyards.
- b. *Projection or Recess.* Building entrances must have a roofed projection (such as a porch) or recess with a minimum depth of at least five feet and a minimum horizontal area of 30 square feet. Exceptions to this requirement may be approved for alternative designs that create a welcoming entry feature facing the street, such as trellis or landscaped courtyard entry.



**FIGURE 17.07.040.D.1.B: PROJECTION OR RECESS**

- c. *Dwelling Unit Access.* Exterior entrances to units shall be in a form of individual or shared entrances at the ground floor of the building. Unit entrances above the ground floor are also permitted; however, no exterior access corridor located above the ground floor may provide access to five or more units.

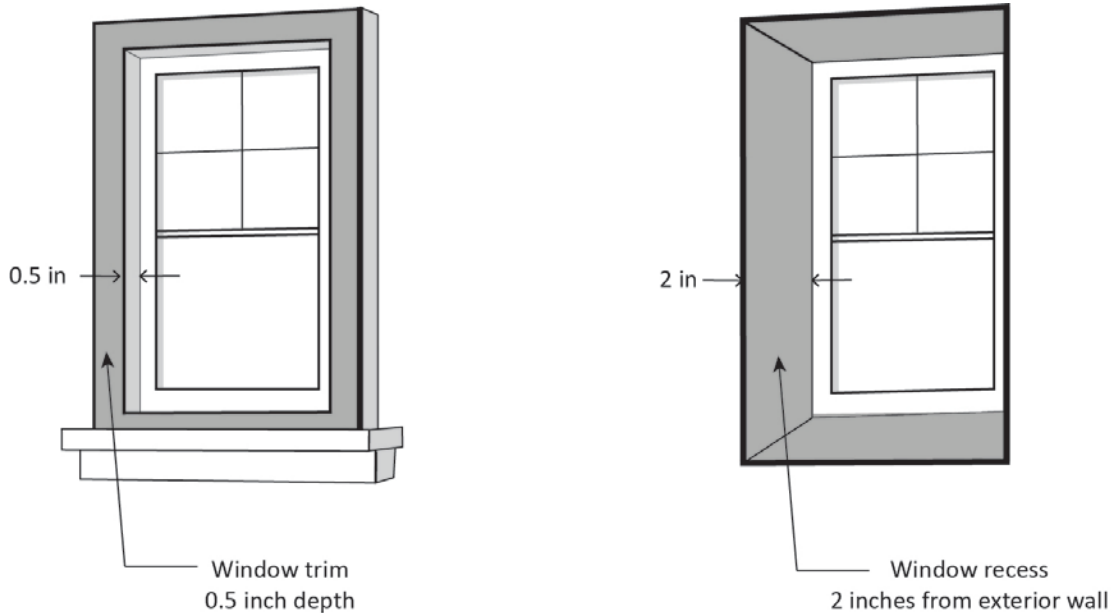
2. **Building Design.** Buildings shall include adequate design features to create visual variety and avoid a large-scale and bulky appearance.
  - a. **Roof Line.** The roof line at each elevation shall demonstrate an offset of at least 18 inches for each one to three units exposed on that elevation. Large, continuous roof planes are prohibited.



The roof line for each elevation shall be offset at least 18 inches for each one to three units exposed on that elevation.

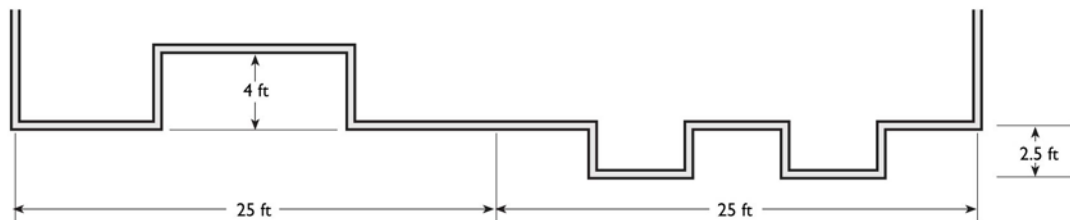
**FIGURE 17.04.040.D.2.A: ROOF LINE**

- b. *Window Trim or Recess.* Trim at least one-half inch in depth shall be provided around all windows, or window must be recessed at least two inches from the plane of the surrounding exterior wall.



**FIGURE 17.07.040.D.2.B: WINDOW TRIM OR RECESS**

- c. *Façade Articulation.* All street-facing façades shall have at least one horizontal or vertical projection or recess at least two feet in depth, or two projections or recesses at least two and one-half feet in depth, for every 25 horizontal feet of wall. If located on a building with two or more stories, the articulated elements must be greater than one story in height, and may be grouped rather than evenly spaced in 25-foot modules. Building entrances and front porches and projections into required yards such as stoops, bays, overhangs, fireplaces, and trellises may count towards meeting this requirement.

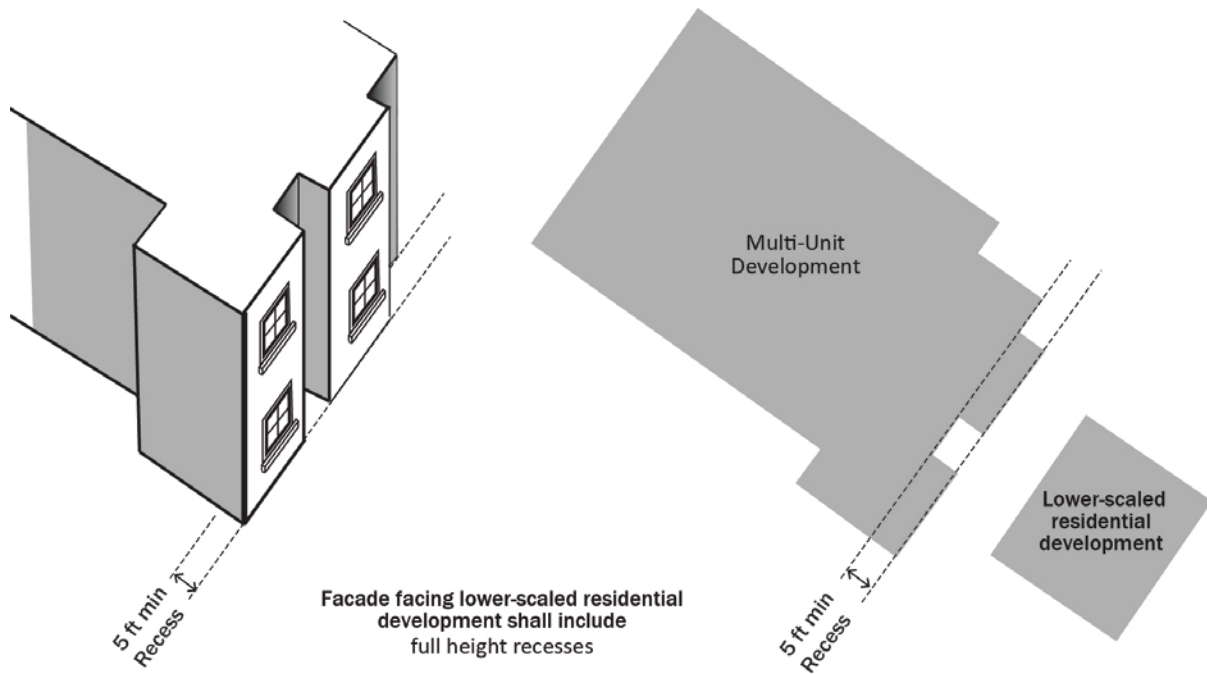


Street-facing facades shall have at least one projection or recess at least 4 feet in depth, or two projections or recesses at least 2.5 feet in depth, for every 25 linear feet of wall.

**FIGURE 17.07.040.D.2.C: FAÇADE ARTICULATION**

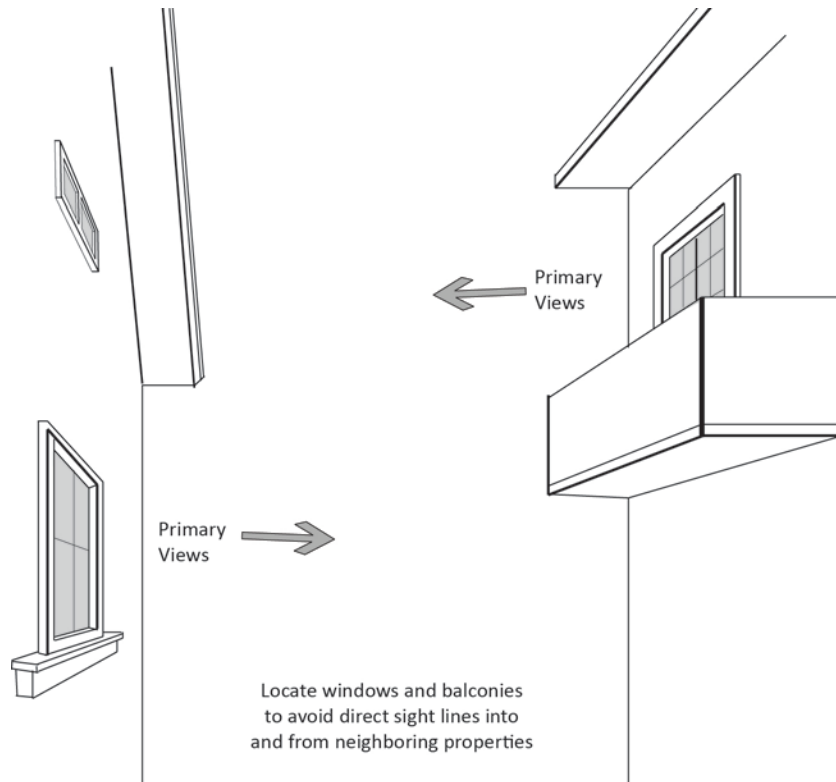


- d. *Façade Detailing and Materials.* All visible building façades shall incorporate details, such as window and door trim, window recesses, cornices, changes in materials or other design elements, in an integrated composition. Each side of a building that is visible from a public right-of-way shall be designed with a complementary level of detailing and quality of materials.
- e. *Building Colors.* Every building shall have at least two complementary colors.
- f. *Building Materials.* All materials shall be high quality to allow for long-term durability and appearance.
- g. *Transition Areas.* Where new multi-unit development is built adjacent to existing lower-scaled residential development, the façade facing the existing lower-scaled residential development shall be designed to provide architectural relief and interest, while also respecting the scale of adjacent neighbors.
  - i. Full-Height Recesses. Full-height recesses, a minimum of five feet deep, shall be provided along the facade to break the building into smaller discrete masses.



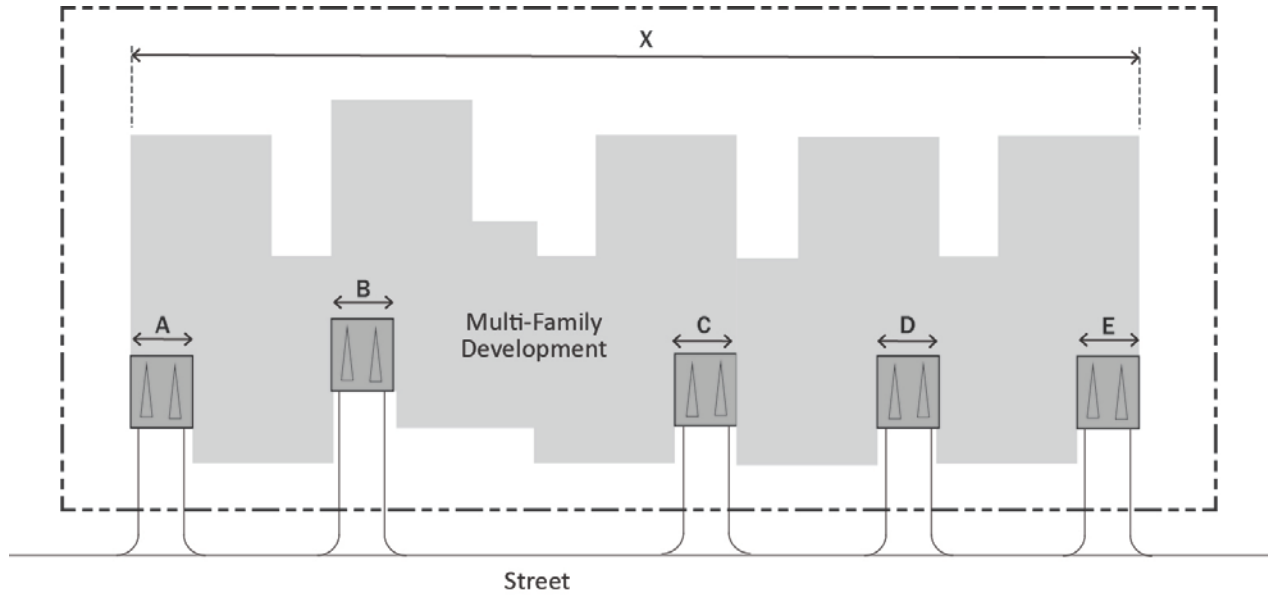
**FIGURE 17.07.040.D.2.G.I: FULL-HEIGHT RECESSES**

- ii. Window and Balcony Placement. Offset windows to avoid direct sight lines into and from neighboring properties. Position balconies and other private open space so they minimize views into neighboring properties.



**FIGURE 17.07.040.D.2.G.II: WINDOW AND BALCONY PLACEMENT**

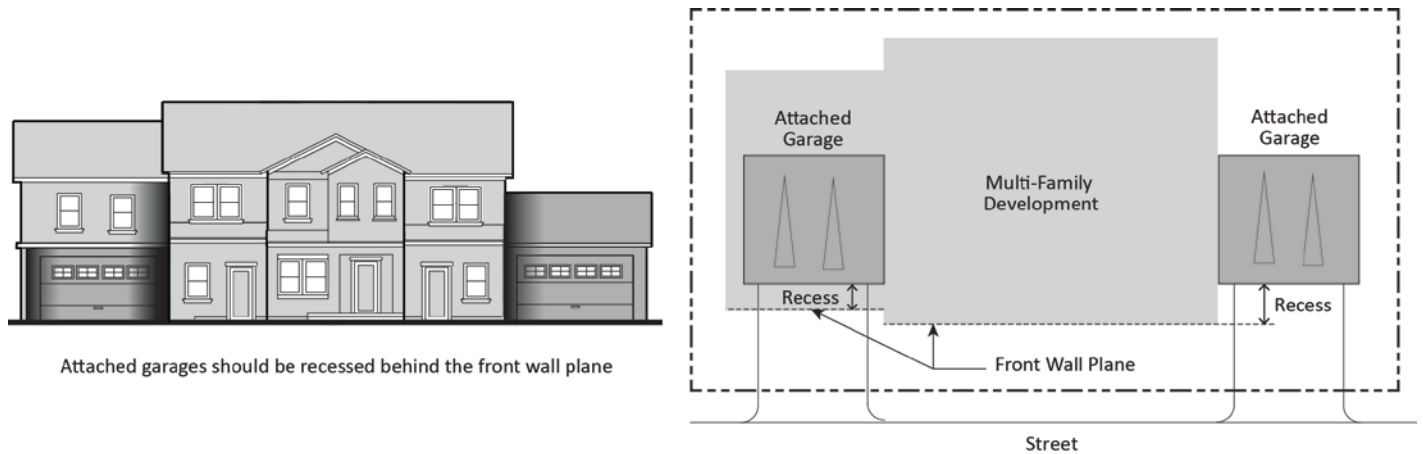
3. **Garage Frontage.** Limit the appearance of attached garages. Garage width shall not exceed 50 percent of the linear street-facing elevation of any multi-unit development.



Attached garage width shall not exceed 50% of the linear street-facing elevation.  
 $(A+B+C+D+E) < (X/2)$

**FIGURE 17.07.040.D.3: GARAGE FRONTAGE**

- a. Attached garages located on the unit frontage should be recessed behind the front elevation wall plane.



**FIGURE 17.07.040.3.A: ATTACHED GARAGES**

- b. Garage placement should minimize paved area and maximize usable open space areas on the site.
4. **Parking Area Limitation.** Uncovered parking areas shall not exceed 20 percent of the total site area unless a greater area is approved through Design Review.
5. **Pedestrian Access.** On-site pedestrian circulation and access shall be provided according to the following standards.
  - a. **Internal Connections.** A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.
  - b. **To Circulation Network.** Regular connections between on-site walkways and the public sidewalk and other planned or existing pedestrian routes shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage.
  - c. **To Neighbors.** Direct and convenient access shall be provided to adjoining residential and commercial areas to the maximum extent feasible while still providing for safety and security.
  - d. **To Transit.** Safe and convenient pedestrian connections shall be provided from transit stops to building entrances.
  - e. **Pedestrian Walkway Design.**
    - i. Walkways shall be a minimum of six feet wide, shall be hard-surfaced, and paved with concrete, stone, tile, brick, or comparable material.

- ii. Where a required walkway crosses parking areas or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
- iii. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

## Chapter 17.08 Commercial and Mixed Use Districts

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### 17.08.010 Purpose and Applicability

The specific purposes of the Commercial and Mixed Use Districts are to:

- A. Provide for the orderly, well-planned, and balanced development of commercial and mixed-use districts;
- B. Designate adequate land for a full range of local- and regional-serving retail and commercial services consistent with the General Plan to maintain and strengthen the city's economic resources;
- C. Provide appropriately located areas for a range of commercial uses that provide for a variety of good and services for residents, employees, and visitors;
- D. Provide opportunities for a mix of complementary uses that may combine residential and nonresidential uses or combine a variety of nonresidential uses on the same site; and
- E. Promote pedestrian-oriented, mixed-use commercial centers at appropriate locations.

Additional purposes of each Commercial and Mixed Use District are as follows:

**NC Neighborhood Commercial.** This District is intended to provide areas for smaller-scale neighborhood shopping centers which provide goods, services, and businesses to meet the day-to-day needs of surrounding residential neighborhoods. These areas should be developed and maintained to provide convenient, walkable shopping destinations for nearby residents. This District implements the Neighborhood Commercial General Plan Land Use Designation.

**CMU Commercial Mixed Use.** This District is intended to support a combination of office, residential, and retail uses, with an emphasis on specialty commercial uses such as antique stores, boutiques, galleries, cafes, and restaurants. Development standards are intended to foster a walkable, pedestrian-oriented character that emphasizes a fine-grained building scale and streetscape. Structures that are entirely residential or entirely commercial are both permitted, but the optimal development form on larger sites includes housing located above ground level retail shops or services. This District implements the Commercial Mixed Use General Plan Land Use Designation.

**CR Commercial Retail.** This District is intended to support a pedestrian-oriented retail environment that encourages pedestrian activity. This District provides a variety of uses including, but not limited to, grocery, personal service, neighborhood serving retail, and entertainment. Development standards are intended to foster a walkable, pedestrian-oriented character that emphasizes a fine-grained building scale and streetscape. Parcels may include multiple land uses as individual buildings or within each building. This District implements the Community Commercial General Plan Land Use Designation.

**CC Community Commercial.** This District provides locations for services and businesses which meet the comparison shopping needs of the City's residents and workers. Such centers may include supermarkets, home improvement stores, variety stores, pharmacies, restaurants, and similar uses which serve the community. Larger-scale commercial uses such as hotels and office buildings are acceptable. Community Commercial areas are generally not appropriate for residential use, although housing may be considered

as a component of Planned Developments within these areas in the event a shopping center is reused. This District implements the Community Commercial General Plan Land Use Designation.

**RC Regional Commercial.** This District is intended to support the large scale shopping facilities. It includes a broad array of goods and services, including department stores, retail shops, restaurants, entertainment facilities, and similar uses which draw patrons from throughout Newark and the surrounding region. Uses such as hotels and corporate office buildings are acceptable. Housing at densities greater than 30 units per acre may be included if such housing is a component of a Planned Development which is primarily oriented around regional retail uses. This District implements the Regional Commercial General Plan Land Use Designation.

**17.08.020 Land Use Regulations**

Table 17.08.020, Land Use Regulations-Commercial and Mixed Use Districts, prescribes the land use regulations for Commercial and Mixed Use Districts. Use classifications are defined in Chapter 17.45, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. Section numbers in the right hand column refer to other sections of this Ordinance. Numbers in parentheses refer to specific limitations listed at the end of the table.

<b>TABLE 17.08.020: LAND USE REGULATIONS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>						
<i>Use Classification</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
<b>Residential Uses</b>						
Residential Housing Types						
<i>Single-Unit Dwelling, Attached</i>	-	P(1)	-	-	-	
<i>Multi-Unit Development</i>	-	P(1)	-	-	C(2)	
Family Day Care						
<i>Small</i>	-	P	-	-	-	
Group Residential	-	M(1)	-	-	-	
Residential Care Facilities						
<i>Small</i>	-	P	-	-	-	
Single Room Occupancy	-	C(1)	-	-	-	See Section 17.26.230, Single Room Occupancy Units
<b>Public/Semi-Public Uses</b>						
Colleges and Trade Schools	C	C	C	M	M	
Community Assembly	C	C	C	C	C	
Cultural Institutions	M	M	M	M	M	
Day Care Centers	M	M	M	M	M	See Section 17.26.090, Day Care

<b>TABLE 17.08.020: LAND USE REGULATIONS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>						
<i>Use Classification</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
Funeral Parlors and Interment Services	-	-	-	M	-	
Government Offices	P	P	P	P	P	
<b>Hospital and Clinics</b>						
<i>Clinic</i>	M	M	M	M	M	
Instructional Services	M	M	M	M	M	
Park and Recreation Facilities	M	M	M	M	M	
Parking Lots and Structures	M	M	M	M	M	
Public Safety Facilities	P	P	P	P	P	
Schools	M	M	M	M	M	
Social Service Facilities	-	M	M	M	M	
Tutoring Facilities	M	M	M	M	M	
<b>Commercial Uses</b>						
Adult Business	-	-	-	P	-	See Section 17.26.050, Adult Oriented Businesses
<b>Animal Care, Sales, and Services</b>						
<i>Animal Sales and Grooming</i>	P	P	P	P	P	
<i>Boarding/Kennels</i>	-	-	-	C	C	
<i>Veterinary Services</i>	M	M	M	M	M	
Artist’s Studio	P	P	P	P	P	
<b>Automobile/Vehicle Sales and Services</b>						
<i>Automobile Rentals</i>	M	M	M	M	P	See Section 17.26.060, Automobile/Vehicle Sales and Services
<i>Automobile/Vehicle Sales and Leasing</i>	-	-	-	P	P	
<i>Automobile/Vehicle Service and Repair, Minor</i>	-	-	-	M	M	
<i>Large Vehicle and Equipment Sales, Service and Rental</i>	-	-	-	-	M	
<i>Service and Gas Stations</i>	C	-	-	M	M	
<i>Washing</i>	-	-	-	M	M	
<b>Banks and Financial Institutions</b>						
<i>Banks and Credit Unions</i>	P	P	P	P	P	
<i>Check-Cashing Businesses</i>	-	-	-	-	C	See Section 17.26.070, Check Cashing Business



<b>TABLE 17.08.020: LAND USE REGULATIONS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
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<i>Use Classification</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
Banquet Hall	-	-	-	-	C	
Business Services	P	P	P	P	P	
<b>Commercial Entertainment and Recreation</b>						
<i>Cinema/Theaters</i>	-	P	P	P	P	
<i>Indoor Sports and Recreation</i>	-	-	C	C	C	
<i>Outdoor Entertainment</i>	-	-	-	-	M	
<i>Outdoor Recreation</i>	-	-	-	-	M	
Drive-Through Facility	C	-	M	P	P	See Section 17.26.100, Drive-In and Drive-Through Facilities
<b>Eating and Drinking Establishments</b>						
<i>Bars/Night Clubs/Lounges</i>	-	M	M	M	M	
<i>Restaurant, Full Service</i>	M	M	M	M	M	
<i>Restaurant, Limited Service</i>	M	M	M	M	M	
<i>Restaurant, Take-Out Only</i>	M	M	M	M	M	
Farmer’s Markets	P	P	P	P	P	See Section 17.26.120, Farmer’s Markets
Food Preparation	M	M	M	M	M	
Hookah Lounge	-	-	-	P	-	See Section 17.26.150, Hookah Lounges
Live/Work Units	-	M	-	-	M	See Section 17.26.130, Live/Work Units
<b>Lodging</b>						
<i>Hotels</i>	C	C	P	P	P	
<i>Motels</i>	-	-	-	-	C	
Maintenance and Repair Services	M	M	M	M	M	
Nurseries and Garden Center	P	P	P	P	P	
<b>Offices</b>						
<i>Business, Professional, and Technology</i>	M	M	M	M	M	
<i>Medical and Dental</i>	M	M	M	M	M	
<i>Walk-In Clientele</i>	M	M	M	M	M	
<b>Personal Services</b>						
<i>General Personal Services</i>	M	M	M	M	M	See Section 17.26.200, Personal Services
<i>Fortune, Palm, and Card Reader</i>	-	-	-	P	-	
<i>Massage Establishments</i>	-	-	C	C	C	

<b>TABLE 17.08.020: LAND USE REGULATIONS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>						
<i>Use Classification</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
<i>Tattoo or Body Modification Parlor</i>	-	-	-	P	-	
<b>Retail Sales</b>						
<i>Building Materials Sales and Services</i>	-	-	-	P	P	
<i>Convenience Markets</i>	P(3)	P(3)	P(3)	M(3)	M(3)	
<i>Food and Beverage Sales</i>	P(3)	P(3)	P(3)	P(3)	P(3)	
<i>Gold, Semi-Precious, Precious Metal Buying Stores</i>	-	-	-	-	C	
<i>General Retail</i>	P	P	P	P	P	
<i>Pawn Store</i>	-	-	-	-	C	
<i>Secondhand Store</i>	C	C	C	C	C	
<i>Tobacco Retailer</i>	-	-	-	-	C	See Section 17.26.270, Tobacco Retailers
<b>Transportation, Communication, and Utility Uses</b>						
<b>Communication Facilities</b>						
<i>Telecommunication</i>	See Section 17.26.250, Telecommunication Facilities					
<i>Light Fleet-Based Services</i>	C	C	C	C	C	
<b>Recycling Facility</b>						
<i>Reverse Vending Machine</i>	M	M	M	M	M	See Section 17.26.210, Recycling Facilities
<i>Transportation Passenger Terminals</i>	M	M	M	M	M	
<b>Other Applicable Types</b>						
<i>Accessory Uses and Structures</i>	See Section 17.17.020, Accessory Buildings and Structures, and Section 17.26.030, Accessory Uses					
<i>Home Occupations</i>	See Section 17.26.140, Home Occupations					
<i>Live Entertainment</i>	C	C	C	C	C	
<i>Nonconforming Use</i>	See Chapter 17.22, Nonconforming Provisions					
<i>Outdoor Dining and Seating</i>	See Section 17.26.170, Outdoor Dining and Seating					
<i>Outdoor Display and Sales</i>	See Section 17.26.180, Outdoor Display and Sales					
<i>Solar Energy Systems</i>	See Section 17.26.240, Solar Energy Systems					
<i>Temporary Use</i>	See Section 17.26.260, Temporary Uses					

<b>TABLE 17.08.020: LAND USE REGULATIONS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>						
<i>Use Classification</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
<b>Specific Limitations:</b>						
<ol style="list-style-type: none"> <li>1. Not allowed on the ground floor along Newark Boulevard and Thornton Avenue frontages.</li> <li>2. Not allowed on the ground floor. Residential units shall be intended to support retail commercial uses of the project.</li> <li>3. Conditional Use Permit pursuant to Chapter 17.35, Use Permits, is required for any establishment that either devotes 40 percent or more of floor area or display area to, or derives 75 percent or more of gross sales receipts from, the sale or exchange of alcohol.</li> </ol>						

### 17.08.030 Development Standards

Table 17.08.030, Development Standards-Commercial and Mixed Use Districts, prescribes the development standards for Commercial and Mixed Use Districts. Additional regulations are denoted in the right hand column. Section numbers in this column refer to other sections of this Ordinance.

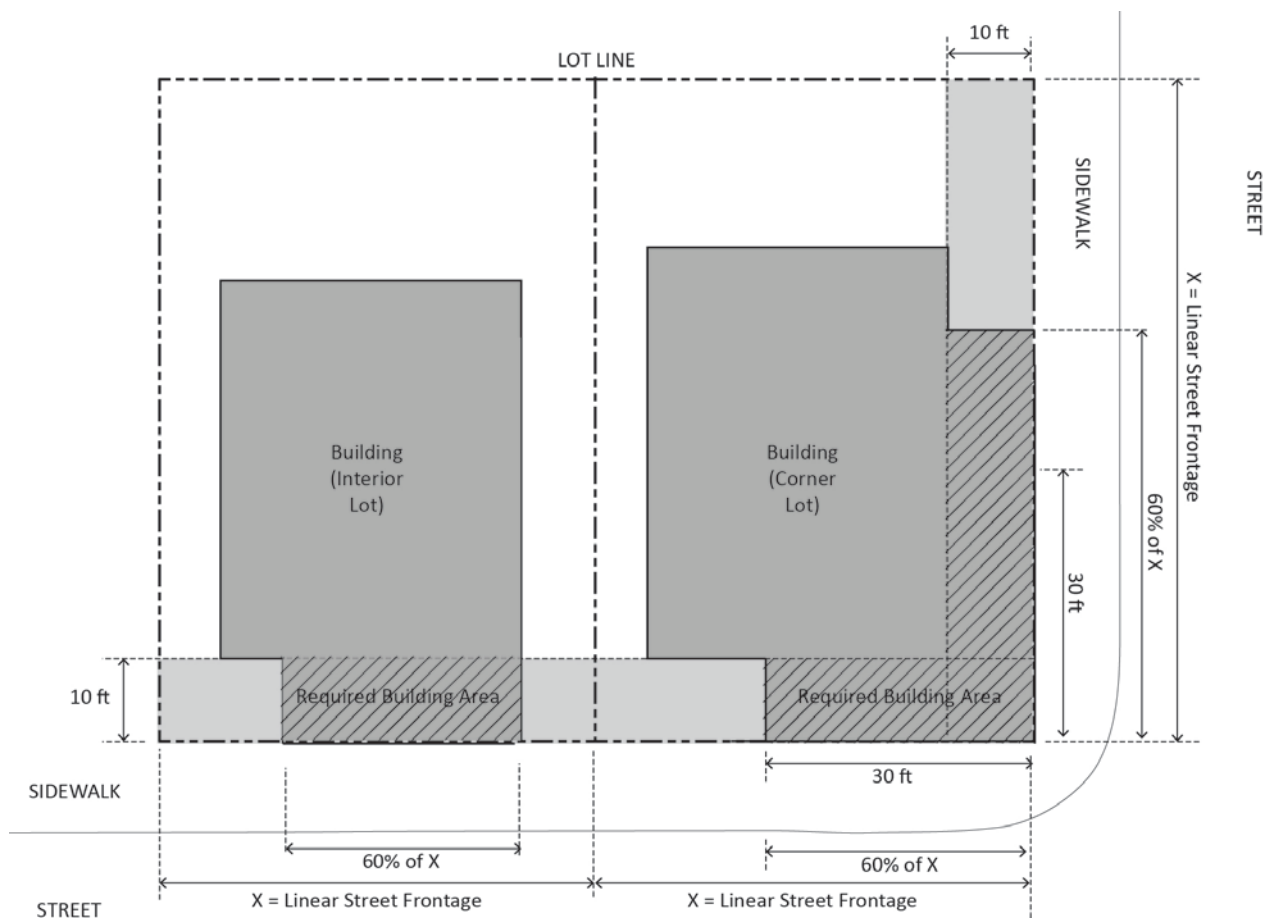
<b>TABLE 17.08.030: DEVELOPMENT STANDARDS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>Standard</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
<b>Lot and Density Standards</b>						
Density (units/acre)						
<i>Maximum</i>	-	60	-	-	120	
<i>Minimum</i>	-	30	-	-	30	
Minimum Lot Size (sq ft)	5,000	20,000	20,000	20,000	20,000	
Minimum Lot Width (ft)	50	100	100	100	100	
<b>Height Standards</b>						
Maximum Height (ft)	40, 30 within 20 ft of an RS or RL District boundary	60, 35 within 20 ft of an RS or RL District boundary (A)	75	100	250	See Section 17.17.050, Height and Height Exceptions
Minimum Ground Floor Height (ft)	18	18	18	18	18	

<b>TABLE 17.08.030: DEVELOPMENT STANDARDS-COMMERCIAL AND MIXED USE DISTRICTS</b>						
<i>Standard</i>	<i>NC</i>	<i>CMU</i>	<i>CR</i>	<i>CC</i>	<i>RC</i>	<i>Additional Regulations</i>
<b>Building Location Standards</b>						
Minimum Setbacks (ft)						
<i>Front</i>	0	0	0	0	0	
<i>Interior Side</i>	0, 20 abutting a Residential District	0, 20 abutting a RS District boundary or any lot developed with a single family residence	0	0, 20 abutting a Residential District	0	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Street Side</i>	0	0	0	0	0	
<i>Rear</i>	0, 20 abutting a Residential District	0, 20 abutting a RS District boundary or any lot developed with a single family residence	0	0, 20 abutting a Residential District	0	See Section 17.17.090, Projections into Yards and Required Building Separations
Maximum Setbacks (ft)						
<i>Front</i>	n/a	10 (B)	n/a	n/a	n/a	
<i>Street Side</i>	n/a	10 (B)	n/a	n/a	n/a	
<b>Landscaping and Open Space Standards</b>						
Minimum Landscape Area (% of lot)	10	5	10	10	10	See Chapter 17.21, Landscaping
Minimum Open Space (sq ft per residential unit)	n/a	50 (C)	n/a	n/a	50 (C)	

**Additional Development Standards**

- A. **Increased Height for Lot Consolidation, CMU District.** Where two or more existing legal lots are consolidated and result in a minimum lot size of 20,000 square feet, the maximum allowable height may be increased by up to 10 feet through Design Review.
- B. **Required Building Location, CMU District.** The following building location requirements apply in the CMU District.

1. **Build-to Line.** Buildings shall be located within 10 feet of street-facing property lines for at least 60 percent of the linear street frontage.
2. **Corner Build Area.** Buildings shall be located within 10 feet of the property line within 30 feet of the street corner.
3. **Frontage Improvements.** The area between buildings and the property line shall be improved as part of a wider sidewalk, outdoor dining/seating area, or with landscaping.
4. **Exceptions.** These requirements may be modified or waived through Design Review upon finding that:
  - a. Entry courtyards, plazas, entries, or outdoor eating areas are located adjacent to the property line and buildings are built to the edge of the courtyard, plaza, or dining area; or
  - b. The building incorporates an alternative entrance design that creates a welcoming entry feature facing the street.

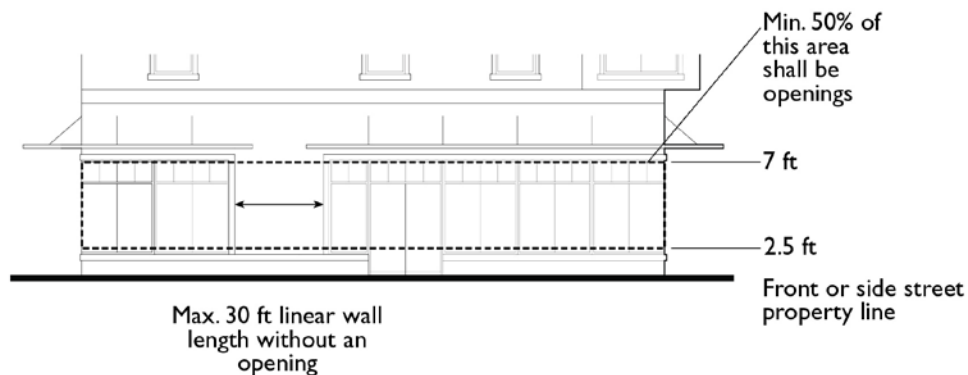


**FIGURE 17.08.030.B: REQUIRED BUILDING LOCATION, CMU DISTRICT**

- C. **Open Space.** Where required, open space, unoccupied by main or accessory structures and open and unobstructed to the sky, shall be provided in accordance with the following standards.
1. **Configuration.** Required usable open space may consist of a single area or several adjacent or separate areas. All occupants shall have access to and use of one or more of such areas.
  2. **Type of Open Space.** Required open space shall be provided as private or common open space.
    - a. Private areas typically consist of balconies, decks, patios, fenced yards, and other similar areas outside the residence.
    - b. Common areas typically consist of landscaped areas, patios, swimming pools, barbeque areas, tennis courts, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the development.
  3. **Minimum Dimensions.**
    - a. *Private Open Space.* Private open space located on the ground level (e.g., yards, decks, patios) shall have no dimension less than 10 feet. Private open space located above ground level (e.g., balconies) shall have no dimension less than six feet.
    - b. *Common Open Space.* Minimum dimension of 20 feet.
  4. **Usability.** A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, decking, or other serviceable, dust-free surfacing. Slope shall not exceed 10 percent.
  5. **Location.**
    - a. Required open space shall not be located in a required front or street side setback.
    - b. No portion of required open space shall be used for driveways of off-street parking and loading facilities or as access to more than one dwelling unit.
    - c. Open space may be located on the roof of buildings or required off-street parking facilities
  6. **Accessibility.**
    - a. *Private Open Space.* The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
    - b. *Common Open Space.* The space shall be accessible to the living units on the lot. It shall be served by any stairway or other access way qualifying as an egress facility from a habitable room.
  7. **Screening.** Required private open space shall be screened by a solid fence or visually solid fence not less than six feet in height when located at ground level and by a solid railing or visually solid railing not less than 42 inches in height when located on a balcony or balconies.

**17.08.040 Supplemental Regulations**

- A. **Minimum Dimensions of Leasable Area.** Each individual lease space shall have a minimum width of 30 feet and a minimum depth of 60 feet. Modifications to these requirements may be granted where the Review Authority finds that site constraints are such that meeting the minimum leasable space dimensions is infeasible and the proposed leasable spaces are adequate to accommodate quality retail establishments.
- B. **Building Transparency/Required Openings.** Exterior walls facing and within 20 feet of a front or street side lot line shall include windows, doors, or other openings for at least 50 percent of the building wall area located between 2.5 and seven feet above the level of the sidewalk. Such walls may run in a continuous plane for no more than 30 feet without an opening.
  - 1. **Design of Required Openings.** Openings fulfilling this requirement shall have transparent glazing and provide views into work areas, display areas, sales areas, lobbies, or similar active spaces, or into window displays that are at least three feet deep.
  - 2. **Exceptions for Parking Garages.** Multi-level garages are not required to meet the ground-floor transparency requirement.
  - 3. **Reductions through Design Review.** The building transparency requirement may be reduced or waived through Design Review upon finding that:
    - a. The proposed use has unique operational characteristics with which providing the required windows and openings is incompatible, such as in the case of a cinema or theater; and
    - b. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.



**FIGURE 17.08.040.B: BUILDING TRANSPARENCY/REQUIRED OPENINGS**

- C. **Exterior Building Materials and Colors.**
  - 1. A unified palette of quality materials shall be used on all sides of buildings.

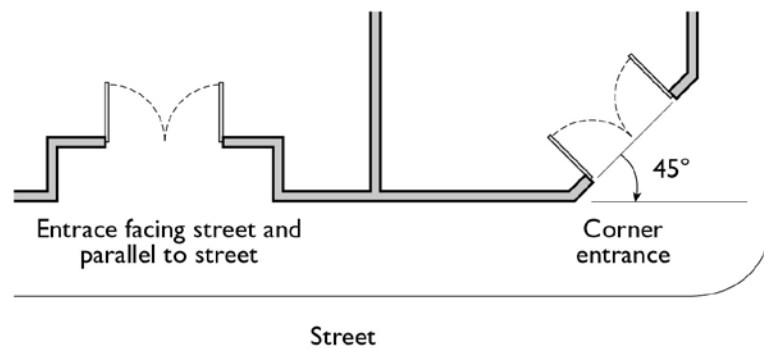
2. Exterior building materials shall be stone, brick, stucco, concrete block, painted wood clapboard, painted metal clapboard or other quality, durable materials approved through Design Review.
- D. **Pedestrian Access.** On-site pedestrian circulation and access shall be provided according to the following standards.
1. **Internal Connections.** A system of pedestrian walkways shall connect all buildings on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas or pedestrian amenities.
  2. **To Circulation Network.** Regular connections between on-site walkways and the public sidewalk shall be provided. An on-site walkway shall connect the primary building entry or entries to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main entry and sidewalk, generally no more than 125 percent of the straight line distance.
  3. **To Neighbors.** Direct and convenient access shall be provided from commercial and mixed-use projects to adjoining residential and commercial areas to the maximum extent feasible while still providing for safety and security.
  4. **To Transit.** Safe and convenient pedestrian connections shall be provided from transit stops to building entrances. Sidewalk “bulb-outs” or bus “pull-outs” may be required at potential bus stops serving commercial centers (building floor area over 25,000 square feet) to provide adequate waiting areas for transit users and safety for passing motorists.
  5. **Interior Pedestrian Walkway Design.**
    - a. Walkways shall have a minimum clear unobstructed width of six feet, shall be hard-surfaced, and paved with permeable materials.
    - b. Where a required walkway crosses driveways, parking areas, or loading areas, it must be clearly identifiable through the use of a raised crosswalk, a different paving material, or similar method.
    - c. Where a required walkway is parallel and adjacent to an auto travel lane, it must be raised or separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barrier.
- E. **Limitations on Curb Cuts.** Curb cuts shall be minimized and located in the location least likely to impede pedestrian circulation. Curb cuts shall be located at least 20 feet from an intersection curb return or pedestrian cross walk.
- F. **Additional Supplemental Regulations, CMU District.** The following additional supplemental regulations apply in the CMU District.
1. **Required Commercial Floor Area.** Ground floor commercial floor space shall contain a minimum floor area of 1,800 square feet or 20 percent of the lot area, whichever is greater.
  2. **Building Articulation.** Any building over 125 feet wide shall be broken down to read as a series of buildings no wider than 125 feet each.
  3. **Building Orientation.**



- a. Buildings shall be oriented to face public streets.
- b. Building frontages shall be generally parallel to streets
- c. Buildings shall be designed and oriented to minimize the visual intrusion into adjoining residential properties. Window, balcony and deck locations shall be directed away from window areas of adjoining residences (on-site or off-site).

4. **Building Entrances.**

- a. The primary building entrance shall face a public sidewalk.
- b. Building entrances shall be emphasized with special architectural and landscape treatments.
- c. Entrances located at corners shall generally be located at a 45-degree angle to the corner and shall have a distinct architectural treatment to animate the intersection and facilitate pedestrian flow around the corner. Different treatments may include angled or rounded corners, arches, and other architectural elements.
- d. All building and dwelling units located in the interior of a site shall have entrances from a sidewalk that is designed as an extension of the public sidewalk and connect to a public sidewalk.



**FIGURE 17.08.040.B.F.4: BUILDING ENTRANCES**

- 5. **Limitations on Location of Parking.** Off-street parking spaces shall be located to the rear of principal buildings whenever possible. Above ground parking may not be located within 40 feet of a street facing property line. Exceptions may be granted through Design Review upon finding that:
  - a. The design incorporates habitable space built close to the public sidewalk to the maximum extent feasible;
  - b. The site is small and constrained such that underground parking or surface parking located more than 40 feet from the street frontage is not feasible.

## Chapter 17.09 Employment Districts

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### 17.09.010 Purpose and Applicability

The specific purposes of the Employment Districts are to:

- A. Designate adequate land for businesses, professional offices, and industrial growth consistent with the General Plan to maintain and strengthen the City's economic resources;
- B. Provide a range of employment opportunities to meet the needs of current and future residents; and
- C. Provide areas for a wide range of manufacturing, industrial processing, and service commercial uses and protect areas where such uses now exist.

Additional purposes of each Employment District are as follows:

**PO Professional Office.** This District reserves area for local-serving professional and administrative office uses such as finance, insurance, and real estate businesses, legal and other professional services, banks, personal services, business support activities, and dental and medical services. These uses may form a transition between retail and residential uses, or a buffer between arterial streets and residential areas. Residential uses are only permitted as a component of a Planned Development. This District implements the Office Commercial General Plan Land Use Designation.

**BTP Business and Technology Park.** This District provides locations for advanced technology research and development, manufacturing, and related support facilities in large or campus-like environments with high quality building design, landscaping, and aesthetic amenities, including business parks, industrial parks, technology parks, and other master planned industrial subdivisions. Complementary uses which support the employee population, such as hotels, restaurants, office buildings, childcare facilities, and business services are allowed. This District implements the Special Industrial General Plan Land Use Designation.

**LI Limited Industrial.** This District is intended to meet the needs of a variety of light industrial and commercial service uses. It serves as a transition between heavier industrial activities and residential neighborhoods. Typical uses include light manufacturing, warehousing, auto repair, and general services. Limited office, recreation, assembly, and retail uses are allowed where appropriate in a light industrial setting. This District implements the Limited Industrial General Plan Land Use Designation.

**GI General Industrial.** This District is intended to accommodate the broadest range of industrial uses. It includes industrial buildings and complexes, distribution, warehouses, manufacturing and assembly, and other uses that are often characterized by outdoor storage, noise, odors, hazardous materials handling, and heavy truck activity. Non-industrial uses such as retail stores, free-standing office buildings, and assembly uses are not allowed. This District implements the General Industrial General Plan Land Use Designation.

### 17.09.020 Land Use Regulations

Table 17.09.020, Land Use Regulations-Employment Districts, prescribes the land use regulations for Employment Districts. Use classifications are defined in Chapter 17.45, Use Classifications. In cases where

a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. Section numbers in the right hand column refer to other sections of this Ordinance. Numbers in parentheses refer to specific limitations listed at the end of the table.

<b>TABLE 17.09.020: LAND USE REGULATIONS-EMPLOYMENT DISTRICTS</b>					
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>					
<i>Use Classification</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<b>Residential Uses</b>					
Caretaker Unit	-	-	C	C	
<b>Public/Semi-Public Uses</b>					
Colleges and Trade Schools	C	M	M	M	
Community Assembly	C	-	-	-	
Cultural Institutions	C	-	-	-	
Day Care Centers	C	C(1)	-	-	See Section 17.26.090, Day Care
Government Offices	P	P	-	-	
<b>Hospital and Clinics</b>					
<i>Hospitals</i>	-	M	-	-	
<i>Clinic</i>	P	-	-	-	
Instructional Services	P	-	-	-	
Park and Recreation Facilities	P	M	M	-	
Parking Lots and Structures	M	C(1)	-	-	
Public Safety Facilities	M	C	M	M	
Schools	C	-	-	-	
Social Service Facilities	M	-	-	-	
Tutoring Facilities	C	-	-	-	
<b>Commercial Uses</b>					
<b>Animal Care, Sales, and Services</b>					
<i>Animal Sales and Grooming</i>	-	-	M	-	
<i>Boarding/Kennels</i>	-	-	-	M(2)	
<i>Veterinary Services</i>	C	-	M	-	
Artist’s Studio	-	-	P	M	

<b>TABLE 17.09.020: LAND USE REGULATIONS-EMPLOYMENT DISTRICTS</b>					
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<i>Use Classification</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<b>Automobile/Vehicle Sales and Services</b>					
<i>Automobile/Vehicle Sales and Leasing</i>	C	-	P	-	See Section 17.26.060, Automobile/Vehicle Sales and Services
<i>Automobile/Vehicle Repair, Major</i>	-	-	M	P	
<i>Automobile/Vehicle Service and Repair, Minor</i>	-	-	P	-	
<i>Large Vehicle and Equipment Sales, Service and Rental</i>	-	-	M	P	
<i>Service and Gas Stations</i>	-	-	M	C	
<i>Towing and Impound</i>	-	-	-	C	
<i>Washing</i>	-	-	M	M	
<b>Banks and Financial Institutions</b>					
<i>Banks and Credit Unions</i>	P	-	-	-	
<b>Business Services</b>	P	P	M	M	
<b>Eating and Drinking Establishments</b>					
<i>Restaurant, Full Service</i>	-	C(1)	-	-	See Section 17.26.170, Outdoor Dining and Seating
<i>Restaurant, Limited Service</i>	C	C(1)	-	-	
<i>Restaurant, Take-Out Only</i>	-	C(1)	-	-	
<b>Food Preparation</b>	-	M	M	M	
<b>Lodging</b>					
<i>Hotels</i>	C	C(1)	C	C	
<b>Maintenance and Repair Services</b>	-	-	P	P	
<b>Nurseries and Garden Center</b>	-	-	C	C	
<b>Offices</b>					
<i>Business, Professional, and Technology</i>	P	P	C	C	
<i>Medical and Dental</i>	P	M	M	-	
<i>Walk-In Clientele</i>	P	-	M	-	
<b>Personal Services</b>					
<i>General Personal Services</i>	M	C(1)	-	-	See Section 17.26.200, Personal Services
<b>Retail Sales</b>					
<i>Building Materials Sales and Services</i>	-	-	P	P	
<i>Convenience Markets</i>	M(3)	M(1)	-	-	
<i>Food and Beverage Sales</i>	M(3)	M(1)	C	-	

<b>TABLE 17.09.020: LAND USE REGULATIONS-EMPLOYMENT DISTRICTS</b>					
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<i>Use Classification</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<i>General Retail</i>	M	M(1)	C	-	
<b>Industrial Uses</b>					
Construction and Material Yards	-	-	C	P	
Custom Manufacturing	-	P	P	P	
Donation Center/Station	-	-	C	C	
<b>Food and Beverage Manufacturing</b>					
<i>Small Scale</i>	-	-	P	P	
<i>Large Scale</i>	-	-	P	P	
General Industrial	-	-	P	P	
Light Industrial	-	M	P	P	
Research and Development	M	P	P	P	
Salvage and Wrecking	-	-	-	C	
<b>Warehousing and Storage</b>					
<i>Chemical, Mineral, and Explosives Storage</i>	-	-	-	C	
<i>Indoor Warehousing and Storage</i>	-	C	C	C	
<i>Outdoor Storage</i>	-	-	C	C	
<i>Personal Storage</i>	-	-	M	M	See Section 17.26.200, Personal Storage
Wholesaling and Distribution	-	C	C	C	
<b>Transportation, Communication, and Utility Uses</b>					
<b>Communication Facilities</b>					
<i>Facilities within Buildings</i>	M	M	M	M	
<i>Telecommunication</i>	See Section 17.26.250, Telecommunication Facilities				
Freight/Trucking Terminals	-	-	C	C	
Light Fleet-Based Services	-	-	P	P	
Public Works and Utilities	-	C	M	P	
<b>Recycling Facility</b>					
<i>Reverse Vending Machine</i>	-	-	M	M	See Section 17.26.210, Recycling Facilities
<i>Recycling Collection Facility</i>	-	-	C	C	
<i>Recycling Processing Facility</i>	-	-	-	C	
Transportation Passenger Terminals	M	M	M	M	

<b>TABLE 17.09.020: LAND USE REGULATIONS-EMPLOYMENT DISTRICTS</b>					
<i>“P” Permitted Use; “M” Minor Use Permit Required; “C” Conditional Use Permit Required; “-” Use Not Allowed</i>					
<i>Use Classification</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<b>Other Applicable Types</b>					
Accessory Uses and Structures	See Section 17.17.020, Accessory Buildings and Structures, and Section 17.26.030, Accessory Uses				
Live Entertainment	C	-	-	-	
Nonconforming Use	See Chapter 17.22, Nonconforming Uses				
Outdoor Dining and Seating	See Section 17.26.170, Outdoor Dining and Seating				
Outdoor Display and Sales	See Section 17.26.180, Outdoor Display and Sales				
Solar Energy Systems	See Section 17.26.240, Solar Energy Systems				
Temporary Use	See Section 17.26.260, Temporary Uses				
<b>Specific Limitations:</b>					
<ol style="list-style-type: none"> <li>1. Permitted only as complementary uses serving industrial and technical campus-like development such as business parks, industrial parks, technology parks, and other master planned industrial subdivisions.</li> <li>2. Prohibited within 300 feet of any Residential District.</li> <li>3. Establishments that either devotes 40 percent or more of floor area or display area to, or derives 75 percent or more of gross sales receipts from, the sale or exchange of alcohol are prohibited.</li> </ol>					

**17.09.030 Development Standards**

Table 17.09.030, Development Standards-Employment Districts, prescribes the development standards for Employment Districts. Additional regulations are denoted in the right hand column. Section numbers in this column refer to other sections of this Ordinance.

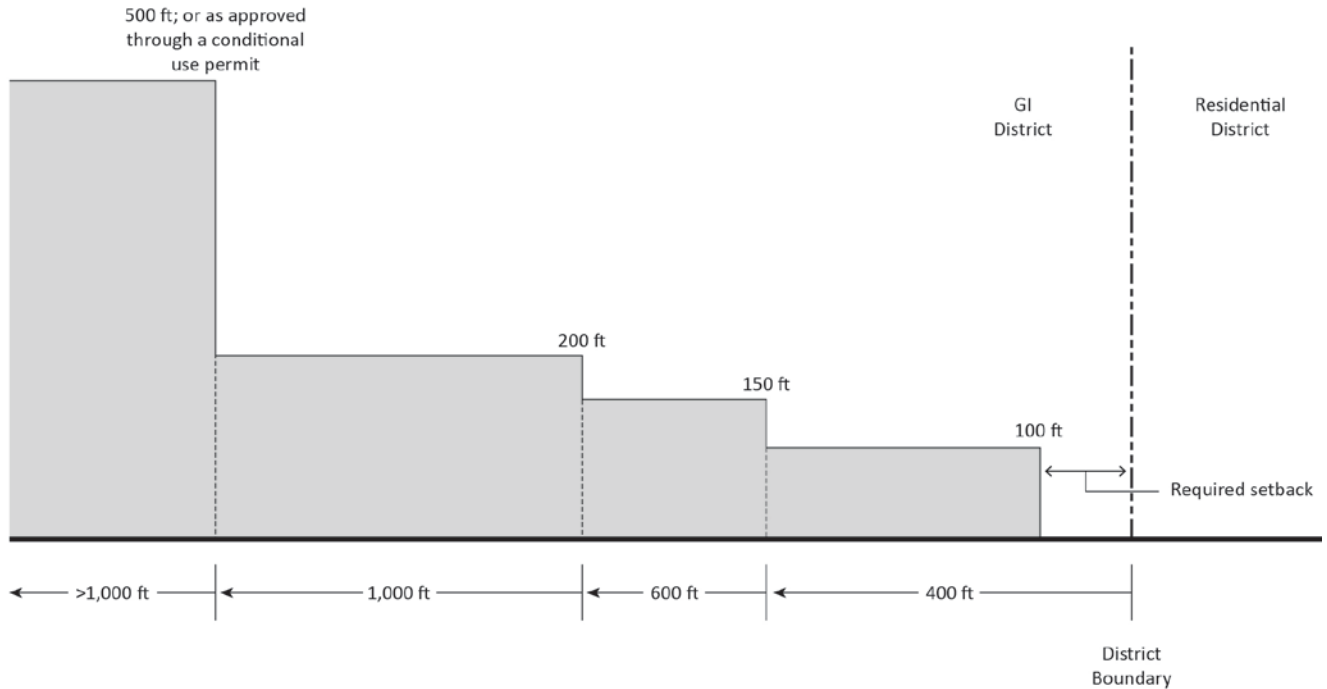
<b>TABLE 17.09.030: DEVELOPMENT STANDARDS-EMPLOYMENT DISTRICTS</b>					
<i>Standard</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<b>Lot Standards</b>					
Minimum Lot Size (sq ft unless noted)	10,000	2 acres	15,000	20,000	
Minimum Lot Width (ft)	60	100	60	60	
<b>Building Form and Location</b>					
Maximum Building Height (ft)	35, up to 50 with CUP	100, 45 within 300 ft of a Residential District boundary	100, 35 within 100 ft of a Residential District boundary	See (B) below	See Section 17.17.050, Height and Height Exceptions

<b>TABLE 17.09.030: DEVELOPMENT STANDARDS-EMPLOYMENT DISTRICTS</b>					
<i>Standard</i>	<i>PO</i>	<i>BTP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
Minimum Setbacks (ft)					
<i>Front</i>	10	20(A)	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Interior Side</i>	5	15	15, 25 from a Residential District boundary	15, 50 from a Residential District boundary	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Street Side</i>	10	15(A)	15	15	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Rear</i>	10	50	20, 25 from a Residential District boundary	20, 50 from a Residential District boundary	See Section 17.17.090, Projections into Yards and Required Building Separations
Minimum Landscape Area (% of lot)	5	10	n/a	n/a	See Chapter 17.21, Landscaping

**Additional Development Standards**

- A. **BTP District: Setbacks for Loading Dock Areas.** In the BTP District, loading docks shall be set back a minimum of 150 feet from an arterial street unless an alternative noise barrier wall is approved through Design Review.
- B. **GI District: Maximum Height.** In the GI District, maximum height is as follows:
  1. Within 400 feet of a Residential District boundary: 100 feet.
  2. More than 400 feet but less than 600 feet from a Residential District boundary: 150 feet.
  3. More than 600 feet but less than 1,000 feet from a Residential District boundary: 200 feet.

4. 1,000 feet or more from a Residential District boundary: 500 feet or as approved through a Conditional Use Permit.



**FIGURE 17.09.030.B: GI DISTRICT: MAXIMUM HEIGHT**

**17.09.040 Supplemental Regulations**

**A. Hazards and Hazardous Materials.**

1. **Occupancy Classification.** Group H-1 and H-2 Occupancy, as defined in the Building Code, shall not exceed 50 percent of the total building floor area on any site.
2. **Hazardous Materials.** The direct use of hazardous materials in fabrication shall not exceed 35 percent of the total building floor area on any site.

**B. Business, Technology, and Office Parks.** Business, technology, and office parks containing 80,000 square feet or more of floor area shall provide the following:

1. Open space areas equal to 10 percent of the site area that provide gathering space or opportunities for active or passive recreation. Open space areas shall include benches or other seating. Amenities shall be included that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, or public art.
2. Pedestrian walkways that connect all parts of the park, and connect to any existing or planned pedestrian facilities in adjacent neighborhoods.
3. Stormwater detention facilities incorporated into the site landscaping as a visual amenity.



4. A lighting, landscaping, and signage design concept for common areas.

C. **Additional Supplemental Regulations, PO District.** The following additional supplemental regulations apply in the PO District.

1. **Building Transparency/Required Openings.** Exterior walls facing and within 20 feet of a front or street side property line shall include windows, doors, or other openings for at least 30 percent of the building wall area located between 2.5 and seven feet above the level of the sidewalk. No wall may run in a continuous plane for more than 30 feet without an opening. Openings fulfilling this requirement shall have transparent glazing and provide views into work areas, sales areas, lobbies, or similar active spaces, or into window displays that are at least three feet deep.

a. *Reduction through Conditional Use Permit.* The building transparency requirement may be reduced or waived through Design Review upon finding that

- i. The proposed use has unique operational characteristics with which the provision of the required windows and openings is incompatible, such as in the case of a cinema, theater, or historic building; and
- ii. Street-facing building walls will exhibit architectural relief and detail, or will be screened with attractive landscaping, in such a way as to create visual interest at the pedestrian level.

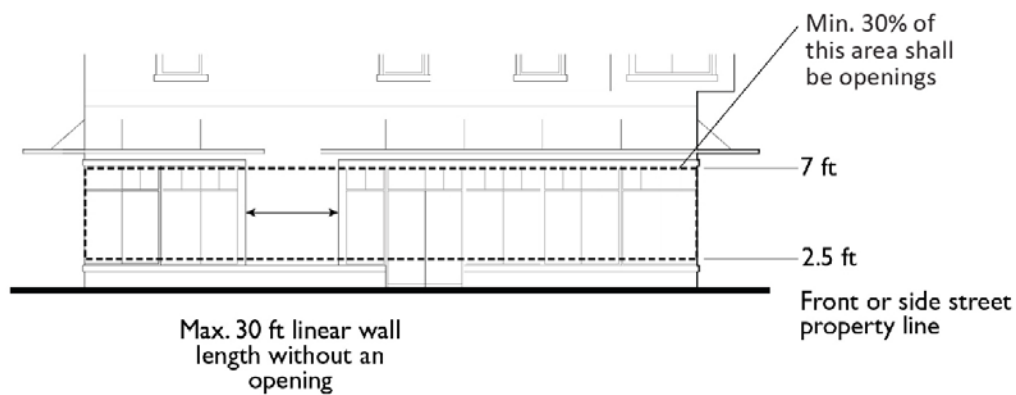


FIGURE 17.09.040.C.1: BUILDING TRANSPARENCY/REQUIRED OPENINGS, PO DISTRICT

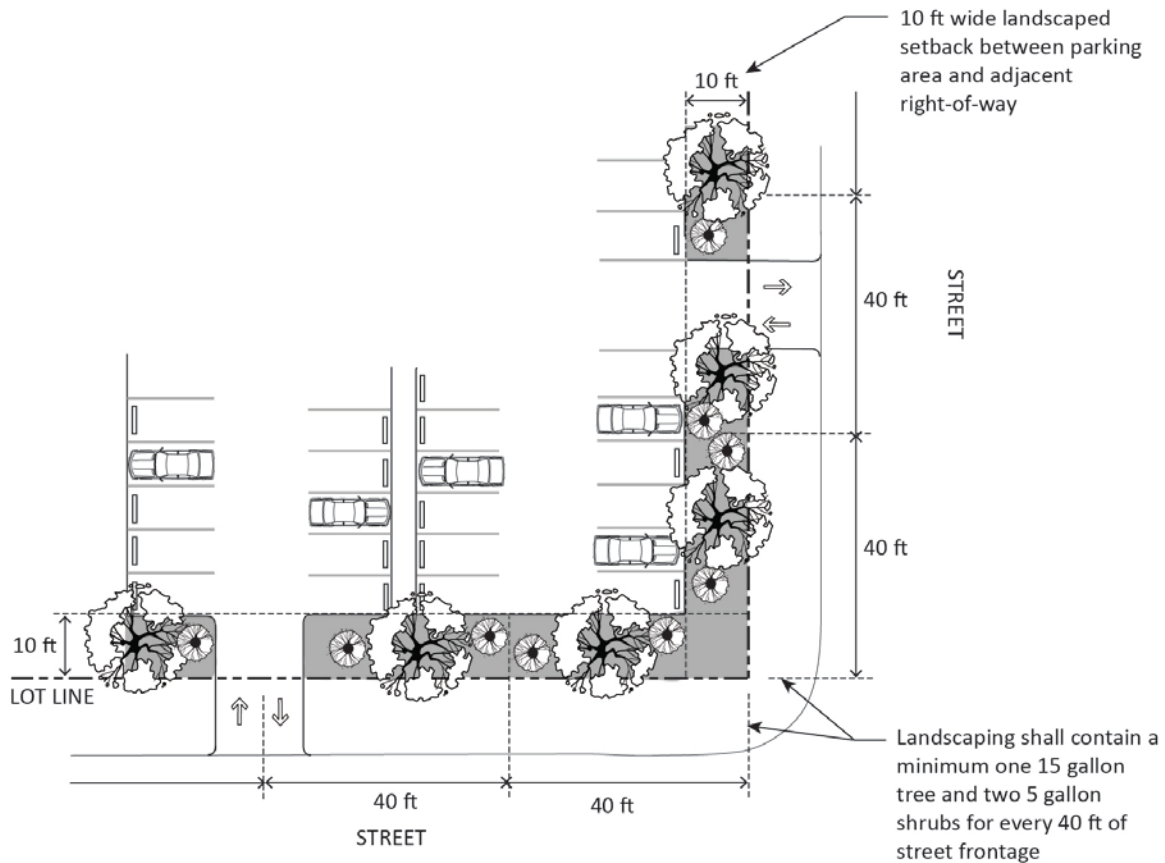
2. **Parking Location.** In the PO District, parking shall be located at the side or rear of buildings wherever possible.

D. **Additional Supplemental Regulations, BTP District.** The following additional supplemental regulations apply in the BTP District.

1. **Building Construction.** Buildings shall be of new construction, and modular offices, relocated or prefabricated metal wall buildings shall not be permitted, except for temporary construction office trailers pursuant to Section 17.26.260, Temporary Uses.

2. **Landscape Buffer.** The following landscape buffers shall be provided unless the Director finds a different landscape buffer requirement is adequate to provide an appropriate transition between the parking area or other use of the site and the right-of-way.

- a. **Landscaped Setback between Parking Area and Right-of-Way.** A landscaped setback at least 10 feet wide shall be provided between the parking area and adjacent right-of-way. A minimum of one fifteen-gallon tree and two five-gallon shrubs shall be provided for every 40 feet of the street frontage.



**FIGURE 17.09.040.D.2.A: LANDSCAPED SETBACK BETWEEN PARKING AREA AND RIGHT-OF-WAY**

- b. **Landscape Buffer Adjacent to Wide Right-of-Way.** The first 50 feet of any site depth contiguous to any existing or proposed right-of-way exceeding 100 feet in width shall be landscaped and shall not be used for off-street parking and loading.
3. **Truck Docks, Loading, and Service Areas, BTP District.** In the BTP District, truck docks, loading, and service areas shall be set back a minimum of 150 feet from an arterial.
4. **Public Art Plan.** In the BTP District, a Public Art Plan may be provided for City Council review and approval to assure that the intent of Resolution No. 6582 "Resolution of the City Council of the City of Newark adopting a policy for providing art in public places and private development" is met. The plan shall provide for high quality architecture and for the provision of public art at locations that are of critical aesthetic concern to the City (i.e., gateways and major arterials).

- E. **Additional Supplemental Regulations, LI and GI Districts.** In the LI and GI Districts, a landscaped setback at least 10 feet wide shall be provided between the parking area and adjacent right-of-way. A minimum of one 15-gallon tree and two five-gallon shrubs shall be provided for every 40 feet of the street frontage.

## Chapter 17.10 Public and Semi-Public Districts

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### 17.10.010 Purpose and Applicability

The specific purposes of the Public and Semi-Public Districts are to:

- A. Provide land for development of public, quasi-public, recreation, and open space uses that provide services to the community and support existing and new residential, commercial, and industrial land uses;
- B. Provide areas for educational facilities, cultural and institutional uses, health services, parks and recreation, general government operations, utility and public service needs, transit facilities, and other similar and related supporting uses; and
- C. Provide opportunities for outdoor recreation, and meet the recreational needs of Newark residents.

Additional purposes of each Public and Semi-Public District are as follows:

**PF Public Facilities.** This District is intended for public facilities, such as fire stations, City offices, libraries, corporation yards, pumping stations, transportation facilities, utilities, schools, institutional uses, and other public and quasi-public uses. The Public Facilities District implements the Public-Institutional General Plan Land Use Designation.

**TS Transit Station.** This District is intended for transit stations and associated parking areas.

**PK Park.** The PK Park District is intended to identify areas for active recreation, including City parks and other areas that support recreational activities. Typical uses include playgrounds, picnic areas, sports fields, golf courses, recreational clubs, and other appropriate recreational uses. This District implements the Parks and Recreation Facilities General Plan Land Use Designation.

**OS Open Space.** The OS Open Space District is intended for undeveloped park lands, wildlife habitat, and wetlands. Land within this District is typically owned by public agencies. A limited number of recreational improvements such as trails and interpretive nature centers are allowed, however the intent of this District is to facilitate the restoration and enhancement of native habitat. The Open Space District implements the Conservation-Open Space General Plan Land Use Designation.

### 17.10.020 Land Use Regulations

Table 17.10.020, Land Use Regulations-Public and Semi-Public Districts, prescribes the land use regulations for Public and Semi-Public Districts. Use classifications are defined in Chapter 17.45, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. Section numbers in the right hand column refer to other sections of this Ordinance. Numbers in parentheses refer to specific limitations listed at the end of the table.

<b>TABLE 17.10.020: LAND USE REGULATIONS-PUBLIC AND SEMI-PUBLIC DISTRICTS</b>					
<i>"P" Permitted Use; "M" Minor Use Permit Required; "C" Conditional Use Permit Required; "-" Use Not Allowed</i>					
<i>Use Classification</i>	<i>PF</i>	<i>TS</i>	<i>PK</i>	<i>OS</i>	<i>Additional Regulations</i>
<b>Public/Semi-Public Uses</b>					
Cemetery	P	-	-	-	
Colleges and Trade Schools	P	-	-	-	
Community Assembly	P	-	P(1)	-	
Community Garden	P	-	P	-	See Section 17.26.080, Community Garden
Cultural Institutions	P	-	P	-	
Day Care Centers	P	-	-	-	See Section 17.26.090, Day Care
Emergency Shelter	P	P	P	-	See Section 17.26.110, Emergency Shelter
Government Offices	P	-	-	-	
<b>Hospital and Clinics</b>					
<i>Hospitals</i>	P	-	-	-	
<i>Clinic</i>	P	-	-	-	
Instructional Services	P	-	-	-	
Park and Recreation Facilities	P	-	P	P(2)	
Parking Lots and Structures	P	P(4)	-	-	
Public Safety Facilities	P	-	-	-	
Schools	P	-	-	-	
Social Service Facilities	P	-	-	-	
<b>Commercial Uses</b>					
<b>Animal Care, Sales, and Services</b>					
<i>Animal Sales and Grooming</i>	C(3)	-	-	-	
<b>Banks and Financial Institutions</b>					
<i>Banks and Credit Unions</i>	-	P(4)	-	-	
Business Services	-	P(4)	-	-	
<b>Commercial Entertainment and Recreation</b>					
<i>Indoor Sports and Recreation</i>	M	-	M	-	
<i>Outdoor Entertainment</i>	C	-	C	-	
<i>Outdoor Recreation</i>	P	-	P	-	
<b>Eating and Drinking Establishments</b>					
<i>Restaurant, Limited Service</i>	P(5)	P(4)	-	-	
<i>Restaurant, Take-Out Only</i>	P(5)	P(4)	-	-	

<b>TABLE 17.10.020: LAND USE REGULATIONS-PUBLIC AND SEMI-PUBLIC DISTRICTS</b>					
<i>"P" Permitted Use; "M" Minor Use Permit Required; "C" Conditional Use Permit Required; "-" Use Not Allowed</i>					
<i>Use Classification</i>	<i>PF</i>	<i>TS</i>	<i>PK</i>	<i>OS</i>	<i>Additional Regulations</i>
Farmer's Markets	P	P	C	-	See Section 17.26.120, Farmer's Markets
<b>Offices</b>					
<i>Walk-In Clientele</i>	-	P(4)	-	-	
<b>Personal Services</b>					
<i>General Personal Services</i>	-	P(4)	-	-	See Section 17.26.200, Personal Services
<b>Retail Sales</b>					
<i>Convenience Markets</i>	-	P(4)	-	-	
<i>Food and Beverage Sales</i>	P(5)	P(4)	-	-	
<i>General Retail</i>	P(5)	P(4)	-	-	
<b>Transportation, Communication, and Utility Uses</b>					
<b>Communication Facilities</b>					
<i>Facilities within Buildings</i>	P	-	-	-	
<i>Telecommunication</i>	See Section 17.26.250, Telecommunication Facilities				
Public Works and Utilities	P	-	-	-	
<b>Recycling Facility</b>					
<i>Reverse Vending Machine</i>	C	-	-	-	See Section 17.26.210, Recycling Facilities
<i>Recycling Collection Facility</i>	C	-	-	-	
<i>Recycling Processing Facility</i>	C	-	-	-	
Transportation Passenger Terminals	P	P	-	-	
<b>Other Applicable Types</b>					
Accessory Uses and Structures	See Section 17.17.020, Accessory Buildings and Structures, and Section 17.26.030, Accessory Uses				
Nonconforming Use	See Chapter 17.22, Nonconforming Uses				
Outdoor Dining and Seating	See Section 17.26.170, Outdoor Dining and Seating				
Outdoor Display and Sales	See Section 17.26.180, Outdoor Display and Sales				
Solar Energy Systems	See Section 17.26.240, Solar Energy Systems				
Temporary Use	See Section 17.26.260, Temporary Uses				

<b>TABLE 17.10.020: LAND USE REGULATIONS-PUBLIC AND SEMI-PUBLIC DISTRICTS</b>					
<i>"P" Permitted Use; "M" Minor Use Permit Required; "C" Conditional Use Permit Required; "-" Use Not Allowed</i>					
<i>Use Classification</i>	<i>PF</i>	<i>TS</i>	<i>PK</i>	<i>OS</i>	<i>Additional Regulations</i>
<b>Specific Limitations:</b>					
<ol style="list-style-type: none"> <li>1. Limited to facilities associated with park and recreation facilities.</li> <li>2. Limited to trails, wildlife preserves and open space uses that maintain the site in its natural state and protects wildlife habitats and wetlands. No building, structure or improvements shall be constructed in these areas, except for those required for public access, public restrooms, informational centers and signage, trash containers, parking facilities, and facilities needed for protecting environmental resources and general upkeep and maintenance of the property.</li> <li>3. Limited to government or non-profit animal shelters located a minimum of 100 feet from a residential use or district.</li> <li>4. Limited to parking areas, and ancillary uses (i.e., coffee stand, dry cleaner, florist) that would benefit transit patrons of transit stations.</li> <li>5. Limited to gift shops, cafes and restaurants accessory to cultural institutions, community assembly, and conference/convention centers.</li> </ol>					

### 17.10.030 Development Standards

Table 17.10.030, Development Standards-Public and Semi-Public Districts, prescribes the development standards for Public and Semi-Public Districts. Additional regulations are denoted in the right hand column. Section numbers in this column refer to other sections of this Ordinance.

<b>TABLE 17.10.030: DEVELOPMENT STANDARDS-PUBLIC AND SEMI-PUBLIC DISTRICTS</b>					
<i>Standard</i>	<i>PF</i>	<i>TS</i>	<i>PK</i>	<i>OS</i>	<i>Additional Regulations</i>
Maximum Height (ft)	40, up to 65 with CUP approval	65	30	14	See Section 17.17.050, Height and Height Exceptions
Minimum Setbacks (ft)					
<i>Front</i>	0	0	20	20	See Section 17.17.090 Projections into Yards and Required Building Separations
<i>Interior Side</i>	5	0	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Street Side</i>	5	0	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Rear</i>	5	0	10	10	See Section 17.17.090, Projections into Yards and Required Building Separations
Maximum Lot Coverage (% of lot)	90	n/a	n/a	5	

**17.10.040 Supplemental Regulations**

- A. **Tree Removal in PK and OS Districts.** Removal of trees of five inches or more in diameter at the base is prohibited except as approved by the Park Superintendent, with Conditional Use Permit approval, or, in the case of public park or public wildlife sanctuary facilities other than those owned by the City, with the approval of authorized agents or officials of the public agency owning the facilities.



## Chapter 17.11 Resource Production District

### 17.11.010 Purpose and Applicability

The specific purpose of the Resource Production District is to reserve areas suitable for natural resource production. Specifically, this District designates areas used for salt harvesting, refining and production, including man-made crystallizer beds used for salt crystallization, and related buildings, facilities, and operations for salt harvesting, stacking, sizing, packaging and/or distribution. This District implements the Salt Harvesting, Refining, and Production General Plan Land Use Designation.

### 17.11.020 Land Use Regulations

Table 17.11.020, Land Use Regulations-Resource Production District, prescribes the land use regulations for the Resource Production District. Use classifications are defined in Chapter 17.45, Use Classifications. In cases where a specific land use or activity is not defined, the Director shall assign the land use or activity to a classification that is substantially similar in character. Use classifications and subclassifications not listed in the table or not found to be substantially similar to the uses below are prohibited. Section numbers in the right hand column refer to other sections of this Ordinance.

<b>TABLE 17.11.020: LAND USE REGULATIONS-RESOURCE PRODUCTION DISTRICT</b>		
<i>"P" Permitted Use; "M" Minor Use Permit Required; "C" Conditional Use Permit Required; "-" Use Not Allowed</i>		
<i>Use Classification</i>	<i>RP</i>	<i>Additional Regulations</i>
<b>Residential Uses</b>		
Caretaker Unit	M	
<b>Public/Semi-Public Uses</b>		
Public Safety Facilities	C	
<b>Industrial Uses</b>		
General Industrial	P	
<b>Transportation, Communication, and Utility Uses</b>		
Communication Facilities		
<i>Telecommunication</i>	See Section 17.26.250, Telecommunication Facilities	
Public Works and Utilities	C	
<b>Other Applicable Types</b>		
Accessory Uses and Structures	Uses ancillary to salt harvesting, refining, and production are allowed. See Section 17.26.030, Accessory Uses	
Nonconforming Use	See Chapter 17.22, Nonconforming Uses	
Solar Energy Systems	See Section 17.26.240, Solar Energy Systems	
Temporary Use	See Section 17.26.260, Temporary Uses	

**17.11.030 Development Standards**

Table 17.11.030, Development Standards-Resource Production Districts, prescribes the development standards for the Resource Production District. Additional regulations are denoted in a right hand column. Section numbers in this column refer to other sections of this Ordinance.

<b>TABLE 17.11.030: DEVELOPMENT STANDARDS-RESOURCE PRODUCTION DISTRICT</b>		
<i>Standard</i>	<i>RP</i>	<i>Additional Regulations</i>
<b>Lot and Density Standards</b>		
Minimum Lot Area (acres)	40	
Maximum Density	Caretaker housing only	
<b>Building Form and Location Standards</b>		
Maximum Height (ft)	35	See Section 17.17.050, Height and Height Exceptions
Minimum Setbacks (ft)		
<i>Front</i>	30	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Side</i>	25	See Section 17.17.090, Projections into Yards and Required Building Separations
<i>Rear</i>	25	See Section 17.17.090, Projections into Yards and Required Building Separations
Maximum Lot Coverage (% of lot)	20	

## Chapter 17.12 Planned Development (-PD) Overlay District

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### 17.12.010 Purpose

The purpose of this Chapter is to establish a Planned Development (-PD) Overlay District that provides for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions in order to:

- A. Provide for greater flexibility in the design of the developments than is otherwise possible through the strict application of zoning district regulations;
- B. Ensure compliance with the General Plan and provide various types of land use which can be combined in compatible relationship with each other as a part of a totally planned development; and
- C. Promote creativity in building design and innovation in development concepts.

### 17.12.020 Zoning Map Designation

A -PD Overlay District shall be noted on the Zoning Map by the designation “-PD,” followed by the number of the Planned Development or Specific Plan based on order of adoption.

### 17.12.030 Land Use Regulations

No use other than an existing use is permitted in a -PD Overlay District except in accord with a valid PD Plan or Specific Plan.

- A. Any permitted or conditional use authorized by this Ordinance may be included in an approved PD Plan or an adopted Specific Plan consistent with the General Plan land use designation(s) for the property.
- B. In addition to permitted or conditional uses otherwise allowed in the CC, RC, and PO districts, residential uses may be allowed as part of a Planned Development. In the RC District, the minimum density of such housing is 30 units/net acre.

### 17.12.040 Development Regulations

- A. **Minimum Area.** The minimum area of a -PD Overlay District shall be 10,000 square feet; however, the City Council may approve a smaller area if it finds that a PD would provide greater benefits to the general welfare of Newark’s residents and property owners than development under conventional zoning because of unique characteristics of the site or the proposed use.
- B. **Residential Unit Density.** Except where a density bonus is granted in compliance with Chapter 17.19, Density Bonus for Affordable Housing, the total number of dwelling units in a PD Plan shall not exceed the maximum number permitted by the General Plan density for the total area of the planned development designated for residential use, excluding areas devoted to public and private streets.
- C. **Performance Standards.** The Performance Standards prescribed by Chapter 17.24, Performance Standards, apply.

- D. **Other Development Regulations.** Other development regulations shall be as prescribed by the PD Plan.

#### 17.12.050 Procedures

- A. **Decision-Making Body.** A -PD Overlay District must be adopted by the City Council. A public hearing before the Planning Commission is required prior to City Council review; and the Planning Commission shall make a recommendation to the City Council.
- B. **Review Procedures.**
  - 1. **Zoning Amendment.** An application for a -PD Overlay District shall be processed as amendment to the Zoning Map, according to the procedures of Chapter 17.39, Amendments to Zoning Map and Text, and shall include a Specific Plan or PD Plan.
  - 2. **PD Plan.** The PD Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter 17.35, Use Permits, except the City Council shall be the review authority.
  - 3. **Tentative Subdivision Map.** When a PD requires the submission of a tentative subdivision map, this map and all supporting documents shall be prepared and submitted concurrently with the application of the PD.
- C. **Initiation.** An application for a -PD Overlay District shall be initiated by a property owner or authorized agent, Planning Commission, or the City Council. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.
- D. **Application Content.** A qualified applicant shall submit an application for a zoning amendment on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application.

#### 17.12.060 Required Findings

A PD Plan and zoning amendment shall only be approved if all of the following findings are made:

- A. The proposed development is consistent with the General Plan and any applicable specific plan, including the density and intensity limitations that apply;
- B. Adequate transportation facilities and public services exist or will be provided in accord with the conditions of development plan approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of traffic levels of service or public services so as to be a detriment to public health, safety, or welfare;
- C. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;
- D. The development generally complies with applicable adopted design guidelines; and
- E. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation and/or substantial public benefit.

### 17.12.070 Conditions

In approving a PD Plan and zoning amendment, the City Council may impose reasonable conditions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies that the City has adopted;
- B. Achieve the general purposes of this Ordinance or the specific purpose of the zoning district in which the project is located;
- C. Achieve the findings listed above; or
- D. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the requirements of the California Environmental Quality Act.

### 17.12.080 Expiration and Renewal

- A. **Expiration.**
  - 1. **PD Plan.** A PD Plan shall be effective on the same date as the ordinance creating the -PD Overlay District for which it was approved and shall expire three years after the effective date unless actions specified in the conditions of approval have been taken, or a building permit has been issued and construction diligently pursued. An approved PD Plan may specify a development staging program exceeding three years.
  - 2. **Tentative Map.** Where a tentative map has been approved in conjunction with a PD Plan, the PD Plan shall expire upon the expiration of the tentative map.
  - 3. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the PD Plan shall remain in effect so long as not more than one-year lapses between the end of one phase and the beginning of the next phase.
- B. **Renewal.** An approved PD Plan that has not been exercised may be renewed for a three-year period approved by the City Council after a duly-noticed public hearing. Application for renewal shall be made in writing between 30 and 120 days prior to expiration of the original approval. The City Council may renew a PD Plan if it finds the renewal consistent with the purposes of this chapter.

### 17.12.090 Amendments of Approved Plans

- A. **Changed Plans.** Amendments to a -PD Overlay District or PD Plan or Specific Plan may be requested by the applicant or its successors. Amendments to the approved Plan shall be classified as major or minor amendments. Upon receipt of an amendment application, the Director shall determine if the proposed amendment constitutes a major or minor amendment.
- B. **Major Amendments.** Major Amendments to an approved -PD Overlay District or PD Plan or Specific Plan shall be considered by the City Council at a duly noticed public hearing. An amendment will be deemed major if it involves one or more of the following changes:
  - 1. A change in the boundary of the -PD Overlay District;

2. An increase or decrease in the number of dwelling units for the -PD Overlay District that is greater than the maximum or less than the minimum stated in the PD Plan or Specific Plan;
  3. An increase or decrease in the floor area for any non-residential land use that results in the floor area exceeding the minimum or maximum stated in the PD Plan or Specific Plan;
  4. Any change in land use or density that is likely to negatively impact or burden public facilities and utilities infrastructure as determined by the Public Works Director;
  5. Any change in land use or density that is likely to negatively impact or burden circulation adjacent to the -PD Overlay District or to the overall major street system, as determined by the Public Works Director; or
  6. Any other proposed change to the PD Plan or Specific Plan or the conditions of approval that substantively alters one or more of its components as determined by the Director.
- C. **Minor Amendments.** Amendments not meeting one or more of the criteria listed in Subsection B above shall be considered minor if they are consistent with and would not change any original condition of approval. Minor Amendments may be approved by the Director.

#### **17.12.100 Status of Specific Plan**

A Specific Plan adopted by resolution of the City Council shall be administered as prescribed by the Council, consistent with Government Code Section 65450.

#### **17.12.110 Development Plan Review**

Plans for a project in a -PD Overlay District shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved PD Plan or Specific Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved PD Plan or Specific Plan.

## Chapter 17.13 Form Based Code (FBC) Overlay District

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### 17.13.010 Purpose

Form based codes address the relationships between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks.

### 17.13.020 Applicability

The standards and regulations of this Chapter apply to areas designated with an -FBC extension on the Zoning Map. Except as provided in this Chapter, all new structures and development, as well as alterations to existing structures, shall comply with the requirements of the base zoning district.

### 17.13.030 Maximum Height and Required Setbacks by Street

The following height, setback, and block standards apply on lots with frontage on the following streets:

#### A. Transit Station Entrance Road:

1. **Maximum Height.** Six stories or 75 feet measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be zero feet; the maximum front yard setback shall be 10 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be zero feet; the maximum side street yard setback shall be 10 feet.

#### B. North Side of Enterprise Drive West, from Willow to Hickory:

1. **Maximum Height.** Six stories or 75 feet measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be zero feet; the maximum front yard setback shall be 20 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be five feet; the maximum side street yard setback shall be 10 feet.

#### C. South Side of Enterprise Drive West, from Willow to Hickory:

1. **Maximum Height.** Six stories or 75 feet measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 18 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be five feet.
4. **Maximum Block Length.** The maximum block length shall be 600 feet.
5. **Minimum Block Width.** The minimum block width shall be 450 feet.
6. **Maximum Percent of Buildings at Minimum Setback Line.** Buildings may be located at the minimum setback line for a maximum of 80 percent of the length of the setback line.

D. **Hickory Street:**

1. **Maximum Height.** Four stories or 50 feet; two stories or 25 feet for accessory buildings. Building height is measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 18 feet.
3. **Street Side Yard.** The minimum side street yard/side of building setback shall be five feet.

E. **Willow Street:**

1. **Maximum Height.** Four stories or 50 feet; two stories or 25 feet for accessory buildings. Building height is measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 25 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be eight feet, three inches; the maximum side street yard setback shall be 15 feet.
4. **Maximum Percent of Buildings at Minimum Setback Line.** Buildings may be located at the minimum setback line for a maximum of 80 percent of the length of the setback line.

F. **Central Avenue:**

1. **Maximum Height.** Four stories or 50 feet; two stories or 25 feet for accessory buildings. Building height is measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 18 feet.
3. **Street Side Yard.** The minimum side street yard/side of building setback shall be five feet.

G. **Enterprise Drive East:**

1. **Maximum Height.** Two and one-half stories or 30 feet maximum; two stories or 25 feet for accessory buildings. Building height is measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 18 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be five feet.
4. **Maximum Percent of Buildings at Minimum Setback Line.** Buildings may be located at the minimum setback line for a maximum of 80 percent of the length of the setback line.

H. **All Neighborhood Streets:**

1. **Maximum Height.** Four stories or 50 feet; two stories or 25 feet for accessory buildings. Building height is measured from finished grade at entry to the top of the ridge/parapet.
2. **Front Yard.** The minimum front yard setback shall be 10 feet; the maximum front yard setback shall be 18 feet.
3. **Street Side Yard.** The minimum side street yard setback shall be five feet.



4. **Maximum Percent of Buildings at Minimum Setback Line.** Buildings may be located at the minimum setback line for a maximum of 80 percent of the length of the setback line.

**17.13.040 General Development Standards**

The following development standards apply except where a more stringent requirement is established in Section 17.13.030, Maximum Height and Setback Standards by Street.

- A. **Single-Unit Development.** Table 17.13.040.A, Development Standards-Single-Unit Development, prescribe the development standards for Single-Unit Development with the following adjustments.
  1. Lot depth for alley loaded homes shall be measured from back of walk/centerline of paseo to the centerline of the alley.
  2. For attached homes with garages at the rear or front of the lot, the setback may be reduced to five feet to the garage door.
  3. For front loaded single-family homes, the rear yard setback may be reduced to five feet for up to 50 percent of the lot width.
  4. Building height shall be measured from the finished grade at the front entry to the top of the ridge/parapet.
  5. Front setback shall be measured from back of sidewalk or centerline of paseo.
  6. For all alley-loaded homes, the setback may be reduced to four feet to the garage door. The setback to living space on second- and third-floors may be reduced to two feet from the edge of alley.

<b>TABLE 17.13.040.A: DEVELOPMENT STANDARDS-SINGLE-UNIT DEVELOPMENT</b>				
<i>Standard</i>	<i>Single-Unit, Detached</i>		<i>Single Unit, Attached</i>	
	<i>Front Loaded</i>	<i>Alley Loaded</i>	<i>Front Loaded</i>	<i>Alley Loaded</i>
<b>Lot Dimensions</b>				
Lot Width				
<i>Minimum</i>	32 ft	30 ft	15 ft	15 ft
<i>Maximum</i>	65 ft	60 ft	35 ft	35 ft
Lot Depth				
<i>Minimum</i>	45 ft	50 ft	50 ft	50 ft
<i>Maximum</i>	150 ft	150 ft	90 ft	90 ft
<b>Setbacks</b>				
Front				
<i>Porch/stoops (minimum)</i>	6 ft	6 ft	6 ft	6 ft
<i>Building Face (minimum)</i>	8 ft	8 ft	8 ft	8 ft
<i>Building Face (maximum)</i>	18 ft	16 ft	16 ft	16 ft

<b>TABLE 17.13.040.A: DEVELOPMENT STANDARDS-SINGLE-UNIT DEVELOPMENT</b>				
<i>Standard</i>	<i>Single-Unit, Detached</i>		<i>Single Unit, Attached</i>	
	<i>Front Loaded</i>	<i>Alley Loaded</i>	<i>Front Loaded</i>	<i>Alley Loaded</i>
<b>Lot Dimensions</b>				
Rear				
<i>Main Building (minimum)</i>	10 ft	10 ft	10 ft	10 ft
<i>Accessory Building (minimum)</i>	5 ft	14 or 28 ft	5 or 28 ft	5 or 28 ft
Side				
<i>Main Building (minimum)</i>	3 ft 3 in	3 ft 3 in	3 ft 3 in	3 ft 3 in
<i>Main Building at Corners (minimum)</i>	8 ft 3 in	8 ft 3 in	8 ft 3 in	8 ft 3 in
<i>Porch/stoops at Corners (minimum)</i>	6 ft	6 ft	6 ft	6 ft
<i>Accessory Building/Garage (minimum)</i>	3 ft 3 in	3 ft 3 in	3 ft 3 in	3 ft 3 in
<i>Accessory Building/Garage at Corners (minimum)</i>	8 ft 3 in	8 ft 3 in	8 ft 3 in	8 ft 3 in
<b>Site Coverage</b>				
Maximum Site Coverage (not including porches)	60%	60%	75%	75%

- B. **Commercial, Office, and Multi-Unit Development.** Table 17.13.040.B, Development Standards- Commercial, Office, and Multi-Unit Development, prescribe the development standards for Commercial, Office, and Multi-Unit Development.

<b>TABLE 17.13.040.B: DEVELOPMENT STANDARDS- COMMERCIAL, OFFICE, AND MULTI-UNIT DEVELOPMENT</b>		
<i>Standard</i>	<i>Commercial and Office</i>	<i>Multi-Unit</i>
<b>Building Form</b>		
Maximum Length of Building Façade with no Courtyard Break (ft)	300	300
Maximum Building Depth (ft)	300	n/a
<b>Setbacks</b>		
From Public Right-of-Way		
<i>Porches/Stoops/Balconies</i>	n/a	10 ft min
<i>Building</i>	<b>Ground floor:</b> 0 min, 10 ft max <b>Upper floors:</b> 10 ft where ground floor at 0 to 5 ft; 5 ft where ground floor at 5 to 10 ft	15 ft min
From Other Buildings On-Site		
<i>Residential Buildings</i>	20 ft min	Front/front: 19 ft min Side/side: 10 ft min Front/side: 15 ft min
<i>Community or Service Buildings</i>	n/a	25 ft min

<b>TABLE 17.13.040.B: DEVELOPMENT STANDARDS- COMMERCIAL, OFFICE, AND MULTI-UNIT DEVELOPMENT</b>		
<i>Standard</i>	<i>Commercial and Office</i>	<i>Multi-Unit</i>
<b>Building Form</b>		
<i>Nonresidential Buildings</i>	20 ft min	n/a
<i>Carports</i>	15 ft min	15 ft min
From Non-Street Property Line		
<i>Of Single-Unit Dwelling, Attached or Multi-Unit Lot</i>	20 ft min	15 ft min
<i>Of Single-Unit Dwelling, Detached Lot</i>	25 ft min	30 ft min
<i>Nonresidential Buildings</i>	25 ft min	n/a
From On-Site Parking, Drive Aisle, or Lane	15 ft min	5 ft min

### 17.13.050 Parking

Parking shall be provided pursuant to Chapter 17.23, Parking and Loading, except as provided below.

#### A. Required Parking Spaces.

1. **Senior Housing.** For senior housing, parking shall be at 0.5 spaces per unit, inclusive of guest parking.
2. **Commercial Uses.** For all uses in the Commercial Use classification, parking shall be at three spaces per 1,000 square feet.

#### B. Minimum Parking Space and Garage Dimensions.

Minimum parking space/interior garage dimensions shall be as follows. Appliances such as washers, dryers, water heaters and utility sinks that take up the floor area of garages shall be outside of the required minimum dimensions.

1. **Parallel Striped Spaces:** Eight feet wide by 20 feet deep.
2. **Single Car Garage:** 10 feet wide by 20 feet deep.
3. **Two Car, Side by Side, Garage:** 20 feet wide by 20 feet deep.

#### C. Maximum Garage Width.

1. For street facing garages, the maximum garage width shall be that which accommodates two conventional cars and an area for guest parking.
2. A street loaded garage may not occupy 50 percent or more of a lot's width.

#### D. Maximum Driveway Width.

Dwelling unit driveways that serve as parking areas shall be a maximum of 20 feet wide. If such parking areas are included, a pedestrian walkway connecting parking to the units is recommended.

#### E. Design Guidelines.

The following guidelines and recommendations apply to garages and parking:

1. Non street-loaded garages are encouraged.

2. Site and building design shall be utilized to minimize the impact of parking aprons and garages on the streetscape.
3. Garage layout and design should minimize the visual impact of the garage door and parking apron on the streetscape.
4. A garage should not occur directly at the end of a parking court as viewed from the street.
5. To discourage obstruction of the driveway, garage aprons shall be either less than five feet deep or more than eighteen feet deep as measured from property line. The deeper parking aprons should be limited to the rear units; however, they can be visible from the street. Parking shall not be allowed on aprons that are five feet.

## **Chapter 17.14 Reserved**

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## **Chapter 17.15 Reserved**

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## **Chapter 17.16 Reserved**

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*City of Newark*

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## Chapter 17.17 General Site Regulations

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### 17.17.010 Purpose and Applicability

The purpose of this Chapter is to prescribe development and site regulations that apply, except where specifically stated, to development in all districts. These standards shall be used in conjunction with the standards for each zoning district established in Article II, Base and Overlay District Regulations. In any case of conflict, the standards specific to the zoning district shall override these regulations.

### 17.17.020 Accessory Buildings and Structures

#### A. Applicability.

1. The provisions of this Section apply to roofed structures, including but not limited to garages, carports, sheds, workshops, gazebos, and covered patios, that are detached from and accessory to the main building on the site. These provisions also apply to open, unroofed structures such as play equipment, decks and trellises, that are over 18 inches in height and that are detached from and accessory to the main building on the site.
2. When an accessory building or structure is attached to the main building, it shall be made structurally a part of and have a common wall or roof with the main building and shall comply in all respects with the requirements of this Ordinance applicable to the main building. Allowed building projections into yards and required building separations are stated in Section 17.17.090, Projections into Yards and Required Building Separations.
3. Where an Accessory Dwelling Unit is located over a detached garage, the entire structure shall be considered a main building, subject to the base district standards for main buildings. No portion of this building shall be closer to any lot line than is permitted for any other main building.

B. **Relation to Existing Structures.** A detached accessory building may only be constructed on a lot on which there is a permitted main building to which the accessory building is related or on an adjacent lot under the same ownership.

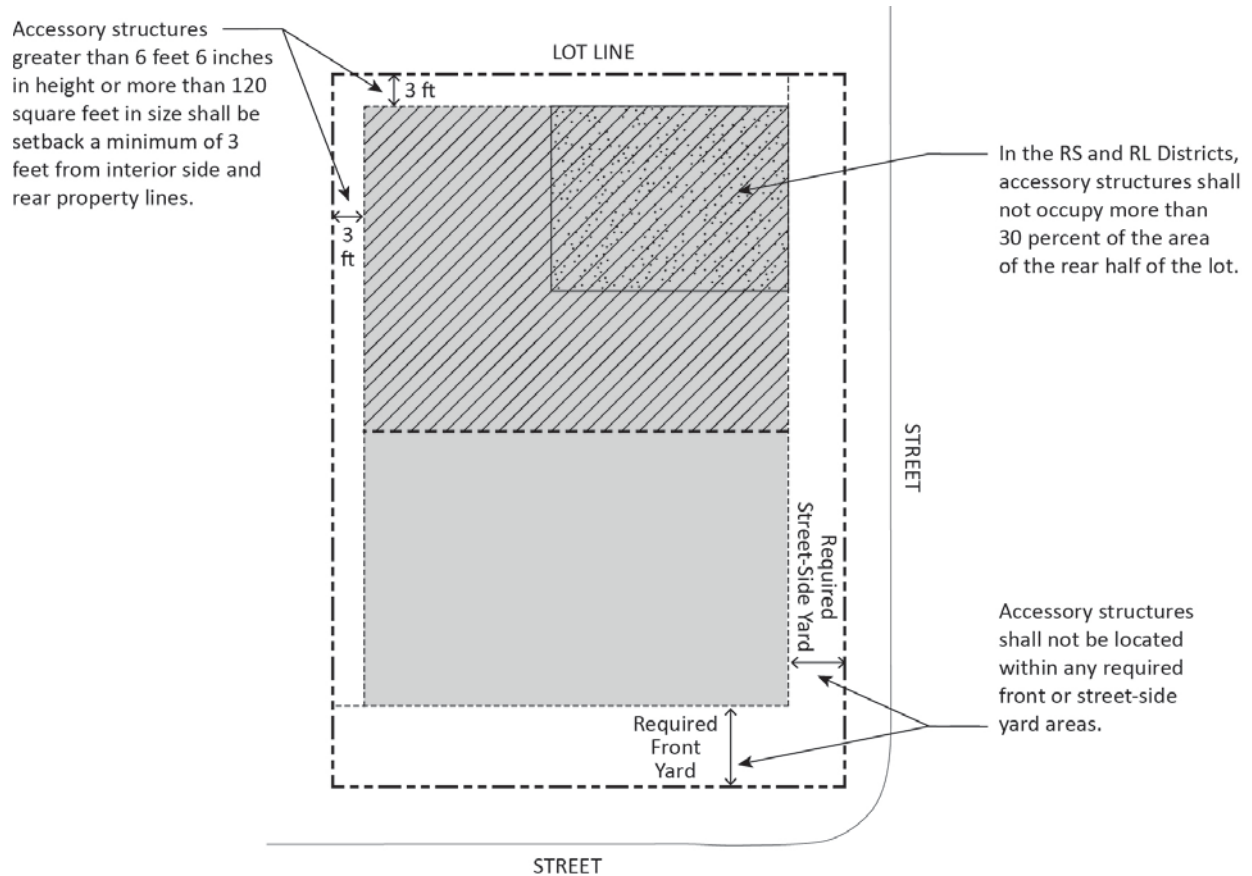
C. **Height.** The maximum allowable height of accessory structures is 12 feet except that accessory structures in Nonresidential Districts with a minimum roof pitch of 4:12 may be up to 16 feet in height.

#### D. Location.

##### 1. All Districts.

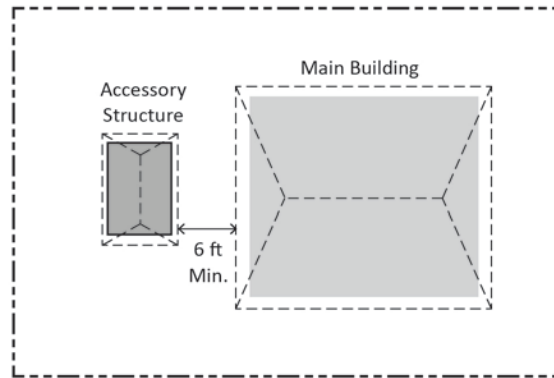
- a. *Front and Street-Side Setbacks.* Accessory structures shall not be located within any required front or street-side setback area.
- b. *Interior-Side and Rear Setbacks.* Accessory structures greater than six feet six inches in height or more than 120 square feet in size shall be setback a minimum of three feet from interior side and rear property lines.

2. **Additional Limitation, RS and RL Districts.** In the RS and RL Districts, accessory structures shall be located in the rear half of the lot and shall not occupy more than 30 percent of the area of the rear half of the lot.



**FIGURE 17.17.020.D: ACCESSORY STRUCTURE LIMITATIONS**

- E. **Separation from Main Buildings.** Detached accessory structures shall be located a minimum of six feet from the main building, inclusive of roof covering.



**FIGURE 17.17.020.F: ACCESSORY STRUCTURE SEPARATION FROM MAIN BUILDING**

### 17.17.030 Development on Substandard Lots

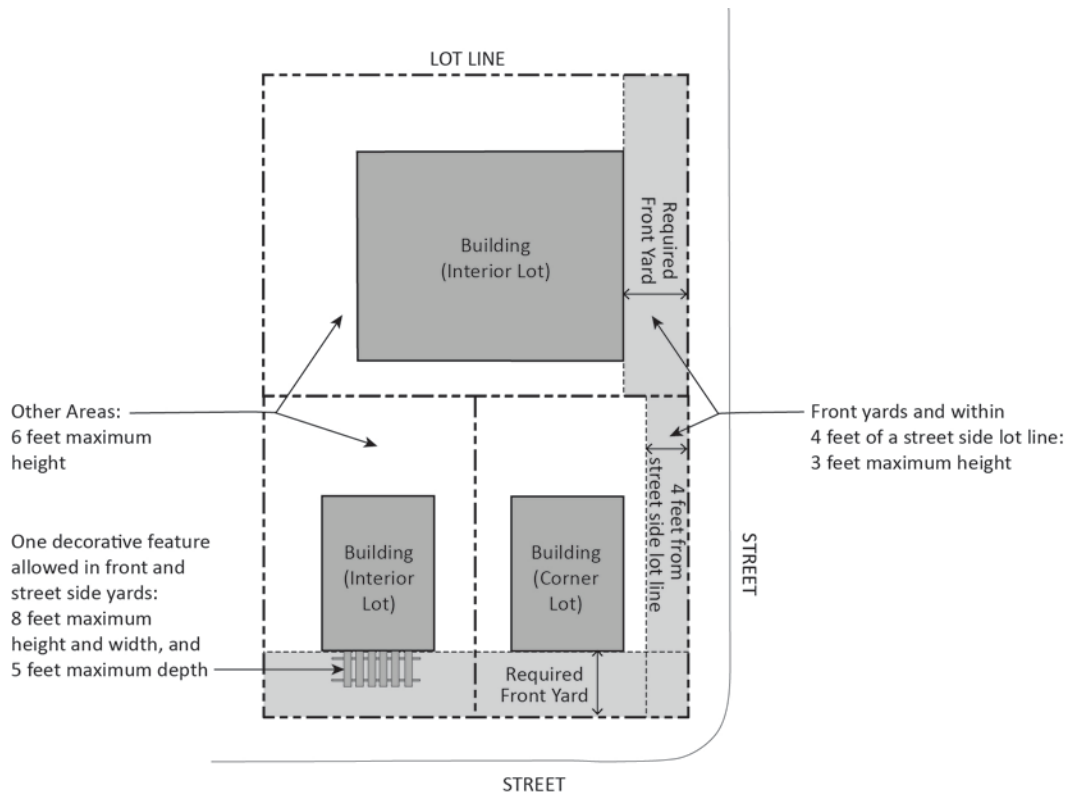
- A. Any lot or parcel of land that was legally created through a recorded deed may be used as a building site even when consisting of less area, width, or depth than that required by the regulations for the district in which it is located except as provided below.
1. **Two or More Adjoining Vacant Sites.** Two or more adjoining vacant sites with continuous frontage, each having an area, width or frontage less than the minimum prescribed for the district in which the sites are located, in the same ownership as of the date of adoption of this Section or subsequent thereto, is subject to all regulations for the district in which the sites are located, including minimum area, width and frontage requirements, as if the sites constituted a single parcel of real property.
- B. No substandard lot can be further reduced in area, width, or depth, unless such reduction is required as part of a public improvement.
- C. A substandard lot is subject to the same yard setback and density requirements as a standard lot.

### 17.17.040 Fences and Freestanding Walls

Fences, walls, hedges, and similar structures shall comply with the standards of this Section.

- A. **Maximum Height.** Fences, walls, hedges, and related structures are limited to a maximum of six feet except as follows: three feet high when located within required front yards or within four feet of a street side lot line, eight feet adjacent to four or more lane arterials for residential uses.
1. **Additional Height.**
    - a. *Director Approval.* The Director may approve additional fence height in compliance with the following.

- i. Maximum Height.
    - (1) Front Yards and within Four Feet of a Street Lot Line. Fences within the front yard and fences within four feet of a street lot line on a lot adjacent to a nonresidential use may be up to six feet in height.
    - (2) Outside Front Yards and More than Four Feet from a Street Lot Line. Fences located outside of a required front yard and more than four feet from a street lot line may be up to eight feet in height.
    - (3) Materials. The Director may only approve additional fence height for fences made of masonry block, precast concrete, wood, or metal wrought iron. Vertical or horizontal extensions to an existing fence or wall shall be of the same material and design as the existing fence or wall.
  - ii. Review and Required Findings. In approving additional fence height, the Director shall make the following findings.
    - (1) The additional fence height will not impair the provision of adequate light, air, circulation, and visual openness around adjacent residential structures.
    - (2) The additional fence height will not detract from the overall appearance of the neighborhood.
    - (3) The additional fence height is not detrimental to the health, safety, and welfare of people living in the neighborhood.
  - b. Planning Commission Approval. The Planning Commission may approve additional height allowances where the Planning Commission finds such fencing is necessary for security purposes.
2. **Hedges.** Where the base of the main trunk is further than four feet from the street side lot line and within five feet of a permitted structure, a hedge may be of any height.
  3. **Recreational Fencing.** Fencing located around tennis courts, badminton courts, basketball or volleyball courts and similar areas up to 12 feet in height may be allowed with Director approval, providing that all parts of the fence over six feet are made of open-wire construction or other corrosion-resistant materials.
  4. **Decorative Features.** One entry gateway, trellis, or other entry structure is permitted in the required front or street-facing side yard of each lot, provided that the maximum height or width of the structure does not exceed eight feet and the maximum depth does not exceed five feet.
  5. **Intersection and Driveway Visibility.** Notwithstanding other provisions of this Section, fences, walls, and related structures shall comply with Chapter 10.36, Visibility Requirements, of the Newark Municipal Code.



**FIGURE 17.17.040.A: FENCE AND FREESTANDING WALL HEIGHT**

**B. Materials.**

1. ***Prohibition on Hazardous Fencing Materials.*** The use of barbed wire, razor wire, ultra-barrier, electrified, and other hazardous fencing is not permitted unless such fencing is required by any law or regulation of the City, the State of California, Federal Government, or other public agency.
  - a. *Exception.* The Planning Commission may approve an exception to this standard for sites in Employment Districts, provided the hazardous fencing materials are located at the top portion of a fence which is at least six feet in height where the Planning Commission finds such fencing is necessary for security purposes.
2. ***Limitation on Chain-Link Fencing.***
  - a. *Residential Districts.* Chain-link fencing is prohibited in Residential Districts.
  - b. *Nonresidential Districts.* In Nonresidential Districts, chain-link fencing shall not be visible from the street, a State highway, or adjacent Residential Districts.
3. ***Limitation on Concrete Block.*** Plain, concrete block is not permitted as a fencing material. Concrete block must be finished with stucco (or decorative split-faced block) and capped with a decorative cap.

**17.17.050 Height and Height Exceptions**

The structures listed in the following table may exceed the maximum permitted building height for the district in which they are located, subject to the limitations stated and further provided that no portion of a structure in excess of the building height limit may contain habitable areas or advertising. Additional height, above this limit, may be approved with a Conditional Use Permit, pursuant to the provisions of Chapter 17.35, Use Permits.

<b>TABLE 17.17.050: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS</b>		
<i>Structures Allowed Above the Height Limit</i>	<i>Maximum Vertical Projection Above the Height Limit</i>	<i>Maximum Coverage and Locational Limitations</i>
Skylights	1 foot	None
Chimneys	8 feet	None
Decorative features such as spires, cupolas, bell towers, domes, obelisks, and monuments Rooftop open space features such as sun decks, sunshade and windscreen devices, open trellises, and landscaping	10 feet	Limited to a total of 20% of roof area, inclusive of all structures Must be setback from the exterior wall one foot for every foot of projection above the height limit
Elevator and stair towers (for multi-unit and nonresidential buildings only)	16 feet	Limited to a total of 10% of roof area Must be setback from the exterior wall one foot for every foot of projection above the height limit
Mechanical equipment penthouses	10 feet	Limited to 60% of roof area Must be setback from the exterior wall one foot for every foot of projection above the height limit
Mechanical equipment	5 feet	Must be setback from the exterior wall one foot for every foot of projection above the height limit
Fire escapes, catwalks, and open railings required by law	No restriction	None
- Telecommunications facilities, antennas, and microwave equipment - Radio towers	Subject to provisions of Section 17.26.250, Telecommunications Facilities.	
Solar Panels	Subject to provisions of Section 17.26.240, Solar Energy Systems	

**17.17.060 Lighting and Illumination**

- A. **Applicability.** The standards of this Section apply to all new development and to exterior alterations and additions that involve replacement light fixtures or systems, except as provided below.
  - 1. **Exemptions.** The following lighting is exempt from the provisions of this Section.



- a. *Public and Private Street Lighting.*
- b. *Athletic Field Lights.* Athletic field lights used within a school campus or public or private park.
- c. *Safety and Security Lighting.* Safety and security lighting for public facilities.
- d. *Construction and Emergency Lighting.* All construction or emergency lighting fixtures, provided they are temporary and are discontinued immediately upon completion of the construction work or abatement of the emergency.
- e. *Seasonal Lighting.* Seasonal lighting displays related to cultural or religious celebrations.

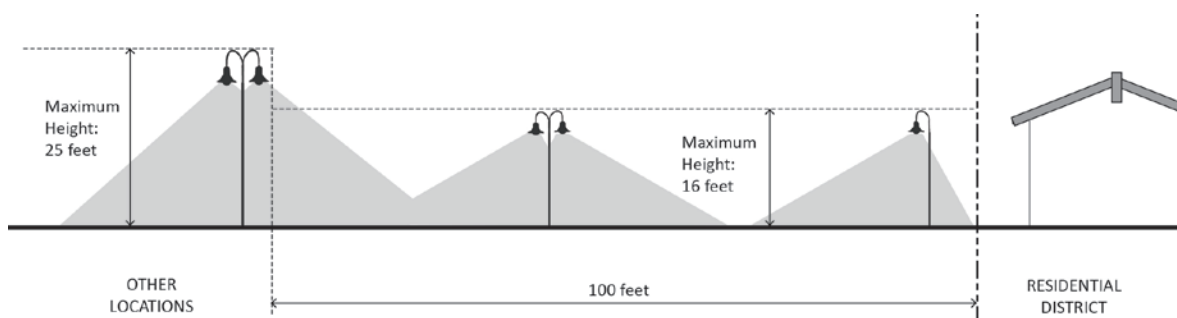
**B. Prohibitions.** The following types of exterior lighting are prohibited.

- 1. **Searchlights.** The operation of searchlights for advertising purposes.
- 2. **Mercury Vapor.** Mercury vapor lights.
- 3. **Other Light Types.** Laser lights or any other lighting that flashes, blinks, alternates, or moves.

**C. General Requirements.** Outdoor lighting shall be designed to be an integral part of the built environment, reflecting a balance for the lighting needs with the contextual ambient light level and surrounding nighttime characteristics of the community. Lighting for commercial installations adjacent to or near residential uses shall be compatible with and not directly illuminate nearby residential uses.

1. **Maximum Height.**

- a. *Within 100 feet of a Residential District:* 16 feet.
- b. *Other Locations:* 25 feet.
- c. *Exceptions:* The Planning Commission may allow additional height for activities, uses, or development with unique lighting needs; accentuating historic architectural features of a building; accentuating signage and/or landscape features; or for security purposes.



**FIGURE 17.17.060.C.1: MAXIMUM HEIGHT, OUTDOOR LIGHTING**

2. **Design of Fixtures.** Fixtures shall be appropriate to the style and scale of the architecture. Fixtures on buildings shall be attached only to walls or eaves, and the top of the fixture shall not exceed the height of the parapet or roof or eave of roof.
3. **Timing Controls.** All outdoor lighting in nonresidential development shall be on a time clock or photo-sensor system and turned off during daylight hours and during hours when the building or, in the case of shopping centers, all buildings, are not in use and the lighting is not required for security.
4. **Trespass.** All lights shall be directed, oriented, and shielded to prevent light trespass or glare onto adjacent properties. The light level at property lines shall not exceed 0.3 foot-candles.

D. **Supplemental Requirements**

1. **Multi-Unit Residential Buildings.**
  - a. Lighting in parking areas, garage areas, and carport areas shall be maintained with a minimum of one foot-candle of illumination at the ground level during the hours of darkness.
  - b. Aisles, passageways, and recesses related to and within the building complex shall be illuminated with an intensity of at least 0.25 foot-candles at the ground level during the hours of darkness.
2. **Nonresidential Buildings.** All exterior doors, during the hours of darkness, shall be illuminated with a minimum of 0.5 foot-candle of light.

**17.17.070 Outdoor Storage**

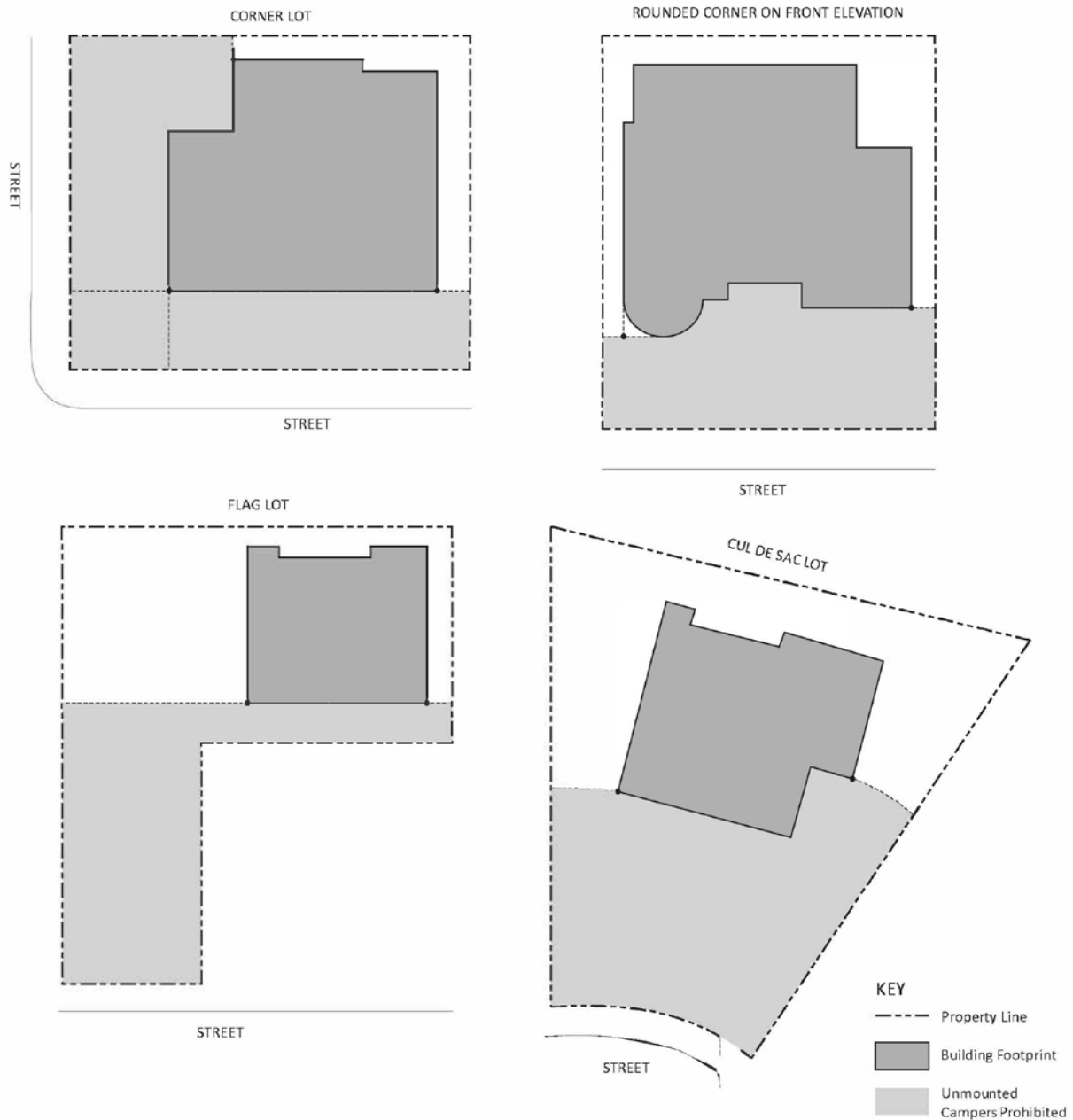
Storage of goods, materials, machines, equipment, and inoperable vehicles or parts outside of a building for more than 72 hours shall conform to the standards in Table 17.17.070, Outdoor Storage Regulations. The regulations of this Section do not apply to temporary storage of construction materials reasonably required for construction work on the premises pursuant to a valid building permit or to the parking and storage of recreational vehicles or trailers pursuant to Section 17.17.080, Parking and Vehicle Storage in Required Yards.

<b>TABLE 17.17.070: OUTDOOR STORAGE REGULATIONS</b>	
<i>Base Districts</i>	<i>Permissibility of Outdoor Storage</i>
Residential Districts	Permitted as an accessory use provided the outdoor storage does not exceed 25 percent of the rear yard area, is not visible from a public right-of-way, and does not include any hazardous materials.
Commercial and Mixed-Use, Public and Semi-Public, OP, BTP, and LI Districts	Not permitted. (All storage must be within an enclosed building).
GI District	Permitted as an accessory use outside of required yards, parking and circulation areas, and required landscaped areas subject to the standards of Section 17.17.100, Screening.
Resource Production District	Permitted as a principal use outside of required front and street side yards, parking and circulation areas, and required landscaped areas subject to the standards of Section 17.17.100, Screening.

**17.17.080 Parking and Vehicle Storage in Yards**

Noncommercial passenger vehicles, with a manufacturer's gross vehicle weight 10,000 pounds or less, recreation-type vehicles such as travel trailers, tent trailers, completely enclosed campers and boats on trailers may be parked or stored in yards, provided, that they are not subject to Chapter 10.52, Abatement of Abandoned, Wrecked, Dismantled or Inoperative Vehicles, of the Newark Municipal Code, subject to the following provisions.

- A. Unmounted campers shall not be located within the area extending across the full width of the lot between a street facing lot line and the nearest wall of the closest main building on the lot.



**FIGURE 17.17.080.A: UNMOUNTED CAMPER LOCATION LIMITATION**

- B. Vehicles and equipment shall be parked on a driveway. "Driveway" shall include a permanently surfaced extension of the original driveway, located immediately adjacent and parallel to the original driveway. Such extension shall not exceed 10 feet in width and shall not be used for the parking or storage of more than one passenger or recreation-type vehicle at any one time.
  - 1. For properties that front on four lane arterials or two lane collector streets in Residential Districts, two permanently surfaced extensions of the original driveway, located

immediately adjacent and parallel to the original driveway, allowing for a maximum of four vehicles in the front yard, all of which must be operable, are allowed subject to design review by the Director.

- C. Vehicles or equipment shall not encroach into the public right-of-way, including sidewalks.
- D. Campers which have been removed from the transporting vehicle and which are stored on driveways shall be situated as close to the ground as is practicable and shall not present a hazard to persons entering the driveway or passing by in the public right-of-way.
- E. Parked or stored vehicles, campers, or equipment shall not be occupied.
- F. Vehicles or equipment visible from adjacent property or public right-of-way shall not be used for the accumulation or storage of trash, debris, garbage, garden trimmings or other discarded materials.

**17.17.090 Projections into Yards and Required Building Separations**

Building projections may extend into required yards or spaces between structures, according to the standards of Table 17.17.090, Allowed Projections into Required Yards and Building Separations, subject to all applicable requirements of the Building Code. The “Limitations” column states any dimensional, area, or other limitations that apply to such structures where they project into required yards.

<b>TABLE 17.17.090: ALLOWED PROJECTIONS INTO REQUIRED YARDS AND BUILDING SEPARATIONS</b>					
<i>Projection</i>	<i>Front or Street Side Yard</i>	<i>Interior Side Yard</i>	<i>Rear Yard</i>	<i>Required Building Separation</i>	<i>Limitations</i>
All projections	Notwithstanding any other Subsection of this Section, no projection may extend closer than three feet to an interior lot line or into a public utility easement. Where any setback of this Ordinance conflicts with the Building Code, the more restrictive shall apply.				
Cornices, canopies, eaves, and similar architectural features; chimneys	3 feet	2 feet	3 feet	2 feet	
Bay windows	3 feet	2 feet	3 feet	2 feet	Shall not occupy more than one-third of the length of the building wall on which they are located or one-half of the length of a single room.
Fire escapes required by law or public agency regulation	3 feet	3 feet	3 feet	3 feet	
Uncovered stairs, ramps, stoops, landings, decks, porches, balconies, and platforms					
<i>All elements less than four feet above ground elevation</i>	6 feet	3 feet	8 feet	3 feet	Must be open on at least three sides and no closer than 7 ft of a street-facing lot line or 3 ft of an interior lot line.
<i>Any element four feet or more above ground elevation</i>	3 feet	3 feet	3 feet	3 feet	

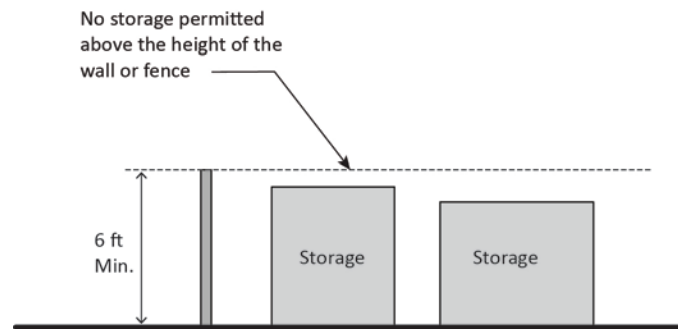
TABLE 17.17.090: ALLOWED PROJECTIONS INTO REQUIRED YARDS AND BUILDING SEPARATIONS					
Projection	Front or Street Side Yard	Interior Side Yard	Rear Yard	Required Building Separation	Limitations
Ramps and similar structures that provide access for persons with disabilities	Reasonable accommodation will be made, consistent with the Americans with Disabilities Act; see Chapter 17.37, Waivers.				

**17.17.100 Screening**

- A. **Screening of Mechanical and Electrical Equipment.** All exterior mechanical and electrical equipment shall be screened or incorporated into the design of buildings so as not to be visible from public rights-of-way or adjacent Residential Districts. Equipment to be screened includes, but is not limited to, all roof-mounted equipment, air conditioners, heaters, utility meters, cable equipment, telephone entry boxes, backflow preventions, irrigation control valves, electrical transformers, pull boxes, and all ducting for air conditioning, heating, and blower systems. Screening materials shall be consistent with the exterior colors and materials of the building. Exceptions may be granted by the Director where screening is infeasible due to health and safety or utility requirements.
- B. **Common Property Lines.** A screening wall six feet in height shall be provided on the interior lot lines of any lot that contains any use in the Industrial Use Classification or any use in the Transportation, Communication, and Utilities Use Classification (except Communications Facilities and Minor Utilities) and abuts a Residential District.
  - 1. **Timing.** The screening wall shall be provided at the time of new construction or expansion of buildings, or changes from one use classification to another nonresidential use classification.
  - 2. **Location.** Screening walls shall follow the lot line of the lot to be screened, or shall be so arranged within the boundaries of the lot so as to substantially hide from adjoining lots the building, facility, or activity required to be screened.
  - 3. **Materials.** Industrial uses must provide a solid screening wall of stucco, decorative block, or concrete panel. Screening walls for other uses may be constructed of stucco, decorative block, concrete panel, wood, or other substantially equivalent material.

- C. **Outdoor Storage Areas.** Outdoor storage areas shall be screened from view from any public street or freeway; existing or planned residential area; or publicly accessible open space area, parking area, access driveway, or similar thoroughfare.

1. **Height.** Screening walls and fences shall be at least six feet in height and no materials or equipment shall be stored to a height greater than that of the wall or fence. Fences and walls must not exceed the maximum allowable fence heights unless allowed pursuant to Minor Use Permit approval.



**FIGURE 17.17.100.C.1: SCREENING OF OUTDOOR STORAGE**

2. **Materials.** The screening wall or fence shall be constructed of stucco, decorative block, concrete panel, wood or other substantially equivalent material.
- D. **Other Outdoor Use Areas.** Any use not conducted entirely within an enclosed structure shall be screened from view from any public street or freeway; existing or planned residential area; or publicly accessible open space area, parking area, access driveway, or similar thoroughfare where the Director finds that the use without screening would have a detrimental effect on adjacent properties.
- E. **Berms.** An earth berm may be used instead of or in combination with the above types of screening walls.
- F. **Maintenance.** Screening walls shall be maintained in good repair, including painting, if required, and shall be kept free of litter or advertising. Where hedges are used as screening, trimming or pruning shall be employed as necessary to maintain the maximum allowed height.

### 17.17.110 Swimming Pools and Spas

Swimming pools, spas, and any body of water having a depth of more than 18 inches shall comply with the following standards:

- A. The swimming pool or spa, or the entire lot on which it is located, shall be walled or fenced from the street or from adjacent lots.
  1. Swimming pools and spas located within 50 feet of any lot line shall be screened from view from the street and adjoining properties with a structure or a solid fence or wall at least five feet in height. Swimming pools and spas located less than 30 feet to any lot line shall be screened by a masonry wall or solid fence not less than six feet in height on the side facing such lot line.

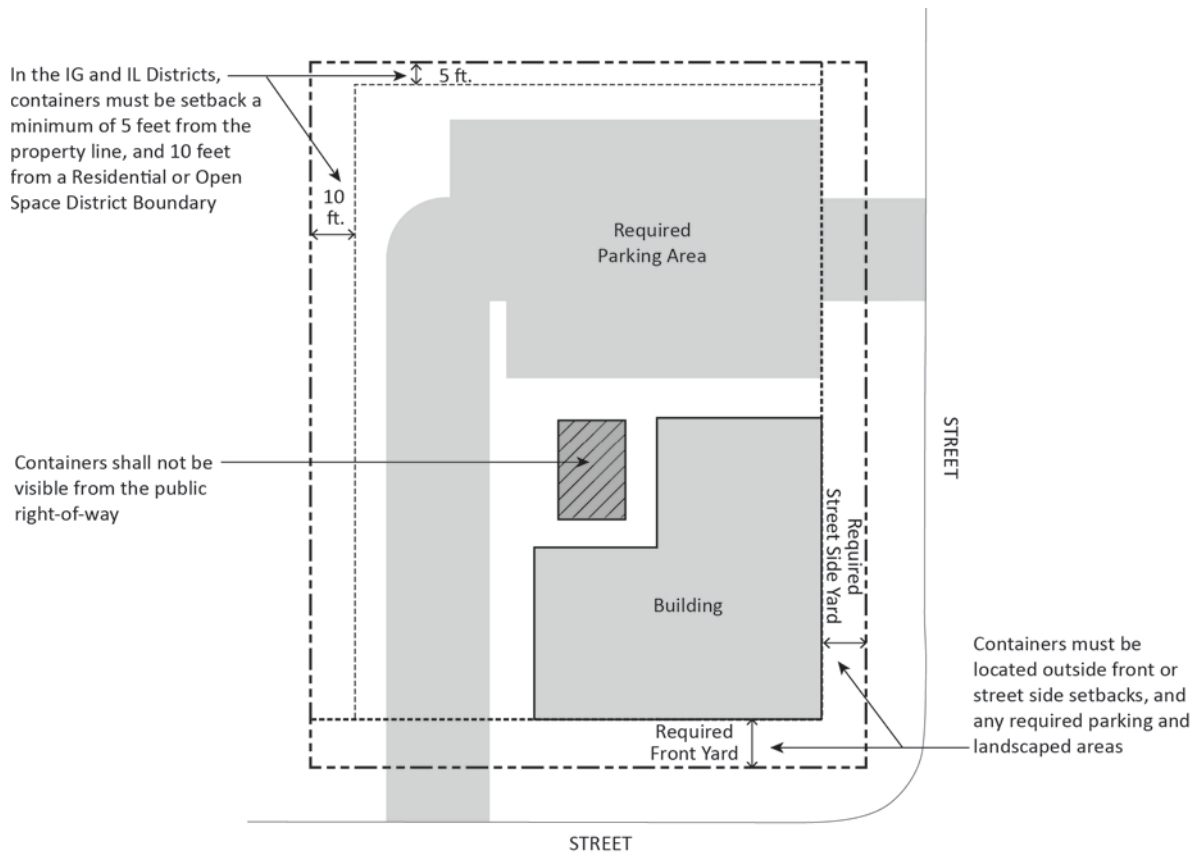
- B. The outside wall of the water-containing portion of any swimming pool or spa shall not be located within the required front or street side setback and shall be located at least five feet from all interior side and rear lot lines.
- C. Swimming pools shall be built and maintained per the requirements of the Building Code, including requirements for enclosure and security.

#### **17.17.120 Trash and Recycling Collection Areas**

This Section establishes design and locational criteria for the construction of refuse, solid waste, recycling, compost, and green waste container storage areas. Refuse, solid waste, recycling, compost, and green waste are collectively referred to as “waste and recycling.”

- A. **General Requirements.** All waste and recycling shall be placed in an appropriate receptacle. All garbage cans, mobile trash bins, receptacles, and all recycling materials and containers for such recycling materials shall be maintained and stored in accord with this Section.
- B. **Containment.** All development shall provide either individual waste and recycling containers or waste and recycling enclosures consistent with the following:
  - 1. **Individual Waste and Recycling Containers.** Individual waste and recycling containers for each unit or tenant may be provided as follows:
    - a. **Development Type.** Individual waste and recycling containers may be provided for:
      - i. Single-unit development.
      - ii. Multi-unit development.
      - iii. Nonresidential development where the Director finds that the nature of the proposed development is such that the development will be adequately served with individual waste and recycling containers.
    - b. **Location.** The waste and recycling containers shall not be located within any required front setback, street side setback, any required parking and landscaped areas, or any other area required by this Ordinance to be constructed or maintained unencumbered, according to fire and other applicable building and public safety codes.
      - i. **GI and LI Districts.** In the GI and LI Districts, waste and recycling containers shall also be setback a minimum of five feet from any property line and a minimum of 10 feet from any Residential or Open Space District boundary.





**FIGURE 17.17.120.B.1.B: WASTE AND RECYCLING CONTAINER LOCATION**

- c. *Visibility.* The waste and recycling containers shall not be visible from a public right-of-way.
2. **Waste and Recycling Container Enclosures.** Waste and recycling container enclosures are required for all new nonresidential development except where the Director finds the development will be adequately served with individual waste and recycling containers pursuant to Subparagraph (B)(1)(a) above.
  - a. *Size.* Waste and recycling-container enclosures shall be sized to accommodate all trash, garbage, recyclables, and green waste until such items are picked up by the City or its contracted waste and recycling collector. The City may require additional collection service if receptacles do not provide adequate capacity.
  - b. *Location.* The waste and recycling storage area shall not be located within any required front setback, street side setback, any required parking and landscaped areas, or any other area required by this Ordinance to be constructed or maintained unencumbered, according to fire and other applicable building and public safety codes.

- c. *Accessibility.* Waste and recycling storage areas shall be accessible so that trucks and equipment used by the contracted waste and recycling collector have sufficient maneuvering areas and, if feasible, so that the collection equipment can avoid backing up.
- d. *Screening.* Waste and recycling storage areas located outside or on the exterior of any building shall be screened with a solid enclosure at least six feet high and include a roof structure.
- e. *Enclosure Material.* Enclosure material shall be wood, solid masonry, or concrete tilt-up with decorated exterior-surface finish. The trash enclosure shall match and complement the color scheme and architecture of the associated development.
- f. *Gate Material.* Latching, view-obscuring gates shall be provided to screen trash enclosure openings.
- g. *Enclosure Pad.* Pads shall be a minimum of four-inch-thick concrete.
- h. *Bumpers.* Bumpers shall be two inches by six inches thick and made of concrete, steel, or other suitable material, and shall be anchored to the concrete pad.
- i. *Clear Zone.* The area in front of and surrounding all enclosure types shall be kept clear of obstructions, and shall be painted, striped, and marked "No Parking."
- j. *Drainage.* The floor of the enclosure shall have a drain that connects to the sanitary sewer system.
- k. *Travelways and Area in Front of Enclosure.* The travelways and area in front of the enclosure shall have an adequate base to support a truck weight of at least 62,000 pounds.

#### **17.17.130 Underground Utilities**

All electrical, telephone, cable television, and similar distribution lines providing direct service to a project shall be installed underground within the site. This requirement may be waived by the Director upon determining that underground installation is infeasible.

## Chapter 17.18 Affordable Housing Program

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### 17.18.010 Purpose

The provision of safe and stable housing for households at all income levels is essential for the public welfare of the City. Housing in the City has become steadily more expensive and housing costs have gone up faster than incomes. Federal and state government programs do not provide enough affordable housing to satisfy the needs of very low, low, or moderate income households.

As provided in the Housing Element of the General Plan, the City wishes to retain an economically balanced community with housing available to households of all income levels, which is only possible if some of the housing built within the City is affordable to households with limited incomes.

Because new housing contributes to the demand for goods and services, it increases local employment and attracts employees, of whom a quantifiable number will have very low, low, or moderate incomes, increasing the demand for and exacerbating the shortage of housing available for people at these income levels. Further, new housing construction that does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. In addition, because nonresidential development also attracts employees, of whom a quantifiable number will have very low, low, or moderate incomes, new nonresidential development projects similarly increase the demand for and exacerbate the shortage of housing available for people at these income levels.

This Chapter therefore imposes a residential and nonresidential development housing impact fee to provide a means whereby developers of residential and nonresidential development projects contribute to the supply of housing for households with very low, low, and moderate incomes. It also implements Program 8 in the City's 2007-2014 Housing Element, which called for amendments to the City's inclusionary housing program if problems were found due to market conditions. Because no affordable housing was produced by the City's former program, the City has adopted a housing impact fee to create a more effective affordable housing program.

### 17.18.020 Housing Impact Fee

- A. **Application.** A housing impact fee is hereby imposed on all developers of residential and nonresidential development projects.
- B. **Calculation of Housing Impact Fee.** The housing impact fee for residential and nonresidential development projects shall be charged on a per square foot basis for new floor area, excluding additions to existing residential dwellings. The amount and calculation of each such fee shall be established by resolution of the City Council. The City Council may review the fees from time to time at its sole discretion and may, based on that review, adjust the fee amount. Housing impact fees shall not exceed the cost of mitigating the impact of the nonresidential and residential projects on the need for affordable housing in the City.
- C. **Time of Payment.** Payment of the residential and nonresidential development housing impact fee shall be due at the issuance of the building permit for the development. The fees shall be calculated based on the fee schedule in effect at the time the building permit is issued.
- D. **Processing Requirements.** No application for a building permit for any project subject to this Section shall be deemed complete unless the application contains the items listed below. The

Director may require similar information for completeness of other City permits or licenses as necessary or convenient to implement this Section:

1. A statement of the new square feet in a residential or nonresidential development project to be constructed, added, or placed that are subject to the requirements of this Section, together with documentation sufficient to support the application;
2. The intended use or uses for the residential or nonresidential development project by new square feet; and
3. A statement of any exemptions applicable to the project.

New square footage shall be calculated on either a gross square foot or net square foot basis, as specified in the fee schedule adopted by resolution of the City Council.

### **17.18.030 Exemptions from Payment of Housing Impact Fee**

This fee shall not apply to developers of residential or nonresidential development projects which fall within one or more of the following categories:

- A. **Emergency Food and Shelter Services.** Development projects to be operated by nonprofit organizations and which will provide food storage, meal service, and/or temporary shelter to the homeless.
- B. **Specific Uses.** Projects for any of the following uses:
  1. Colleges and Trade Schools
  2. Community Assembly
  3. Community Garden
  4. Cultural Institutions
  5. Day Care Centers providing care for eight or fewer persons
  6. Emergency Shelter
  7. Park and Recreation Facilities
  8. Public Works and Utilities
  9. Schools
  10. Social Service Facilities
  11. Temporary uses.
- C. **Government Property.** Residential or nonresidential development projects located on property owned by the State of California, the United States of America, or any of its agencies and used exclusively for governmental or educational purposes.
- D. **Damaged Property.** Any structure proposed to repair or replace a building that was damaged or destroyed by fire or other calamity, and construction of the replacement building begins within one year.

- E. **Vested Rights.** Residential or nonresidential development projects to the extent they have received a vested right to proceed without payment of housing impact fees pursuant to state law including those that are the subject of development agreements currently in effect with the City, if such development agreements were approved prior to the effective date of this Chapter and where such agreements expressly preclude the City from requiring payment of the housing impact fee.
- F. **Prior Application.** Residential or nonresidential uses as set forth in an application for a Building Permit, Use Permit, rezoning or similar discretionary approval accepted as complete by the City prior to the effective date of this Ordinance; however, any extension or modification of such approval or permit after such date shall not be exempt.
- G. **Affordable Housing.** Housing for very low, low, or moderate income households that fully mitigates the development's impacts on the need for affordable housing.

#### **17.18.040 Discretionary Exemption by City Council**

The City Council may elect to waive the payment of the impact fee if a developer of a residential or nonresidential development project includes the provision of community benefits in excess of those required by the impacts of the project, and if the City Council finds that the proposed benefits to the community exceed those that would be provided by the payment of the housing impact fee. Such community benefits may include the provision of senior housing, the generation of significant sales taxes, or the elimination of nuisances. If the City Council elects to waive housing impact fees pursuant to this provision, the community benefits shall be guaranteed by a binding document in a form that is acceptable to the City Attorney.

#### **17.18.050 Alternatives to Payment of Housing Impact Fee**

- A. **Mitigation of Housing Impacts.** The City Council may adopt by resolution the percentage of affordable units needed to fully mitigate the impact of residential or nonresidential projects on the need for affordable housing.
- B. **Residential Projects.**
  - 1. As an alternative to paying the housing impact fee, a developer of residential property may provide on-site affordable rental or for-sale residential units or an alternative housing program. Any affordable rental or for-sale units proposed as an alternative to the payment of the housing impact fee shall be subject to the requirements described in this Section. The program shall be guaranteed by a binding and recorded document, such as a development agreement, in a form that is acceptable to the City Attorney.
  - 2. A developer who proposes the provision of affordable units that are rental must submit an affidavit to the City stating that any rental affordable units proposed by the developer are not subject to Civil Code Section 1954.52(a) nor any other provision of the Costa Hawkins Rental Housing Act (Civil Code Sections 1954.51 et seq.) inconsistent with controls on rents, because, pursuant to Civil Code Sections 1954.52(b) and 1954.53(a)(2), prior to approval of the residential project, the developer will enter into a contract with the City or another public agency agreeing to the limitations on rents contained in Section 17.18.050, Standards for Alternatives to Payment of Housing Impact Fee, in consideration for a direct financial contribution or any form of assistance specified in Chapter 4.3

(commencing with Section 65915) of Division I of Title 7 of the Government Code. The developer may request that the City waive the affordable housing impact fee as a direct financial contribution to the rental residential project.

- C. **Nonresidential Development Projects.** A developer of nonresidential development projects may propose an alternative affordable housing program to mitigate the impact of the development on the need for affordable housing. Any affordable rental or for-sale units proposed as an alternative to the payment of the housing impact fee shall be subject to the requirements described in Section 17.18.050, Standards for Alternatives to Payment of Housing Impact Fee. The program shall be guaranteed by a binding and recorded document, such as a development agreement, in a form that is acceptable to the City Attorney.
- D. **Planning Commission.** The alternative means of compliance shall be brought to the Planning Commission for its consideration. The Planning Commission shall consider the alternative and recommend approval, conditional approval or denial to the City Council. The Commission shall only recommend approval or conditional approval of the alternative means of compliance if it is able to make all of the findings set forth below:
  - 1. The proposed alternative means of compliance fulfills the purposes of this Chapter as set forth in Section 17.18.010, Purpose;
  - 2. The proposed alternative means of compliance will further affordable housing opportunities in the City to an equal or greater extent than compliance with the requirements of Section 17.18.020, Housing Impact Fee, and will fully mitigate the impact of the project on the need for affordable housing;
  - 3. The proposed alternative means of compliance would better address the City's needs than compliance with the requirements of Section 17.18.020, Housing Impact Fee; and
  - 4. The proposed alternative means of compliance will not unduly concentrate affordable housing in one geographic area so as to result in housing segregation.
- E. **City Council.** After consideration of the Planning Commission's recommendation, the City Council may approve, conditionally approve, or deny the alternative means of compliance. The Council shall only approve or conditionally approve the alternative means of compliance if it is able to make all of the findings described in Subsection D above.

#### **17.18.060 Standards for Alternatives to Payment of Housing Impact Fee**

- A. The for-sale and rental affordable units developed as an alternative to the payment of the housing impact fee shall be subject to a resale restriction, deed of trust, and/or regulatory agreement recorded against the property as applicable. These agreements shall have a term of 55 years for rental affordable units and a term of 30 years for for-sale units and shall require the affordable units to be rented to very low or low-income households at an affordable rent, or to be sold to very low, low or moderate income households at an affordable ownership cost.
- B. Affordable units shall be comparable to the market rate units in a residential development as follows:
  - 1. The affordable units shall have the same proportion of units of different bedroom sizes as provided in the residential development project as a whole;

2. The exterior appearance of the affordable units shall be indistinguishable from that of market rate units;
3. The affordable units shall be dispersed throughout the residential development project;
4. The affordable units shall be provided or have access to the same amenities as the market rate units, including air conditioning, covered garages, recreation facilities and laundry facilities; and
5. All affordable units in a residential development project or phase of a project shall be constructed concurrently with the market rate units.

### **17.18.070 Housing Fund**

There is hereby established in the City of Newark the affordable housing fund. Separate accounts within such housing fund may be created from time to time to avoid co-mingling as required by law or as deemed appropriate to further the purposes of the fund.

- A. **Administration.** The housing fund shall be administered by the Director, who shall have the authority to govern the housing fund consistent with this Chapter and to prescribe procedures for said purpose, subject to approval by the City Council.
- B. **Advisory Committee.** The Community Development Advisory Committee shall review the status of the fund annually. As appropriate, the Committee may define and prioritize recommended uses of the monies in the housing fund, subject to approval by the City Council.
- C. **Purpose and Use of Funds.**
  1. Monies deposited in the housing fund, along with any interest earnings on such monies, shall be used solely to increase and preserve the supply of housing affordable to households of very low, low, and moderate incomes; including, but not limited to, acquisition of property and property rights, cost of construction, including costs associated with planning, administration, and design, as well as actual building or installation, as well as any other costs associated with the construction or financing of affordable housing; and reimbursement to the City for such costs if funds were advanced by the City from other sources. To the maximum extent possible, all monies should be used to provide for additional affordable housing. Monies may also be used to cover reasonable administrative expenses not reimbursed through processing fees, including reasonable consultant and legal expenses related to the establishment and/or administration of the housing fund and reasonable expenses for administering the process of calculating, collecting, and accounting for housing fees authorized by this Section.
  2. Monies in the housing fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the Director and City Council determine is appropriate to accomplish the purposes of the housing fund. The housing fund monies may be extended for the benefit of rental or owner occupied housing or housing services.
  3. Expenditures by the Director from the housing fund shall be controlled, authorized, and paid in accordance with general City budgetary policies. Execution of contracts related to

the use or administration of housing fund monies shall be in accordance with standard City policy.

#### **17.18.080 Administrative Relief**

- A. As part of an application for the first approval of a residential or nonresidential development project, a developer or applicant may request that the requirements of this Chapter be waived or modified, based upon a showing that applying the requirements of this Chapter would result in an unconstitutional taking of property or would result in any other unconstitutional result, or because there is no reasonable relationship between the impact of the development and the need for affordable housing. Any request for a waiver or modification shall be submitted concurrently with the project application. Failure to do so shall constitute a failure to exhaust administrative remedies. The developer or applicant shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation. Any request for a waiver or modification based on this Section shall be reviewed and considered at the same time as the project application.
- B. The waiver or modification may be approved only to the extent necessary to avoid an unconstitutional result, based upon legal advice provided by or at the behest of the City Attorney, after adoption of written findings, based on legal analysis and the evidence. If a waiver or modification is granted, any change in the project shall invalidate the waiver or modification, and a new application shall be required for a waiver or modification pursuant to this Section.

#### **17.18.090 Enforcement**

- A. **Housing Impact Fee.** Payment of the housing impact fee is the joint and several obligations of the applicant and the property owner for the subject residential or nonresidential development project. In the event of administrative error, the City shall provide the applicant with a written notice, and the applicant shall be required to pay the fees within 30 days. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including, but not limited to, actions to revoke, deny, or suspend any permit or development approval.
- B. **Violations.** No person shall sell or rent an affordable unit built as an alternative to the payment of the housing impact fee at a price or rent exceeding the maximum allowed under this Chapter, or to a household not qualified under this Chapter. Said sale or rental shall constitute a public nuisance and shall be punishable as a misdemeanor. Each month that such unit is occupied in violation of this Chapter shall constitute a separate violation.
- C. **Enforcement.** The City Attorney shall be authorized to enforce the provisions of this Chapter and all regulatory agreements and resale controls placed on affordable units by administrative or civil action or any other proceeding or method permitted by law. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any applicant, developer, or owner from the requirements of this Chapter.



## Chapter 17.19 Density Bonus for Affordable Housing

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### 17.19.010 Purpose

This Chapter is intended to provide a local ordinance for implementation of the state-mandated density bonus set forth in California Government Code Section 65915 et seq. For the purposes of this Chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable Zoning and General Plan Land Use Designation as of the date of application by the applicant to the City,

### 17.19.020 Density Bonus Applicability and Amount

Density bonuses pursuant to California Government Code Section 65915 et seq are available for the following projects. The total density bonus for a project shall not exceed 35 percent.

#### A. Housing Development.

1. **Criteria.** A density bonus shall be granted to housing developments that meet all of the following criteria:
  - a. The development will include five or more dwelling units;
  - b. The development will provide at least the amount of housing designated for very low or low income households, or moderate income households in a common interest development, set forth in Government Code Section 65915(b), or the development is a senior citizen housing development; and
  - c. The affordability of the housing designated for very low, low or moderate income households shall be protected in accordance with Government Code Section 65915(c).
2. **Amount.** The amount of the density bonus to which the developer is entitled shall be determined in accordance with Government Code Section 65915(f).

#### B. Land Donation. An applicant for a tentative subdivision map, parcel map or other residential development approval may receive a density bonus for a donation of land if the land meets all of the following criteria:

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
2. The developable acreage and zoning district classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development;
3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate General Plan designation, is appropriately zoned with appropriate development standards for development at the required density, and is or will be served by adequate public facilities and infrastructure;

4. The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application.
  5. The developer shall record a deed restriction approved by the City Attorney for the transferred land and the density bonus units to restrict affordability with the requirements set forth in this Chapter;
  6. The land shall be transferred to the City or to a housing developer approved by the City prior to approval;
  7. The transferred land must be within the boundary of the proposed development. Alternatively, the City Council may approve a site within one-quarter mile of the project site; and
  8. A proposed source of funding for the very low income units shall be identified to the satisfaction of the City Council not later than the date of approval of the final subdivision map, parcel map, or residential development or application.
- C. **Childcare Facility.** A development which meets the requirements of Subsection A or Subsection B above and also includes a child care facility shall receive an additional density bonus or an additional incentive or concession.
1. To qualify, the child care facility must:
    - a. Be located on the premises of, be a part of, or be adjacent to the housing development;
    - b. Agree to remain in operation for at least as long as the density bonus units are required to remain affordable; and
    - c. Maintain percentages of children from very low income, low income, and moderate income households equal to the percentages of dwelling units required for each income level.
  2. The amount of the additional density bonus shall be determined per Government Code Section 65917.5(a)(2)(A) and (B).
  3. Application for an additional incentive or concession shall be made as described in Section 17.19.030, Incentives and Concessions.
  4. A request for a child care bonus or incentive may be denied if the City Council finds, based on substantial evidence, that the community has adequate child care facilities.
  5. If the space allocated for a child care facility under this Section is used for purposes other than a child care facility, or if developer fails to allocate space for the child care facility within three years of the issuance of the first temporary certificate of occupancy, the City Council may levy and collect an assessment based on the square footage of the project.

### **17.19.030 Incentives and Concessions**

- A. Applicants for a density bonus may also request incentives or concessions. The number of incentives or concessions will be determined based on Government Code Section 65915(d).

- B. Incentives or concessions may include the following:
  - 1. Allowing tandem or uncovered parking;
  - 2. Reduced parking standards;
  - 3. Reduced setbacks;
  - 4. Allowing mixed-use when compatible with neighboring properties and when mixed-use would reduce the cost of the housing development; or
  - 5. Other incentives or concessions that would result in identifiable, financially sufficient, and actual cost reductions.
- C. The City Council may deny an application for an incentive or concession if it makes at least one of the following findings:
  - 1. The incentive or concession is not required to provide for affordable housing costs or rents;
  - 2. The incentive or concession would have a specific adverse impact that cannot be mitigated upon health, safety or the physical environment, including historical resources; or
  - 3. The incentive or concession would be contrary to state or federal law.

#### **17.19.040 Waivers or Modifications of Development Standards**

- A. Applicants for a density bonus may also request waivers or modifications of development standards.
- B. If a development standard would have the effect of physically precluding the construction of a development with a density bonus under this Section, the City Council will waive or modify the standard unless it makes one of the following findings:
  - 1. The waiver or modification would have a specific adverse impact that cannot be mitigated upon health, safety, or the physical environment;
  - 2. The waiver or modification would have an adverse impact on real property listed in the California Register of Historical Resources; or
  - 3. The waiver or modification would be contrary to state or federal law.

#### **17.19.050 Application Requirements and Process**

- A. **Timing.** Applicants shall submit applications for a density bonus, incentive or concession, and waivers or modifications as part of a project application.
- B. **Materials Required.**
  - 1. ***Application for a Density Bonus.***
    - a. Total number of units in the development;
    - b. Number of units that will be limited by income or to seniors;
    - c. Income limits that will be applied to each unit; and

- d. Amount of density bonus requested.
  - 2. ***Application for an Incentive or Concession.***
    - a. Description of incentives or concessions requested; and
    - b. Financial information describing how each incentive or concession requested is necessary to provide for affordable housing costs or rents.
  - 3. ***Application for a Waiver or Reduction of Development Standards.***
    - a. Description of development standards requested for waiver or reduction;
    - b. If a reduction is requested, the level to which the standards are proposed to be reduced; and
    - c. An explanation of how the development standard would physically preclude the construction of a development that meets the criteria of Government Code Section 65915(b).
- C. **Processing.**
- 1. If the project is subject to any discretionary approvals, the request for a density bonus, incentive or concession, and/or waiver or reduction of development standards shall be considered concurrently with the discretionary approval.
  - 2. For all other projects, the applications for a density bonus, incentive or concession, and/or waiver or reduction shall go through the following process:
    - a. The Planning Commission shall consider the application and, based on due consideration of state requirements and all information presented, shall make a recommendation to the City Council concerning the application.
    - b. The City Council shall approve or deny the application based on the requirements of state law, the provisions of this Chapter, and the information presented in the application and at the meeting.

#### **17.19.060 Density Bonus Housing Agreement**

- A. All requirements and provisions related to the density bonus, any incentives or concessions, or any waivers or reductions in development standards, shall be set forth in a density bonus housing agreement in a form acceptable to the City Attorney.
- B. The density bonus housing agreement shall be executed by the developer and the City Manager and recorded at the County Recorder's Office.
- C. For any development that includes moderate income units which are used to qualify for a density bonus, incentive or concession, and/or waiver or modification of development standards, the developer shall provide draft legal documents for the equity sharing provisions that are set forth in Government Code Section 65915(c)(2).

#### **17.19.070 Conflicts with State Law**

In any instance where this density bonus ordinance conflicts with California state law, the state law shall govern.

## Chapter 17.20 Historical Resources

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### 17.20.010 Purpose

- A. Historical resources within a community enrich it by providing it with a distinct identity and a link with the past, and by serving as a source of ideas for contemporary buildings, designers and other artisans. The number of irreplaceable historical resources within the community is limited and declining and the preservation of such resources is essential to the general welfare of the public. The purpose of this Chapter is to encourage the preservation of historical resources, and to require that the actions to remove or demolish landmarks be subject to City Council review, to enhance the preservation and relocation of such landmarks by interested persons and organizations.
- B. This Chapter is adopted pursuant to Section 37361 of the California Government Code, which authorizes the adoption of special regulations for the protection, enhancement, perpetuation or use of places, buildings, structures and other objects having a special character or special historical or aesthetic interest or value.

### 17.20.020 Procedure for Designation

- A. The City Council shall undertake and complete one or more historical resources surveys. Upon completion of the survey(s) the City Council shall form and cause to be maintained a City historical resources list.
- B. The designation of historical resources, and the removal of such designation, shall be accomplished by the adoption of a resolution to add, or to delete, the historical resource from the historical resources list.
- C. Applications to designate historical resources or remove such designation may be initiated by the City Council, the Planning Commission, the Director, the owner of the subject real property or the authorized agent of the owner.
- D. Consideration of the designation of an historical resource by the City Council shall be in accordance with the resolutions and procedural rules and regulations of the City Council.
- E. The list of historical resources and any additions or deletions shall be maintained, distributed and recorded in the office of the City Clerk.

### 17.20.030 Criteria

Historical resources shall meet one or more of the following criteria:

- A. Historical and cultural considerations:
  - 1. One associated with the life or activities of a person significant in the development of institutions, activities or industries of Newark or Washington Township;
  - 2. One associated with a major group or organization in the history of Newark or Washington Township;
  - 3. One associated with a significant historic event of Newark or Washington Township;

4. One associated with a major recurring event in the history of Newark or Washington Township such as an annual celebration;
  5. One associated with a past or continuing institution which has contributed substantially to the life of the City;
- B. Architectural and aesthetic considerations:
1. One of the few of its decade remaining in the City (one of six) and is unique or one of a few remaining examples in the City of a particular architectural style or period;
  2. The work of a regionally or nationally famous architect;
  3. An architectural curiosity or picturesque work of particular artistic merit;
  4. Contains original materials and/or workmanship of merit. Has architectural, structural, or artistic merit. An important or scarce example (one of six), associated with the architectural and aesthetic character of Newark or of an architecturally and aesthetically distinct or unique neighborhood;
- C. Modifying conditions:
1. The owner of a property shall have the right to veto its placement on the list of historical resources;
  2. If the historical resource is found to be in, or to have, several of the following conditions, consideration as a historical resource shall be suspended until a detailed report of its significance can be made:
    - a. Has conditions which will or are suspected to further destroy its quality or use,
    - b. Is not in, or is unadaptable to, productive use,
    - c. Cannot be restored to its original use or preserved in its present use,
    - d. The integrity of the original design is essentially altered,
    - e. Cannot be adapted to a new use without harm to those historic and cultural or architectural and aesthetic elements which contribute to its significance,
    - f. Is not free from known threats of demolition or obliteration by public or private action,
    - g. Is not accessible, not served by utilities, not capable of providing adequate parking space, not covered by fire and police protection, or is economically unfeasible to preserve or adapt it for contemporary use,
    - h. Preservation or restoration and continued maintenance is economically unfeasible,
    - i. Is less than 90 years old,
    - j. Is not compatible with the program developed for Ardenwood and the criteria of the regional park district.

#### **17.20.040 Maintenance and Alteration of Historical Resources**

- A. Routine maintenance or replacement of deteriorated parts of a landmark are exempt from City Council review.
- B. The Director may, when requested in writing by an owner of a landmark, advise appropriate remodeling necessary to protect the historic merit of the historic resource. Compliance of the property owner with the recommendations shall be voluntary, not mandatory.

#### **17.20.050 Demolition or Removal of Historical Resources**

- A. **Inspection.** The Director shall have an inspection made of the physical condition of the landmark by the Building Official in the case of a building or structure, or the Landscape Parks Supervisor if it is a tree or plant life. The inspection shall be made upon the filing of a permit application for any of the following:
  - 1. An application for a permit for the demolition of a landmark;
  - 2. A notice of intention to move, or remove a landmark; or
  - 3. An application for a development project on any landmark site, or land on which a landmark is located.
- B. **Report.** The Inspection Official shall report to the Director as to the physical condition of the landmark.
- C. **Review.**
  - 1. If the report does not cite conditions hazardous to public health and safety, the Director shall refer the permit application to the Planning Commission. The Planning Commission shall forward its recommendation to the City Council for review.
    - a. The Planning Commission shall review applications for the development of a landmark site in accordance with the requirements of this Ordinance and forward its recommendation to the City Council for review.
  - 2. If the Director finds that the removal, demolition, or destruction of the landmark must be undertaken promptly to adequately protect the public health and safety due to a hazardous condition of the landmark, the Director shall do one of the following:
    - a. Advise the City Council immediately of hazardous conditions. The City Council shall determine whether to call for a special meeting, or hold the hearing at their next regular meeting.
    - b. If the Director finds that the danger to the public health and safety is so immediate that no delay in undertaking the removal, demolition or destruction should take place, the permit may be issued, if such is required, for the removal, demolition or destruction in conformance with other applicable requirements of this Chapter, to the extent necessary to eliminate the hazardous condition, without referral of the matter to the City Council.
  - 3. The City Council, upon review of the application for a permit for removal or demolition of a landmark, may:

- a. Authorize the Building Official to issue the permit by finding that taking into account the current market value, the value of transferable development rights, and the costs of rehabilitation to meet the requirements of the Building Code or other City, State or federal laws, the property retains no reasonable economic use; or
  - b. Authorize the Building Official to issue the permit by finding that moving, removal, or demolition of the building will not have a significant effect on the achievement of the purposes of this Chapter; or
  - c. Impose a 90-day moratorium, starting with the application date, on the issuance of the permit. During this period the City may indicate an interest in purchasing or relocating the historical resource; or
  - d. Impose a 30-day moratorium, beginning with either the permit application date or the date of receipt of a letter of intent to apply for a permit. The letter of intent must be submitted by the property owner, via registered mail, to the Director. The 30-day period shall apply only to primary landmarks (those historic resources meeting at least three criteria) that are not on the City of Newark Historical Resources List. During this period the City may indicate an interest in purchasing or relocating the historical resource.
- D. **Acquisition.** The City shall have the right to acquire the landmark only at the time the landmark is proposed to be moved or demolished.

#### **17.20.060 Notice of Hearing to Interested Organizations**

The Director shall maintain a list of nonprofit corporations chartered by the state who have filed a written request for notice of meeting on dispositions of historical resources. The Director shall transmit by mail to each person, group or organization on the list a notice of each meeting of the Planning Commission and the City Council, other than special meetings, or immediate danger findings, at which a hearing will be conducted regarding the designation of any historical resource; or the removal of any historical resource from its designation as such; or regarding any proposal for the removal, relocation, destruction or demolition of a landmark.



## Chapter 17.21 Landscaping

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### 17.21.010 Purpose

The purpose of the landscaping regulations is to:

- A. Improve the appearance of the community by requiring permanently maintained landscaping;
- B. Aid in energy conservation by providing shade from the sun and shelter from the wind;
- C. Soften the appearance of parking lots and other development and minimize or eliminate conflicts between potentially incompatible uses through landscaping;
- D. Promote conservation and efficient use of water; and
- E. Implement the Water Conservation in Landscaping Act.

### 17.21.020 Applicability

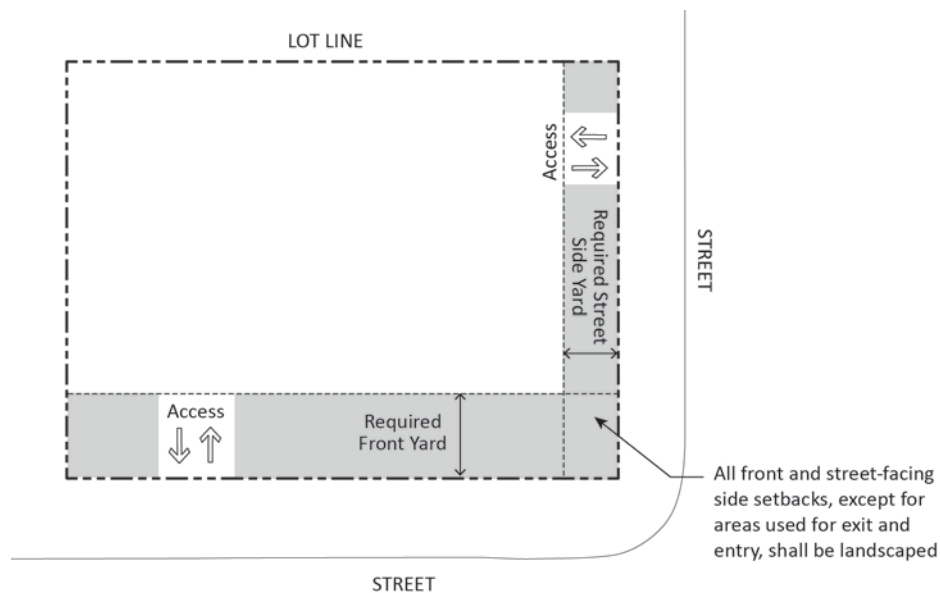
The provisions of this Chapter shall apply to the following:

- A. All new development.
- B. Additions to Multi-Unit and nonresidential development that expand existing floor area by 10 percent or more.
- C. All new and rehabilitated landscaping projects that include new irrigated landscaping over 500 square feet.
- D. **Exceptions.** The provisions of this Chapter do not apply to the following:
  - 1. Farming, agriculture, and crop production including vegetable gardens, vineyards, and small orchards.
  - 2. Public recreational areas (designated for active play, recreation, interpretation or public assembly).
  - 3. Registered local, state or federal historical sites.
  - 4. Habitat restoration projects that do not require a permanent irrigation system.
  - 5. Mined-land reclamation projects that do not require a permanent irrigation system.
  - 6. Existing plant collections, as part of botanical gardens and arboretums open to the public.

### 17.21.030 Areas to be Landscaped

The following areas shall be landscaped, and may count toward the total area of the site required to be landscaped by the zoning district regulations.

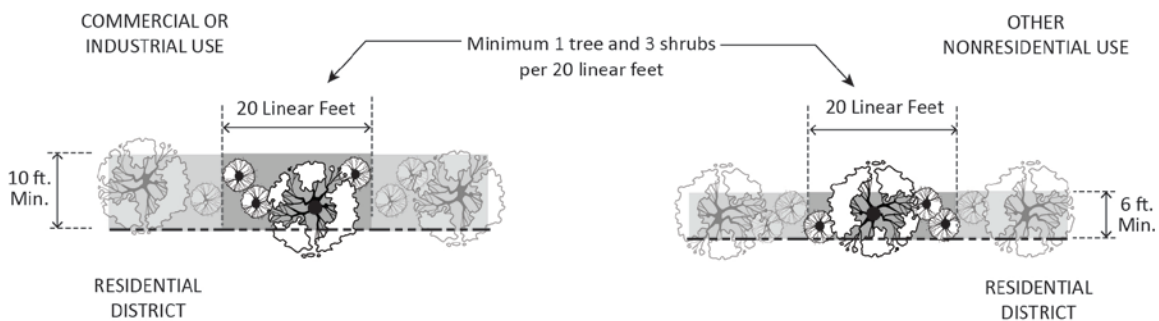
- A. **Required Setbacks.** All required front and street-facing side setbacks, except for areas used for exit and entry, shall be landscaped.



**FIGURE 17.21.030.A: AREAS TO BE LANDSCAPED, REQUIRED SETBACKS**

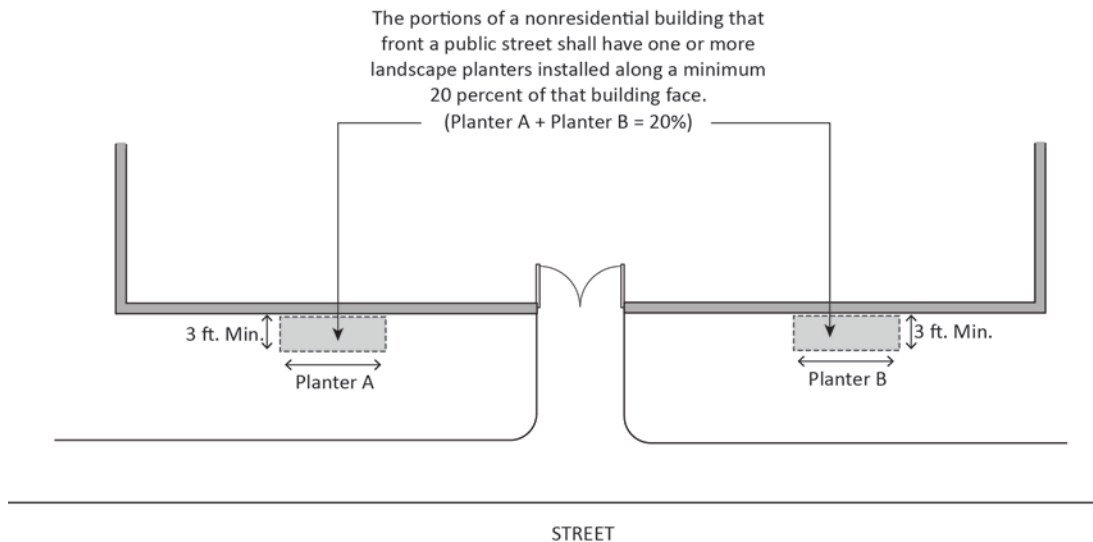
B. **Interior Property Lines Abutting Residential Districts.** Whenever a nonresidential use is located adjacent to a Residential District or use, a landscape buffer planted with a mix of trees and shrubs shall be provided along interior property lines. At least one tree of at least 15-gallon size shall be planted per 20 linear feet or as appropriate to create a tree canopy over the buffer yard. In addition, at least three shrubs shall be planted per 20 linear feet.

1. **Commercial or Industrial Use.** Ten foot wide landscaped buffer yard.
2. **Other Nonresidential Uses.** Six foot wide landscaped buffer yard.



**FIGURE 17.21.030.B: AREAS TO BE LANDSCAPED, INTERIOR PROPERTY LINES ABUTTING RESIDENTIAL DISTRICTS**

C. **Building Perimeters.** The portions of a nonresidential building that front a public street shall have one or more landscape planters installed along a minimum 20 percent of that building face. The minimum width of the planter shall be three feet. This standard does not apply where a building is located on the front or corner side property line.



**FIGURE 17.21.030.C: AREAS TO BE LANDSCAPED, BUILDING PERIMETERS**

- D. **Parking Areas.** Parking areas as required by Chapter 17.23, Parking and Loading.
- E. **Stormwater Treatment Areas.** Areas designated for landscape-based stormwater treatment to satisfy regional stormwater permit requirements.
- F. **Unused Areas.** All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, shall be landscaped or hydroseeded. The Director may waive this required for areas planned for future development.

#### 17.21.040 Landscape Plan

A landscape plan showing compliance with the standards of this Chapter shall be submitted with the permit application for all projects for which landscaping is required.

- A. Proposed plant locations, species, sizes, and plant factor. Plants with similar water needs shall be grouped together on the landscape plan. The plant factor, established in the California Department of Water Resources study, Water Use Classification of Landscape Species (WUCOLS), shall be identified for all landscaped areas on a site. All water features shall be identified as high water use, and temporarily irrigated areas shall be identified as low water use.
- B. Location of any existing trees over six inches in diameter, as measured at 48 inches above natural grade, and whether each such tree is proposed for retention or removal.
- C. **Alternative Landscape Plan.** An applicant may demonstrate that the intent of the landscape requirements of this Section can be achieved through an Alternative Landscape Plan. The Alternative Landscape Plan shall be prepared in accordance with the principles and design criteria set forth in this Section and shall clearly detail the modifications being requested from the provision of this Section and how they reflect the evaluation criteria listed below.
  1. Innovative use of plant materials and design techniques in response to unique characteristics of the site or the proposed use.

2. Preservation or incorporation of existing native vegetation.
  3. Incorporation of naturalistic design principles, such as variations in topography, meandering or curvilinear plantings, and grouping of dominant plant materials (trees, large shrubs) in a manner consistent with existing native vegetation.
  4. Integration of landscaping and pedestrian facilities in a manner that improves access or incorporates pedestrian-friendly design, this may include reduced ground-level planting along the front setback if canopy shade trees along sidewalks are provided.
  5. Use of additional shade trees to create a greater canopy effect.
  6. A greater degree of compatibility with surrounding uses than a standard landscape plan would offer.
- D. **Preparation by Qualified Person.** Landscaping for commercial projects, industrial projects, institutional projects, and residential projects consisting of more than two units shall be prepared by a California Registered Landscape Architect. The architect shall indicate compliance with this Chapter with a written statement on all prepared landscape construction plan sets and intended compliance on all preliminary or conceptual plans.

#### 17.21.050 General Requirements

A. **Materials.**

1. **General.**
  - a. Required landscaped areas shall be planted with a combination of ground covers, shrubs, vines, and trees. 50 percent of all trees shall be evergreen species.
  - b. Landscaping may also include incidental features such as stepping stones, benches, fountains, sculptures, decorative stones, or other ornamental features, placed within a landscaped setting.
  - c. Landscaped areas may include paved or graveled surfaces, provided they do not cover more than 30 percent of the area required to be landscaped.
  - d. Garden areas and other areas dedicated to edible plants are considered landscaped areas and count toward required landscaping.
2. **Required Water Efficient Plants.** Plants shall be one of the following options shall be chosen to ensure that the landscape project meets water efficiency requirements.
  - a. *Option A: All Low Water Plants.* Exclusive of garden areas. all plants and trees shall be low or very low water use (average California Department of Water Resources study, Water Use Classification of Landscape Species (WUCOLS) plant factor of 0.3). Option A is available for all residential and nonresidential areas.
  - b. *Option B: Primarily Low Water Plants.* Exclusive of garden areas, at least 85 percent of the landscape area shall contain low or very low water use plants (average WUCOLS plant factor of 0.3). Option B is only available for residential areas.
  - c. *Option C: Water Use Calculation.* The estimated total water use (ETWU) of the landscaping shall not exceed the maximum applied water allowance (MAWA),

calculated pursuant to the State Model Water Efficient Landscape Ordinance (MWELO). Option C is available for all residential and nonresidential areas.

- i. Department of Water Resources Model Water Efficient Landscape Ordinance Compliance Required. Where Option C is selected, all requirements of the Department of Water Resources Model Water Efficient Landscape Ordinance shall apply.
3. **Size and Spacing.** Plant materials shall be grouped in hydrozones in accordance with their respective water, cultural (soil, climate, sun and light) and maintenance needs. Plants shall be of the following size and spacing at the time of installation:
  - a. **Ground Covers.** Ground cover plants other than grasses must be at least the four-inch pot size. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one per twelve inches on center.
  - b. **Shrubs.** Shrubs shall be a minimum size of one gallon. When planted to serve as a hedge or screen, shrubs shall be planted with two to four feet of spacing, depending on the plant species.
  - c. **Trees.** 25 percent of all trees shall be 24-inch box or greater in size. All other trees shall be a minimum 15-gallon size.
    - i. Tree trunks shall be placed at least 5-feet from utilities.
    - ii. Tree trunks shall be placed at least 15-feet from light poles.
4. **Turf.** Turf, defined as a ground cover surface of mowed grass, is subject to the following limitations.
  - a. No more than 25 percent of the landscaped area may be turf.
  - b. The installation of turf on slopes greater than 25 percent is prohibited.
  - c. Turf is prohibited in locations that are less than 10 feet wide.
5. **Invasive Plants Prohibited.** Plant species that are listed by CAL-IPC as invasive are prohibited. Existing invasive plants and noxious weeds shall be removed.
6. **Mulch.** A minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.
7. **Compost.** Compost at a rate of at least four cubic yards per 1,000 square feet to a depth of six inches into landscape area (unless contra-indicated by a soil test) shall be incorporated.
- B. **Water Features.** Recirculating water shall be used for all decorative water features.
- C. **Dimension of Landscaped Areas.** No landscaped area smaller than three feet in any horizontal dimension shall count toward required landscaping.
- D. **Visibility.** Landscaping shall meet visibility requirements at street intersections and driveways pursuant to Chapter 10.36, Visibility Requirements, of the Newark Municipal Code.

- E. **Prescribed Heights.** The prescribed heights of landscaping shall indicate the height to be attained within three years after planting.
- F. **Maintenance.** All planting and other landscape elements shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning, fertilizing, and regular watering. Wherever necessary, plantings shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements.

### 17.21.060 Irrigation Specifications

An automatic irrigation system shall be installed that meets the following standards.

#### A. **General Requirements.**

1. All irrigation equipment must meet American National Standards Institute (ANSI), American Society of Agricultural and Biological Engineers/ International Code Council (ASABE/ ICC)802-2014. "Landscape Irrigation Sprinkler and Emitter Standard".
2. The following areas shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.
  - a. Slopes exceeding 25 percent.
  - b. Areas less than 10 feet wide in any direction.
3. The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas such as adjacent property or hardscapes.
  - a. Irrigation systems shall be designed for zero run-off onto paved surfaces unless that surface drains to another landscape area.
  - b. Spray irrigation must be placed two-feet away from impervious surfaces unless that surface drains to another landscape area.
  - c. Proper irrigation equipment and schedules, including features such as repeated cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff.
  - d. Slopes greater than 25 percent shall not be irrigated with an irrigation system with an application rate exceeding 0.75 inches per hour, and check valves shall be utilized.

#### B. **Sprinkler Heads.** Where used, sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.

1. All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of .65 or higher using the protocol defined in ASABE/ICC 802-2014.
2. Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.

#### C. **Water Meters.** A dedicated meter for irrigation is required for nonresidential projects with landscape areas of 1,000 square feet or more.

- D. **Pressure Regulating Equipment.** Pressure regulating valves or assemblies shall be installed to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.
- E. **Flow Sensors.** Flow sensors are required to detect high flow conditions created by system damage on all nonresidential projects 1,000 square feet and greater and residential projects 5,000 square feet and greater.
- F. **Controllers.** Automatic control systems shall be required for all irrigation systems and must be able to accommodate all aspects of the design.
  - 1. Automatic irrigation controllers shall utilize either evapotranspiration or soil moisture sensor data, or rain sensing override devices.
  - 2. Irrigation controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.
- G. **Control Valves.** Plants which require different amounts of water should be irrigated by separate valves.
- H. **Check Valves.** Where required on steep slopes, check valves shall be installed to prevent low-head drainage.
- I. **Master Shut-off, Gate or Ball Valves.** Locate valves as close as possible to the point of connection of the water supply, and place where needed to minimize water loss in case of an emergency (such as a main line break) or routine repair.

#### 17.21.070 Installation and Completion

- A. **Consistency with Approved Plans.** All landscaping shall be installed consistent with approved plans and specifications, in a manner designed to promote and maintain healthy plant growth.
- B. **Timing of Installation.** Required landscaping shall be installed prior to the issuance of a certificate of occupancy for the project.
- C. **Exception—Assurance of Landscaping Completion.** The Director may permit the required landscaping to be installed within 120 days after the issuance of a certificate of occupancy in special circumstances related to weather conditions or plant availability. A surety in the amount equal to 150 percent of the estimated cost of landscaping, including materials and labor, as well as an agreement that the required landscaping will be installed within 120 days, must be filed with the City to assure completion of landscaping installation within such time. The surety may take the form of cash deposit, irrevocable letter of credit or bond; and together with the agreement, would provide for payment to the City of any costs incurred in contracting for completion of the required landscaping.
- D. **Certification of Completion.** Upon completion of the installation of the landscaping and irrigation system, a field observation shall be completed by the licensed project contractor. A certificate of completion shall be submitted to the City by the licensed project contractor. The certificate shall specifically indicate that the plants were installed as specified and that the irrigation system was installed as designed, along with a list of any deficiencies.

1. Where Required Water Efficient Plan Option C: Water Use Calculation, was installed, the applicant shall submit a Certificate of Completion pursuant to the Department of Water Resources Model Water Efficient Landscape Ordinance.



## Chapter 17.22 Nonconforming Provisions

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### 17.22.010 Purpose

This Chapter is intended to permit continuation of uses and continued occupancy and maintenance of structures that were legally established but do not comply with the standards and requirements of this Ordinance and are operated in a manner that does not conflict with the General Plan. To that end, the chapter establishes the circumstances under which a nonconforming use or structure may be continued or changed and provides for the removal of nonconforming uses and structures when their continuation conflicts with the General Plan and public health, safety, and general welfare.

### 17.22.020 Applicability

The provisions of this Chapter apply to structures and uses that have become nonconforming by adoption of this Ordinance as well as structures and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map.

### 17.22.030 Nonconformities, Generally

Any lawfully established use or structure that is in existence on the effective date of this Ordinance or any subsequent amendment thereto but does not comply with the standards and requirements of this Ordinance shall be considered nonconforming.

- A. A non-conformity may result from any inconsistency with the requirements of this Ordinance including, but not limited to, use, location, density, floor area, height, yard, usable open space, buffering, performance standards, or the lack of an approved Use Permit or other required authorization.
- B. A use or structure shall not be deemed nonconforming solely because it does not conform with parking and loading space requirements, landscape planting area, or screening regulations of the district in which it is located.

### 17.22.040 Classification of Nonconforming Uses

Nonconforming uses are classified as follows for the purpose of determining whether to permit substitution or expansion subject to the requirements of the following sections, or to require the elimination of the nonconforming use.

- A. **Class I Nonconforming Use.** Class I Nonconforming Uses are those that do not meet the current standards and requirements of this Ordinance but are compatible with the uses of the surrounding properties, including those described in subsections A.1 and A.2, below, or as determined by the Planning Commission pursuant to Subsection A.3, below. Class I Nonconforming Uses are generally treated like conforming uses and may expand and remain indefinitely, subject to the limitations of this Chapter.
  1. **Residential Uses.** Any nonconforming residential use shall be classified as a Class I Nonconforming Use.
  2. **Warehousing and Storage and Wholesaling and Distribution.** Warehousing and Storage and Wholesaling and Distribution that were lawful when established and in existence on

the effective date of this Ordinance (February 25, 2018) shall be classified as a Class I Nonconforming Use.

3. ***Other Nonresidential Uses.*** Nonresidential uses other than Warehousing and Storage and Wholesaling and Distribution may be classified as a Class I Nonconforming Use with the approval of a Minor Use Permit by the Planning Commission. Class I nonresidential nonconforming classification status shall only occur upon approval of a Minor Use Permit by the Planning Commission. The classification of a nonconforming nonresidential use by Planning Commission as a Class I Nonconforming Use shall be optional and shall be based on written application by the property owner or his/her designee, which shall include evidence that the use was legally established and information related to the findings required herein.
  - a. ***Designation.*** Class I Nonconforming Uses are designated by the Planning Commission following a public hearing, with notice as required by Chapter 17.31, Common Procedures, and based on the following findings. The Planning Commission's decision on the designation of a Class I Nonconforming Use may be made concurrent with the Planning Commission's decision on an application for an expansion or substitution of the use. The required findings for Class I Nonconforming Use designation/expansion/substitution are:
    - i. The nonconforming use was legally established;
    - ii. The continuation, proposed expansion, or substitution of the nonconforming use would not be detrimental to public health, safety, or general welfare; and
    - iii. With the exception of the nonconforming use, the continuation, proposed expansion, or substitution would not be inconsistent with the General Plan and would not preclude or interfere with implementation of any applicable City Specific Plan.
  - b. ***Considerations.*** In making the required findings, the Planning Commission shall consider the following factors as they relate to the nonconforming use:
    - i. Noise;
    - ii. Traffic generation;
    - iii. Hours of operation;
    - iv. Noxious or annoying emissions of odor, smoke, waste water or other matters;
    - v. Proximity of the use to conforming uses;
    - vi. Extent and severity of nonconformity;
    - vii. Effect of the nonconforming use on surrounding conforming uses;
    - viii. Character of the surrounding neighborhood, including the number and proportion of nonconforming uses;
    - ix. Access to the nonconforming use;

- x. Maintenance of the nonconforming use; and
    - xi. Any other factors the Planning Commission deems relevant given the purposes of this Chapter.
  - c. *Conditions.* When making its decision on an application for an expansion or substitution of a Class I Nonconforming Use, the Planning Commission may establish conditions that are necessary to accomplish the purposes of this Chapter, including, but not limited to:
    - i. Required improvement of, or modifications to existing improvements on, the property;
    - ii. Limitations on hours of operations;
    - iii. Limitations on the nature of operations; and
    - iv. A specified term of years for which the expanded or substituted nonconforming use shall be allowed.
- B. **Class II Nonconforming Use.** Class II Nonconforming Uses are those that should be replaced at some time in the future in order to implement the General Plan's and any applicable Specific Plan's long term objectives, but are not detrimental to surrounding properties due to health, safety, or substantial aesthetic impacts. Class II Nonconforming Uses include any nonconforming nonresidential use that has not been designated as a Class I or Class III Nonconforming Use.
  - 1. Class II Nonconforming Uses may remain in operation but are subject to restrictions on expansion as set forth in Subsection 17.22.060.A, Expansion, and on substitution of uses as set forth in Subsection 17.22.060.E, Substitutions.
  - 2. The City Council may establish amortization periods for specific Class II Nonconforming Uses on a case-by-case basis pursuant to Section 17.22.100, Establishment of Amortization Periods.
  - 3. Class II Nonconforming Uses may not be reestablished or resume business if the Class II Nonconforming Use has been destroyed or damaged at a level equal to or greater than 50 percent of the value of the nonconforming use business. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the business owner.
- C. **Class III Nonconforming Use.** Class III Nonconforming Uses are those designated as a public nuisance by the City Council following a public hearing, with notice as required by Chapter 17.31, Common Procedures. Prior to City Council consideration of the matter, the Planning Commission shall conduct a noticed public hearing and provide a recommendation on the designation to the City Council. The Class III Nonconforming Use designation shall be based on a finding that the use is detrimental to public health, safety, or general welfare, or materially injurious to properties or improvements in the vicinity.
  - 1. The City Council shall establish an amortization period for each Class III Nonconforming Use pursuant to Section 17.22.100, Establishment of Amortization Periods.

### **17.22.050 Right to Continue**

Any use or structure that was lawfully established prior to the effective date of this Ordinance or of any subsequent amendments to its text or to the Zoning Map may only be continued and maintained provided there is no alteration, enlargement, addition, or other change to any building or structure or use therein; or no substitution, expansion, or other change including an increase in occupant load or any enlargement of the area, space, or volume occupied by or devoted to such use, except as otherwise provided in this Chapter.

- A. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership, tenancy, or management.
- B. The right to continue a nonconforming use or structure shall not apply to uses or structures determined by the Planning Commission or City Council as described in this Chapter to be a public nuisance arising from conditions that constitute a threat to public health, safety or general welfare.
- C. The right to continue a nonconforming use or re-occupy a nonconforming structure shall terminate if the nonconforming use has been abandoned or the nonconforming structure has been vacated for the relevant period of time described in Section 17.22.110, Abandonment of Nonconforming Uses.

### **17.22.060 Changes to and Substitutions of Nonconforming Uses**

Nonconforming uses shall not be expanded, modified, or substituted for another classification of a nonconforming use except as provided below.

- A. **Expansion.** A Class I or Class II Nonconforming Use may expand the area it occupies, including floor area of the occupied structure, all or part of another structure, and area of the subject lot, subject to Planning Commission approval of a Conditional Use Permit in accord with Chapter 17.35, Use Permits.
- B. **Absence of Permit.** Any use that is nonconforming solely by reason of the absence of a Conditional Use Permit may be changed to a conforming use by obtaining the appropriate Conditional Use Permit pursuant to the requirements in Chapter 17.35, Use Permits.
- C. **Substitutions.** A nonconforming use may be substituted with a Class I or a Class II Nonconforming Use as follows:
  - 1. **Substitution of a Class I or Class II Nonconforming Use with a Class I Nonconforming Use.** The Director may allow substitution of a Class I or Class II Nonconforming Use with a Class I Nonconforming Use, subject to the approval of a Minor Use Permit.
  - 2. **Substitution of a Class II Nonconforming Use with a Class II Nonconforming Use.** The Planning Commission may allow substitution of a Class II nonconforming use with a Class II Nonconforming Use, subject to approval of a Conditional Use Permit.
  - 3. **Required Findings.** In addition to any other findings required by this Ordinance, the review authority must find that the proposed new use will be no less compatible with the purposes of the district and surrounding uses that comply with the requirements of this Ordinance than the nonconforming use it replaces.

### 17.22.070 Maintenance of and Additions and Enlargements to Nonconforming Structures

Nonconforming structures may be continued and maintained in compliance with the following provisions.

- A. **Maintenance and Repairs.** Structural and non-structural maintenance, repair, and interior alterations to a nonconforming structure are permitted if the changes and improvements do not enlarge the structure, change the building footprint, or increase building height or roof pitch.
- B. **Additions.** Additions to and/or enlargements of nonconforming structures are allowed if the addition or enlargement complies with all applicable laws and requirements of this Ordinance, the use of the addition/enlarged area of the property is authorized by this Ordinance, and there is no increase in the discrepancy between existing conditions and the requirements of this Ordinance, except as provided below.
  - 1. ***Nonconforming Setbacks, Residential Districts.*** In Residential Districts, a nonconforming interior side or rear yard may be maintained and extended, and shall not be considered an increase in the discrepancy, provided that:
    - a. A new encroachment into any other required yard is not created;
    - b. The height of the portion of the structure that is within the required setback is not increased; and
    - c. Any residential additions above the first floor shall conform to the setbacks in effect at the time the application for the addition is submitted.

### 17.22.080 Repair and Replacement of Damaged or Destroyed Nonconforming Structures

A nonconforming structure that is damaged or partially destroyed by fire, explosion, earthquake, or natural disaster which is not caused by an act or deliberate omission of a property owner, their agent, or person acting on their behalf or in concert with them, may be restored or rebuilt subject to the following provisions.

- A. **Restoration When Damage is 50 Percent or Less of Value.** If the cost of repair or reconstruction is less than or equal to 50 percent of the appraised value of the structure, replacement of the damaged portions of the structure is allowed by right provided that the replaced portions are the same size, extent, and configuration as previously existed. The determination of the appraised value shall be made by a professional appraiser selected by the City, whose fee shall be paid by the building owner.
- B. **Restoration When Damage Exceeds 50 Percent of Value.** If the cost of repair or reconstruction exceeds 50 percent of the appraised value of the structure, as determined pursuant to Subsection A above, the land and building shall be subject to all of the requirements of this Ordinance, except as provided below.
  - 1. ***Warehousing and Storage and Wholesaling and Distribution Structures in Employment Districts.*** Warehousing and Storage and Wholesaling and Distribution structures in Employment Districts may be replaced provided that the replaced portions are the same size, extent, and configuration as previously existed.
  - 2. ***Other Non-Residential Structures.*** Any nonconforming use must permanently cease. The Planning Commission may approve a Conditional Use Permit for the structure to be rebuilt

to the same size, extent, and configuration as previously existed provided that the use of the structure is permitted or conditionally permitted in the zone. In such cases any expansion or change to the previous use must conform to the requirements of this Chapter.

3. **Residential Structures.** Any nonconforming residential structure may be reconstructed, restored, or rebuilt up to the size and number of dwelling units prior to the damage and the nonconforming use, if any, may be resumed subject to a Zoning Clearance in the case of single-unit dwellings or a Conditional Use Permit approval in the case of other residential uses, unless the review authority finds that the reconstruction, restoration, or rebuilding will be detrimental or injurious to the health, safety, or general welfare of persons residing or working in the neighborhood.
- C. **Timing.** Building permits must be obtained within two years of the date of the damage or destruction and construction shall be diligently pursued to completion unless another time period is specified through Conditional Use Permit approval. Building permits must be maintained valid through the completion of the project.

#### **17.22.090 Elimination of Nonconforming Uses, Structures and Signs**

##### **A. Elimination of Nonconforming Uses.**

1. **Nonconforming Uses Not Occupying a Structure or Occupying a Structure with Valuation Less Than \$2,500.** The following nonconforming uses shall be discontinued and removed from their sites within three year(s) from the effective date of this Ordinance:
  - a. A nonconforming use which does not occupy a structure; or
  - b. A nonconforming use occupying a structure having an appraised valuation of less than 2,500 dollars.
2. **Class II Nonconforming Uses.** The City Council may require Class II Nonconforming Uses to be discontinued and removed from their sites within a period determined pursuant to the process set forth in Section 17.22.100, Establishment of Amortization Periods.
3. **Class III Nonconforming Uses.**
  - a. Class III nonconforming uses shall be discontinued and removed from their sites within a period to be determined by the City Council, pursuant to the process set forth in Section 17.22.100, Establishment of Amortization Periods.
  - b. Class III nonconforming uses may also, upon order from the City or a court order, be subject to immediate cessation of the nonconforming use.

##### **B. Elimination of Nonconforming Signs or Structures.**

1. **Nonconforming Sign with Valuation Less Than \$5,000.** A nonconforming sign or outdoor advertising structure valued at less than 5,000 dollars shall be removed within two years from the time the sign or outdoor advertising structure becomes nonconforming unless it was nonconforming for at least three years at the time this Ordinance was adopted, in which case it shall be removed within five years from adoption of this Ordinance.
2. **Nonconforming Structure with Valuation Less Than \$5,000.** A structure having an appraised valuation of less than 5,000 dollars, which does not comply with the Ordinance

standards for lot coverage, setbacks, height, distances between structures or usable open space shall be removed from its site within three years from the effective date of this Ordinance, except that if the structure is altered to comply with such standards, this provision shall not apply.

3. **Other Nonconforming Structures.** Nonconforming structures, excluding those structures referenced in paragraphs 1 and 2 above, may continue except that the City Council may establish amortization periods for specific structures pursuant to Section 17.22.100, Establishment of Amortization Periods.
- C. **Time for Elimination When Use, Structure, or Sign Becomes Nonconforming.** Whenever a use, structure, or sign becomes nonconforming, the period of time prescribed in this Chapter for the elimination of the use or the removal of the structure or sign is computed from the effective date of the change that results in the nonconforming status of the use, structure or sign.
- D. **Burden of Proof.** The burden of proof as to the nonconforming status of any use, structure, or sign shall rest with the property owner and/or resident.

#### **17.22.100 Establishment of Amortization Periods**

Where a period during which a nonconforming use or structure is to be discontinued and removed from their site is to be established, such period shall be established as follows.

- A. The Community Development Director shall submit the nonconforming use or structure and a recommended amortization period, based on the criteria in Section (C)(1) herein, to the Planning Commission for review;
- B. The Planning Commission shall hold a public hearing, noticed pursuant to Chapter 17.31, Common Procedures, to consider the recommended amortization period. Following the public hearing, the Planning Commission shall make a recommendation on the proposed amortization period to the City Council.
- C. After receiving the recommendation from the Planning Commission, the City Council shall hold a public hearing, noticed pursuant to Chapter 17.31, Common Procedures, to consider the recommended amortization period.
  1. The City Council may establish a maximum time for which the nonconforming use shall be permitted to continue after considering the following in relation to the use, structure or sign:
    - a. The amount of investment or original cost of the use, structure, or sign;
    - b. The present actual or depreciated value of the use, structure, or sign;
    - c. The remaining useful life of the use, structure or sign;
    - d. The remaining term of the lease;
    - e. The date or dates of construction;
    - f. Amortization of the business or structure for tax purposes;
    - g. The salvage value;

- h. The threat to the public health, safety, and welfare posed by the continuance of the nonconforming use; and
  - i. Other factors as appropriate.
- 2. The time period established by the City Council shall be no less than three years in length.

#### **17.22.110 Abandonment of Nonconforming Uses**

No nonconforming use may be resumed, reestablished, reopened, or replaced by any other nonconforming use after the nonconforming use has been abandoned or vacated for a period of six months or, in the case of Class I Nonconforming Uses, 10 years. A Class I Nonconforming Use may be resumed, reestablished, or reopened without a Conditional Use Permit after the Class I Nonconforming Use has been abandoned or vacated for a period less than 10 years.

- A. **Abandonment.** The six-month, or, in the case of Class I Nonconforming Uses, 10-year, period shall commence when the use ceases to operate and any one of the following occurs:
  - 1. The site is vacated;
  - 2. Utilities are terminated; or
  - 3. The applicable lease is terminated.

#### **17.22.120 Abatement**

The provisions of this Chapter are in addition to existing state law authority to declare and abate a public nuisance pursuant to California law and other applicable provisions of the Municipal Code. In the event that a legal nonconforming structure or use is found to constitute a public nuisance, appropriate action may be taken by the City pursuant to the Municipal Code and Chapter 17.41, Enforcement and Abatement Procedures.



## Chapter 17.23 Parking and Loading

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### 17.23.010 Purpose

The specific purposes of the on-site parking and loading regulations are to:

- A. Ensure that adequate off-street parking and loading facilities are provided for new land uses and major alterations to existing uses;
- B. Minimize the negative environmental and urban design impacts that can result from parking lots, driveways, and drive aisles within parking lots;
- C. Insure that adequate off-street bicycle parking facilities are provided and promote parking lot designs that offer safe and attractive pedestrian routes;
- D. Establish standards and regulations for safe and well-designed parking, unloading, and vehicle circulation areas that minimize conflicts between pedestrian and vehicles within parking lots and, where appropriate, create buffers from surrounding land uses;
- E. Offer flexible means of minimizing the amount of area devoted to parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, and other situations expected to have lower vehicle parking demand; and
- F. Reduce urban run-off and heat island effect.

### 17.23.020 Applicability

The requirements of this Chapter apply to the establishment, alteration, expansion, or change in any use or structure, as provided in this Section.

- A. **All New Buildings and Land Uses.** On-site parking and loading in accordance with this Chapter shall be provided at the time any main building or structure is erected or any new land use is established.
- B. **Existing Non-Residential Buildings.**
  - 1. When a change in use, expansion of a use, or expansion of floor area creates an increase of 10 percent or more in the number of required on-site parking or loading spaces, additional on-site parking and loading shall be provided for such addition, enlargement, or change in use and not for the entire building or site.
  - 2. The existing parking and loading shall be maintained.
  - 3. If the number of existing parking or loading spaces is greater than the requirements for such use, the number of spaces in excess of the prescribed minimum may be counted toward meeting the parking and loading requirements for the addition, enlargement, or change in use.
  - 4. A change in occupancy is not considered a change in use unless the new occupant is in a different use classification than the former occupant.
  - 5. Additional parking and loading spaces are not required for the reconstruction of an existing building when there is no increase in floor area.

- C. **Existing Residential Buildings.** On-site parking in accordance with this Chapter shall be provided where there is an expansion of existing floor area of 30 percent or more or where additional dwelling units are created through the alteration of an existing building or construction of an additional structure or structures.
- D. **When Constructed.** On-site parking and loading facilities required by this Chapter shall be constructed or installed prior to the issuance of a Certificate of Occupancy for the uses that they serve.

**17.23.030 General Provisions**

- A. **Existing Parking and Loading to be Maintained.** No existing parking and/or loading serving any use may be reduced in amount or changed in design, location or maintenance below the requirements for such use, unless equivalent substitute facilities are provided.
- B. **Nonconforming Parking or Loading.** An existing use of land or structure shall not be deemed to be nonconforming solely because of a lack of on-site parking and/or loading facilities required by this Chapter, provided that facilities used for on-site parking and/or loading as of the date of adoption of this Ordinance are not reduced in number to less than what this Chapter requires.
- C. **Accessibility.** Parking and loading areas must be accessible for its intended purpose during all hours of operation.
- D. **Stacked Parking.** Stacked or valet parking is allowed if an attendant is present or an automated system is in place to move vehicles. If stacked parking managed by an attendant is used for required parking spaces, an acceptable form of guarantee must be filed with the Director ensuring that an attendant will be present while the lot is in operation.

**17.23.040 Required Parking Spaces**

- A. **Minimum Number of Spaces Required.** Each land use shall be provided at least the number of on-site parking spaces stated in Table 17.23.040, Required On-Site Parking Spaces. The parking requirement for any use not listed in Table 17.23.040 shall be determined by the Director based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

<b>TABLE 17.23.040: REQUIRED NUMBER OF ON-SITE PARKING SPACES</b>		
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>	
<b>Residential Uses</b>	<b>As specified below</b>	
Residential Housing Types		
<i>Single-Unit Dwelling, Attached or Detached</i>	2 per unit	Must be within a garage
<i>Two-Unit Dwelling</i>	1.5 per studio or one-bedroom unit 2 per unit with two or more bedrooms	One space per unit must be within a garage

<b>TABLE 17.23.040: REQUIRED NUMBER OF ON-SITE PARKING SPACES</b>		
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>	
<i>Multi-Unit Building</i>	1.5 per studio or one-bedroom unit 2 per unit with two or more bedrooms Guest parking: 1 plus 1 for every four units	Ten or fewer dwelling units: One space per unit must be within a garage More than ten dwelling units: One space per unit must be covered Guest parking shall be clearly marked as reserved for guests and available with unrestricted access
<i>Accessory Dwelling Unit</i>	1 per unit	
Caretaker Unit	1 per unit	
Family Day Care		
<i>Small</i>	None beyond what is required for the Residential Housing Type	
<i>Large</i>	1 for each nonresident employee plus an area for loading and unloading children plus parking required for the residential use	
Group Residential	1 for each employee plus 1 for each guest room or every two beds, whichever is greater	
Residential Care Facilities		
<i>Small</i>	None beyond what is required for the Residential Housing Type	
<i>Large</i>	1 for every 3 beds	
Residential Facility, Assisted Living	1 for every 3 beds	
Single Room Occupancy	0.5 per unit	
Supportive Housing	None beyond what is required for the Residential Housing Type	
Transitional Housing	None beyond what is required for the Residential Housing Type	
<b>Public/Semi Public Uses</b>	<b>1 for each employee plus as determined by the Director, except as specified below</b>	
Colleges and Trade Schools	1 for each employee plus 1 for every 2 students	
Community Assembly	1 for each 4 permanent seats or 1 for every 40 square feet of assembly area where no seats or where temporary or moveable seats are provided	
Day Care Centers	1 per each employee plus an area for loading and unloading children	
Emergency Shelter	1 per family room, 0.35 per individual bed, plus 1 for each employee	
Hospital and Clinics		
<i>Hospitals</i>	1 for every 2 beds	
<i>Clinic</i>	1 per 250 square feet of floor area	
<i>Skilled Nursing Facility</i>	1 for every 3 beds	
Instructional Services	1 for each employee plus 1 for every 2 students	
Parking Lots and Structures	None	
Social Service Facilities	1 per 250 square feet of floor area	

<b>TABLE 17.23.040: REQUIRED NUMBER OF ON-SITE PARKING SPACES</b>	
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>
Tutoring Facilities	1 per 250 square feet of floor area
<b>Commercial Uses</b>	<b>1 per 250 square feet of floor area, except as specified below</b>
Adult-Oriented Business	1 per 150 square feet of floor area
Animal Care, Sales, and Services	
<i>Boarding/Kennels</i>	1 for each employee plus an area for loading and unloading animals
Automobile/Vehicle Sales and Services	1 per 300 square feet of office or retail area and 1 per service bay
Commercial Entertainment and Recreation	1 for each 4 permanent seats or 1 for every 40 square feet of assembly area where no seats or where temporary or moveable seats are provided Bowling alleys: 5 for each lane Other Commercial Entertainment and Recreation uses: As determined by the Director
Eating and Drinking Establishments	1 per 150 square feet of floor area plus 1 per 150 square feet of outdoor dining and seating area over 350 square feet.
Farmer's Markets	None
Food Preparation	1 per 500 square feet of floor area
Funeral Parlors and Interment Services	1 for each 4 permanent seats or 1 for every 40 square feet of assembly area where no seats or where temporary or moveable seats are provided
Hookah Lounge	1 per 150 square feet of floor area
Live/Work Units	1 per 1,000 square feet of nonresidential area plus 1 space for each residential unit
Lodging - Hotels and Motels	1 for each guest room or every two beds, whichever is greater. The director may require additional parking for ancillary uses, such as restaurants.
Maintenance and Repair Services	1 per 500 square feet of floor area
Market Garden	As determined by the Director
Mobile Food Vendor	None
Nurseries and Garden Center	1 per 500 square feet of floor area; 1 per 1,000 square feet of outdoor display area
Offices	
<i>Business, Professional, and Technology</i>	1 per 300 square feet of floor area
<i>Walk-In Clientele</i>	1 per 300 square feet of floor area
Retail Sales	
<i>Building Materials Sales and Services</i>	1 per 500 square feet of floor area; 1 per 1,000 square feet of outdoor display area

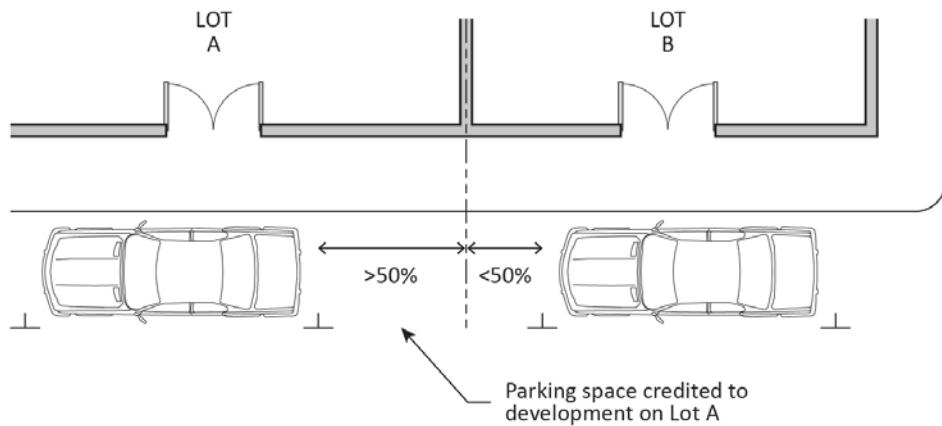
<b>TABLE 17.23.040: REQUIRED NUMBER OF ON-SITE PARKING SPACES</b>	
<i>Land Use Classification</i>	<i>Required Parking Spaces</i>
<b>Industrial Uses</b>	<b>1 per 1,000 square feet of floor area plus 1 for each 5,000 square feet of outdoor use area, except as specified below</b>
Custom Manufacturing	1 per 500 square feet of floor area
Personal Storage	1 space per 75 storage units, plus 1 space per 300 square feet of office area. A minimum of 5 spaces shall be provided.
<b>Transportation, Communication, and Utility Uses</b>	<b>1 per 300 square feet of office area plus one for each fleet vehicle</b>

- B. **Calculation of Required Spaces.** The number of required parking spaces shall be calculated according to the following rules:
1. **Floor Area.** Where an on-site parking or loading requirement is stated as a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated.
  2. **Employees.** Where an on-site parking or loading requirement is stated as a ratio of parking spaces to employees, the number of employees shall be based on the largest shift that occurs in a typical week.
  3. **Bedrooms.** Where an on-site parking requirement is stated as a ratio of parking spaces to bedrooms, any rooms having the potential of being a bedroom and meeting the standards of the Building Code as a sleeping room shall be counted as a bedroom.
  4. **Students.** Where a parking or loading requirement is stated as a ratio of parking spaces to students (including children in day care), the number is assumed to be the number of students at the state-certified capacity or at Building Code Occupancy where no state-certification is required.
  5. **Seats.** Where parking requirements are stated as a ratio of parking spaces to seats, each 80 inches of bench-type seating at maximum seating capacity is counted as one seat.
- C. **Sites with Multiple Uses.** If more than one use is located on a site, the number of required on-site parking spaces and loading spaces shall be equal to the sum of the requirements calculated separately for each use unless a reduction is approved pursuant to Section 17.23.050, Parking Reductions.
- D. **CMU District.** In the CMU District, no on-site parking is required for the first 5,000 square feet of ground floor nonresidential use. Ground floor nonresidential uses greater than 5,000 square feet in size shall provide parking in accordance with Table 17.23.040, Required Number of On-Site Parking Spaces, for the floor area in excess of 5,000 square feet. In addition, the following applies in the Old Town Area.
1. **Old Town Area.** The following apply in the Old Town Area as shown on Figure 17.23.040.D.1, Old Town Area Parking Calculations.



**FIGURE 17.23.040.D.1: OLD TOWN AREA PARKING CALCULATIONS**

- a. On-street parking along a lot's corresponding frontage lines shall be counted toward the parking requirement. Where an on-street parking space is adjacent to multiple lots, the credit shall be given to the development on the lot whose frontage contains more than 50 percent of the parking space length.



**FIGURE 17.23.040.D.1.A: ON-STREET PARKING CREDIT**

- b. Where a use with a legal nonconforming parking deficiency is replaced, the new use shall receive a parking credit equal to the number of required automobile parking spaces unmet by the previous use.

### 17.23.050 Parking Reductions

The number of on-site parking spaces required by Section 17.23.040, Required Parking Spaces, may be reduced as follows, subject to Minor Use Permit approval.

- A. **Transit Accessibility.** For any land use except residential Single-Unit and Two-Unit development, if any portion of the lot is located within one-quarter mile of a transit stop with regular, scheduled service during the weekday hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. and 7:00 p.m., the number of required parking spaces may be reduced by 20 percent of the normally required number of spaces.
- B. **Shared Parking.** Where a shared parking facility serving more than one use will be provided, the total number of required parking spaces may be reduced up to 40 percent if the review authority finds that:
  - 1. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces;
  - 2. The proposed shared parking provided will be adequate to serve each use;
  - 3. A parking demand study prepared by an independent traffic engineering professional approved by the City supports the proposed reduction; and
  - 4. In the case of a shared parking facility that serves more than one property, a parking agreement has been prepared consistent with the provisions of Section 17.23.060.C, Off-Site Parking Facilities.
- C. **Other Parking Reductions.** Required parking for any use may be reduced as follows.
  - 1. **Criteria for Approval.** The review authority may only approve reduced parking if it finds that:
    - a. Special conditions—including, but not limited to, the nature of the proposed operation; proximity to frequent transit service; transportation characteristics of persons residing, working, or visiting the site; or because the applicant has undertaken a transportation demand management program—exist that will reduce parking demand at the site;
    - b. The use will adequately be served by the proposed on-site parking; and
    - c. Parking demand generated by the project will not exceed the capacity of or have a significant impact on the supply of on-street parking in the surrounding area.
  - 2. **Parking Demand Study.** In order to evaluate a proposed project's compliance with the above criteria, submittal of a parking demand study that substantiates the basis for granting a reduced number of spaces may be required.

### 17.23.060 Location of Required Parking

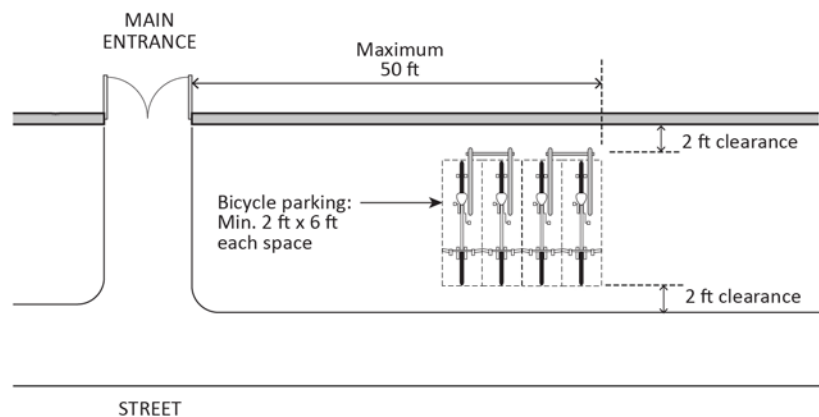
- A. **Residential Uses.** Required parking for residential uses shall be on the same lot as the dwelling or use they serve or in an off-site facility as provided in Subsection 17.23.060.C, Off-Site Parking Facilities. Parking shall not be located within a required front or street-facing side yard.
- B. **Nonresidential Uses.** Required parking spaces serving nonresidential uses shall be located on the same lot as the use they serve, or in an off-site parking facility as provided in Subsection C.
- C. **Off-Site Parking Facilities.** Parking facilities for uses other than Single-Unit Dwellings, Two-Unit Dwellings, and Second Units may be provided off-site with Director approval of a Minor Use Permit provided the following conditions are met.
  - 1. **Location.**
    - a. *Residential Uses.* Any off-site parking facility must be located within 200 feet, along a pedestrian route, of the unit or use served.
    - b. *Nonresidential Uses.* Any off-site parking facility must be located within 600 feet, along a pedestrian route, of the principal entrance containing the use(s) for which the parking is required.
  - 2. **Parking Agreement.** A written agreement between the landowner and the City in a form satisfactory to the City Attorney shall be executed and recorded in the Office of the County Recorder. The agreement shall include:
    - a. A guarantee among the landowner for access to and use of the parking facility; and
    - b. A guarantee that the spaces to be provided will be maintained and reserved for the uses served for as long as such uses are in operation.

### 17.23.070 Bicycle Parking

- A. **Short-Term Bicycle Parking.** Short-term bicycle parking shall be provided in order to serve shoppers, customers, messengers, guests and other visitors to a site who generally stay for a short time.
  - 1. **Parking Spaces Required.** For the following uses, the number of short-term bicycle parking spaces shall be at least five percent of the number of required automobile parking spaces, with a minimum of four parking spaces provided per establishment.
    - a. Multi-unit Development, Group Residential, and Single Room Occupancy with five or more units.
    - b. All uses in the Public and Semi-Public Use Classification except Cemeteries and Community Gardens.
    - c. All uses in the Commercial Use Classification.
  - 2. **Location.** Short-term bicycle parking must be located outside of the public right of way and pedestrian walkways and within 50 feet of a main entrance to the building it serves. Where the bicycle parking area is not visible from the main entrance of the building, signs located at the main entrance of the building shall identify the location of bicycle parking.



3. **Anchoring and Security (Racks).**
  - a. **Rack Style.** For each short-term bicycle parking space required, a stationary, securely anchored object shall be provided to which a bicycle frame and one wheel (two points of contact) can be secured with a high-security U-shaped shackle lock if both wheels are left on the bicycle. One such object may serve multiple bicycle parking spaces. Decorative bicycle racks, such as circular, ring, or bicycle shaped racks are recommended. No wave racks are allowed.
  - b. **Rack Spacing.** Racks shall be spaced a minimum of three feet between each other when placed side by side, and a minimum of five feet when placed end to end. Racks shall be placed at least three feet from any wall, curb, or object when placed parallel to a wall, curb, or object, and at least 2.5 feet from any wall curb, or object when placed perpendicular to a wall, curb, or object.
4. **Size and Clearance.** Each short-term bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving another bicycle. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five feet from vehicle parking spaces.



**FIGURE 17.23.070.A: SHORT-TERM BICYCLE PARKING**

- B. **Long-Term Bicycle Parking.** Long-term bicycle parking shall be provided in order to serve employees, students, residents, commuters, and others who generally stay at a site for four hours or longer.
  1. **Parking Spaces Required.**
    - a. **Residential Uses.** A minimum of one long-term bicycle parking space shall be provided for every five units for Multi-unit Development, Group Residential, and Single Room Occupancy.
    - b. **Other Uses.** Any establishment with 25 or more full time equivalent employees shall provide long-term bicycle parking at a minimum ratio of one space per 30 vehicle spaces.



**17.23.080 On-Site Loading**

**A. Loading Spaces Required.**

1. **Uses with Moderate Loading Demand.** The following land uses shall provide loading spaces in accordance with Table 17.23.080.A.1, Required Loading Spaces-Moderate Loading Demand.

- a. Banks and Financial Institutions
- b. Banquet Hall
- c. Cinema/Theaters
- d. Clinics
- e. Colleges and Trade Schools
- f. Community Assembly
- g. Cultural Institution
- h. Custom Manufacturing
- i. Emergency Shelter
- j. Government Offices
- k. Hospitals
- l. Hotels
- m. Indoor Sports and Recreation
- n. Maintenance and Repair Services
- o. Motels
- p. Offices
- q. Public Safety Facilities
- r. Residential Care Facilities
- s. Residential Facility, Assisted Living
- t. Schools
- u. Skilled Nursing Facilities
- v. Veterinary Services

<b>TABLE 17.23.080.A.1: REQUIRED LOADING SPACES-MODERATE LOADING DEMAND</b>	
<i>Gross Floor Area (square feet)</i>	<i>Required Loading Spaces</i>
0-5,000	1 if located in a Residential District, 0 otherwise
5,001-50,000	1
50,001-150,000	2
150,001+	2 plus 1 per each additional 150,000 square feet over 150,000

2. **Uses with High Loading Demand.** The following land uses shall provide loading spaces in accordance with Table 17.23.080.A.2, Required Loading Spaces-High Loading Demand.
  - a. Animal Sales and Grooming
  - b. Automobile/Vehicle Sales and Services
  - c. Eating and Drinking Establishments
  - d. Food Preparation
  - e. Nurseries and Garden Centers
  - f. Retail Sales
  - g. Construction and Material Yards
  - h. Food and Beverage Manufacturing
  - i. General Industrial
  - j. Light Industrial
  - k. Research and Development
  - l. Warehousing and Storage
  - m. Wholesaling and Distribution

<b>TABLE 17.23.080.A.2: REQUIRED LOADING SPACES-HIGH LOADING DEMAND</b>	
<i>Gross Floor Area (square feet)</i>	<i>Required Loading Spaces</i>
0-5,000	0
5,001-12,500	1
12,501-20,000	2
20,001-30,000	3
30,001-50,000	4
50,001-75,000	5
75,001+	5 plus 1 per each additional 75,000 square feet over 75,000

3. **Transportation Uses.** Three loading spaces plus additional spaces as determined by the Director to be necessary shall be provided for the following uses.
  - a. Airports and Heliports
  - b. Freight/Trucking Terminals
4. **Other Uses.** One loading space plus additional spaces as determined by the Director to be necessary shall be provided for the following uses.
  - a. Business Services
  - b. Funeral Parlors and Interment Services

- c. Public Works and Utilities
- d. Recycling Facilities
- e. Transportation Passenger Terminals
- f. Any other use similarly requiring the receipt or distribution by vehicles or trucks of material or merchandise.

**B. Adjustments to Loading Space Requirements.**

1. **Multi-Tenant Buildings.** The gross floor area of the entire building shall be used in determining spaces for multi-tenant buildings. A common loading area may be required, if each tenant space is not provided a loading area. Drive-in roll-up doors for multi-tenant industrial projects may be substituted for required loading areas.
  2. **Reduction in Number of Loading Spaces Required.** The loading space requirement may be waived if the Director finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use, such loading space will not be needed.
  3. **Additional Loading Spaces Required.** The required number of loading spaces may be increased to ensure that trucks will not be loaded, unloaded, or stored on public streets. Such requirement shall be based on the anticipated frequency of truck pickups and deliveries and of the truck storage requirements of the use for which the on-site loading spaces are required.
- C. Location.** All required loading berths shall be located on the same site as the use served. No loading berth for vehicles over two-ton capacity shall be closer than 50 feet to any property in a Residential district unless completely enclosed by building walls, or a uniformly solid fence or wall, or any combination thereof, not less than six feet in height. No permitted or required loading berth shall be located within 25 feet of the nearest point of any street intersection.
- D. Minimum Size.** Each on-site loading space required by this Chapter shall not be less than 12 feet wide, 45 feet long, and 14 feet high, exclusive of driveways for ingress and egress, maneuvering areas and setbacks. The minimum size requirement may be modified if the Director finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use, such size will not be needed.
- E. Driveways for Ingress and Egress and Maneuvering Areas.** Each on-site loading space required by this Section shall be provided with driveways for ingress and egress and maneuvering space of the same type and meeting the same criteria required for on-site parking spaces. Truck-maneuvering areas shall not encroach into required parking areas, travelways, or street rights-of-way. This requirement may be modified if the Director finds that sufficient space is provided so that truck-maneuvering areas will not interfere with traffic and pedestrian circulation.
- F. Surfacing.** All loading areas shall be paved and improved, and all sites shall be properly drained, consistent with applicable stormwater runoff regulations and subject to the approval of the Public Works Director.
1. **Pavement Standards.** Pavement shall be either asphalt or concrete paving consistent with the following standards or comparable material approved by the Public Works Director.

- a. *Asphalt.* Two inches of asphaltic concrete on four inches of aggregate base material.
- b. *Concrete.* Four inches of portland cement concrete on three inches of aggregate base material.

### **17.23.090 Parking Area Design and Development Standards**

All parking areas except those used exclusively for stacked or valet parking, shall be designed and developed consistent with the following standards. Parking areas used exclusively for stacked or valet parking are subject only to Subsections I through M. Stacked or valet parking areas which will allow parking at some times without attendants must be striped in conformance with the layout requirements of this Section.

- A. **Tandem Parking.** Tandem parking is not permitted to satisfy the off-street parking requirement.
- B. **Shopping Cart Storage.** When there are businesses that utilize shopping carts, adequate temporary shopping cart storage areas shall be provided throughout the parking lots. No temporary storage of shopping carts is allowed on walkways outside of buildings. Shopping cart storage shall not occur in required parking spaces.
- C. **Parking Access.** Parking access areas shall be designed to ensure vehicular access to parking spaces as determined by the Public Works Director.
  1. **Distance from Intersection.** Access for parking facilities with 10 or more spaces shall be located a minimum of 50 feet from the intersection of any two streets.
  2. **Access Width.** The width of curb cuts for parking access is limited as follows.
    - a. The width of a curb cut serving one travel lane is limited to a maximum of 12 feet, excluding splays.
    - b. The width of a curb cut serving two travel lanes is limited to a maximum of 24 feet, excluding splays, except parking lots with more than 100 spaces where the curb cut may be up to 35 feet wide, excluding splays.
  3. **Shared Access.** Nonresidential projects are encouraged to provide shared vehicle and pedestrian access to adjacent nonresidential properties for convenience, safety, and efficient circulation. A joint access agreement guaranteeing the continued availability of the shared access between the properties approved by the Director shall be recorded in the County's Recorders Office, in a form satisfactory to the City Attorney.
  4. **Forward Entry.** Parking areas of four or more spaces shall be provided with suitable maneuvering room so that all vehicles therein may enter an abutting street in a forward direction.
  5. **Driveway Length.** Driveways providing direct access from a public street to a garage or carport shall be at least 20 feet in depth.
  6. **Driveway Width.** The minimum width of a driveway is as follows:
    - a. 10 feet for any driveway serving one residence.
    - b. 10 feet for a one-way driveway.

- c. 20 feet for a two-way driveway serving any use other than one residence.

D. **Size of Parking Spaces and Maneuvering Aisles.** Parking spaces and maneuvering aisles shall meet the minimum dimensions required by this Subsection. Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces.

- 1. **Standard Parking Spaces and Drive Aisles.** The minimum basic dimension for standard parking spaces is nine feet by 19 feet, with a minimum vertical clearance of seven feet. Table 17.23.090.D provides the dimensions of spaces (stalls) and aisles according to angle of parking spaces. The required aisle width may be modified if the Public Works Director finds that sufficient space is provided, so that maneuvering areas will not interfere with traffic and pedestrian circulation.

TABLE 17.23.090.D: STANDARD PARKING SPACE AND AISLE DIMENSIONS		
Angle of Parking	Aisle Width (ft)	Stall Depth (ft)
90°	20	19
60°	16	21
45°	12	19
30°	10	17
Parallel	12	19
Other	As determined by the Public Works Director	

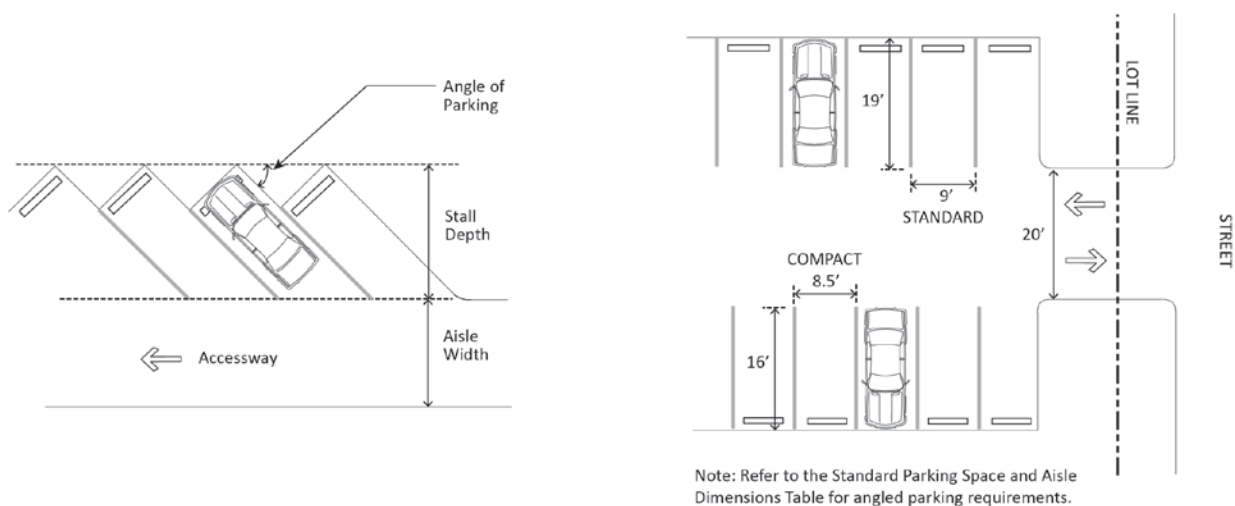
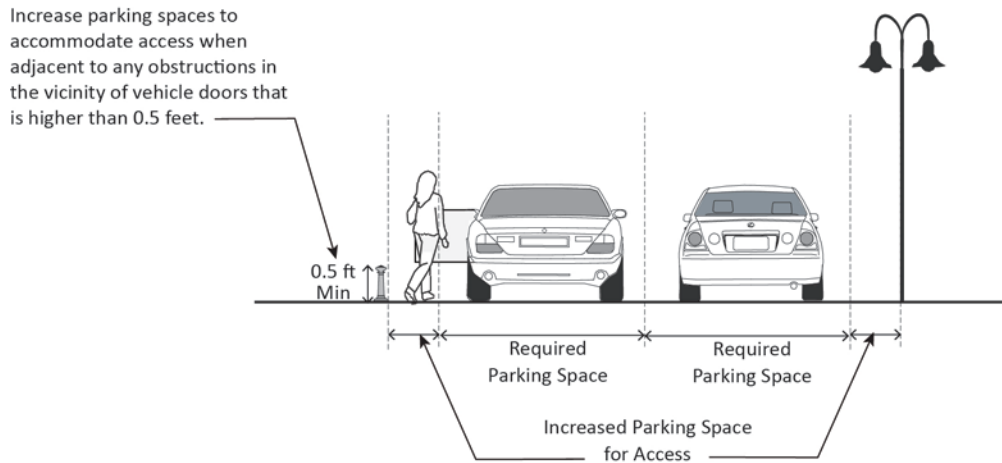


FIGURE 17.23.090.D.1: STANDARD PARKING SPACES AND DRIVE AISLES

- 2. **Compact Parking Spaces.** Up to 25 percent of assigned spaces may be reduced to 8.5 feet by 16 feet and labeled “compact.”

3. **Parking Spaces Abutting Wall or Fence.** Each parking space adjoining a wall, fence, column, or other obstruction higher than 0.5 feet in the vicinity of where a vehicle door may be located shall be increased to accommodate access to the vehicle through the door.



**FIGURE 17.23.090.D.3: PARKING SPACES ABUTTING WALL OR FENCE**

4. **Minimum Dimensions for Residential Garages and Carports.** Garages and carports serving residential uses shall be constructed to meet the following minimum inside dimensions and related requirements.
  - a. A single car garage or carport: 10 feet in width by 20 feet in length.
  - b. A two-car garage or carport: 20 feet in width by 20 feet in length.
  - c. A garage or carport containing three or more spaces: 10 feet in width by 20 feet in length per space.
  - d. The vertical clearance for garage or carport parking spaces shall not be less than seven feet.
  - e. Stairs may encroach into the parking area of a garage provided that the front end of a standard size automobile can fit under the stair projection. The bottom of the stairwell (including exterior finish) shall be a minimum of five feet above the garage floor.
- E. **Parking Lot Striping.** All parking stalls shall be clearly outlined with striping, and all aisles, approach lanes, and turning areas shall be clearly marked with directional arrows and lines as necessary to provide for safe traffic movement.
- F. **Wheel Stops.** Parking areas designed to accommodate 10 or more vehicles shall provide concrete bumper guards or wheel stops for all unenclosed parking spaces. A six-inch high concrete curb surrounding a landscape area at least six feet wide may be used as a wheel stop, provided that



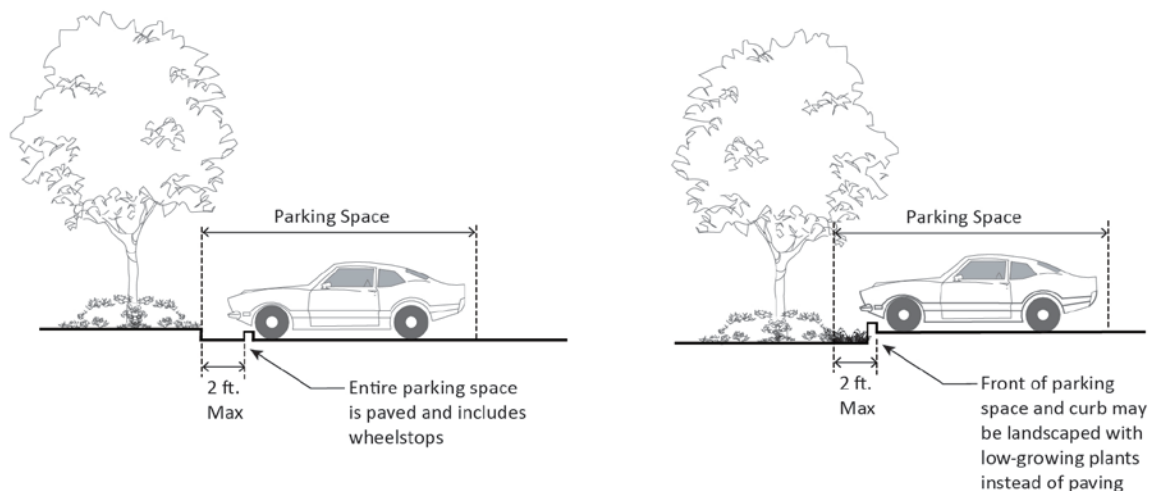
the overhang will not damage or interfere with plant growth or its irrigation. A concrete sidewalk may be used as a wheel stop if the overhang will not reduce the minimum required walkway width.

G. **Surfacing.** All parking areas shall be paved and improved, and all sites shall be properly drained, consistent with applicable stormwater runoff regulations and subject to the approval of the Public Works Director. No unpaved area shall be used for parking.

1. **Pavement Standards.** Parking areas shall be paved consistent with the following materials or comparable material approved by the Public Works Director.

- a. **Asphalt.** Two inches of asphaltic concrete on four inches of aggregate base material.
- b. **Concrete.** Four inches of portland cement concrete on three inches of aggregate base material.
- c. **Pavers or Permeable Pavement Systems.** Pavers or permeable pavement systems with strength equivalent to a. or b. above.

2. **Landscaping Alternative.** Up to two feet of the front of a parking space as measured from a line parallel to the direction of the bumper of a vehicle using the space may be landscaped with ground cover plants instead of paving.

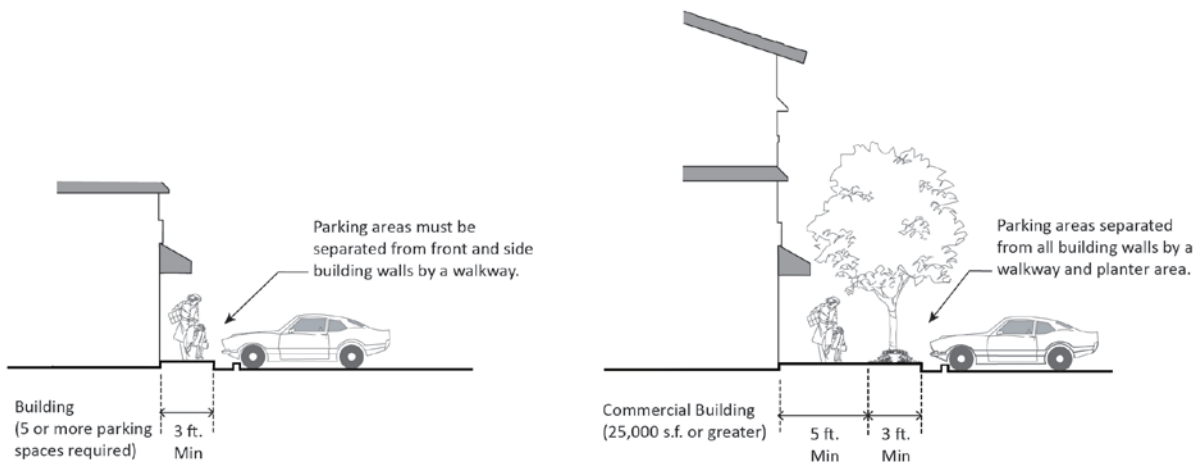


**FIGURE 17.23.090.G: PARKING SURFACING**

H. **Perimeter Curbing.** Parking areas designed to accommodate 10 or more vehicles shall provide a six-inch wide and six-inch high concrete curb along the outer edge of the parking facility pavement, except where said pavement abuts a fence or wall. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

I. **Heat Island Reduction.** In order to reduce ambient surface temperatures in parking areas, at least 50 percent of the areas not landscaped shall be shaded, of light colored materials with a Solar Reflectance Index of at least 29, or a combination of shading and light colored materials.

1. Shade may be provided by canopies, shade structures, trees, or other equivalent mechanism. If shade is provided by trees, the amount of required shading is to be reached within 15 years.
  2. Trees shall be selected from a list maintained by the Planning Division.
- J. **Lighting.** Parking areas designed to accommodate 10 or more vehicles shall be provided with a minimum of one-half foot-candle and a maximum of 3.0 foot-candles of light over of the parking surface during the hours of use from one-half hour before dusk until one-half hour after dawn.
1. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.
  2. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Chapter 17.24, Performance Standards.
- K. **Separation From On-Site Buildings.** Parking areas designed to accommodate five or more vehicles must be separated from the front and side exterior walls of on-site buildings by walkways a minimum of three feet in width. Commercial buildings with 25,000 square feet or more of gross floor area must be separated from on-site parking on all sides by a walkway a minimum of five feet in width, as well as a planter area at least three feet in width.



**FIGURE 17.23.090.K: PARKING SEPARATION FROM ON-SITE BUILDINGS**

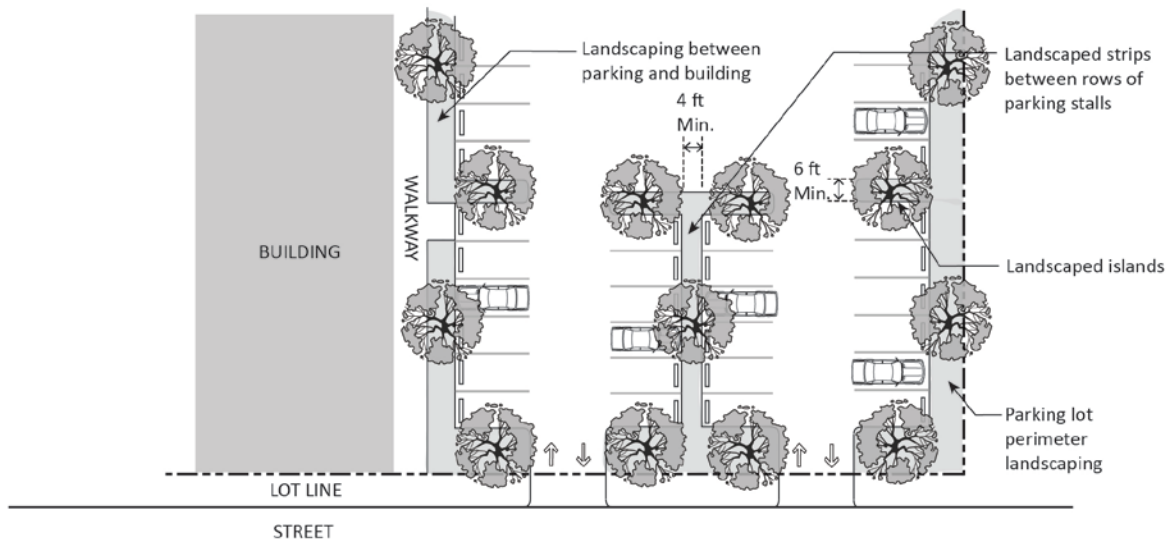
- L. **Landscaping.** Parking areas designed to accommodate five or more vehicles must be landscaped according to the general standards of Chapter 17.21, Landscaping, as well as the standards of this Subsection.
1. **Landscape Area Required.** A minimum of 10 percent of the parking lot area shall be landscaped.
  2. **Minimum Planter Dimension.** No landscape planter that is to be counted toward the required landscape area shall be smaller than 25 square feet in area, or four feet in any horizontal dimension, excluding curbing.

3. **Layout.** Landscaped areas shall be well-distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of:
  - a. Landscaped planting strips at least four feet wide between rows of parking stalls;
  - b. Landscaped planting strips between parking areas and adjacent buildings or internal pedestrian walkways;
  - c. Landscaped islands located between parking stalls or at the ends of rows of parking stalls; and
  - d. On-site landscaping at the parking lot perimeter.
4. **Required Landscaped Islands.** A landscaped island at least six feet in all interior dimensions and containing at least one 24 inch box tree shall be provided at each end of each interior row of parking stalls and between every six consecutive parking stalls.
5. **Landscaped Buffer Adjacent to Right-of-Way.** A landscaped area at least five feet wide shall be provided between any surface parking area and any property line adjacent to a public street, unless a different dimension is specified in the zoning district standards applicable to a site.
6. **Landscaped Buffer Abutting Interior Lot Line.**
  - a. *Adjacent to a Residential, Park, or Open Space District.* A landscaped area at least five feet wide shall be provided between any surface parking area and any adjacent lot in a Residential, Park, or Open Space District for the length of the parking area.
  - b. *Adjacent to Any Other District.* A landscaped area at least three feet wide shall be provided between any surface parking area and any adjacent lot in any district other than Residential, Park, or Open Space for the length of the parking area.
7. **Trees.**
  - a. *Number Required.* One for each eight parking spaces.
  - b. *Distribution.* Trees shall be distributed relatively evenly throughout the parking area.
  - c. *Species.* Tree species shall be selected from a list maintained by the Planning Division.
  - d. *Size.* All trees shall be a minimum 24 inch box with a one-inch diameter at 48 inches above natural grade.
  - e. *Minimum Planter Size.* Any planting area for a tree must have a minimum interior horizontal dimension of five feet. Additional space may be required for some tree species.
8. **Protection of Vegetation.**
  - a. *Clearance from Vehicles.* All required landscaped areas shall be designed so that plant materials, at maturity, are protected from vehicle damage by providing a minimum two-foot clearance of low-growing plants where a vehicle overhang is

permitted, or by wheel stops set a minimum of two feet from the back of the curb.

b. **Planters.** All required parking lot landscaping shall be within planters bounded by a concrete curb at least six inches wide and six inches high. Curbs separating landscaped areas from parking areas shall be designed to allow stormwater runoff to pass through.

9. **Visibility and Clearance.** Landscaping in planters at the end of parking aisles shall not obstruct driver's vision of vehicular and pedestrian cross-traffic. Mature trees shall have a foliage clearance maintained at eight feet from the surface of the parking area. Other plant materials located in the interior of a parking lot shall not exceed 30 inches in height.



**FIGURE 17.23.090.L: PARKING AREA LANDSCAPING**

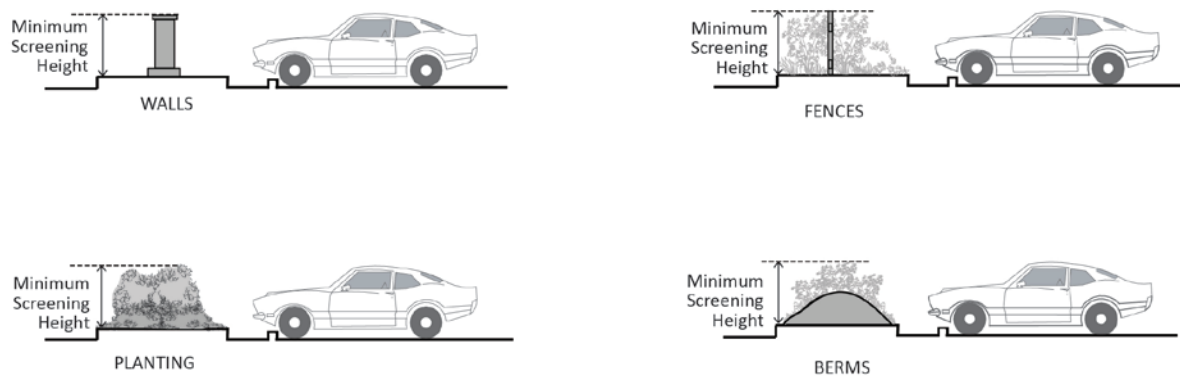
M. **Screening.** Parking areas designed to accommodate five or more vehicles shall be screened from view from public streets and adjacent lots in a more restrictive zoning district, according to the following standards.

1. **Height.** Screening of parking lots from adjacent public streets shall be 42 inches in height. Screening of parking lots along interior lot lines that abut Residential Districts shall be six feet in height, except within the required front setback of the applicable zoning district, where screening shall be three feet in height.

2. **Materials.** Screening may consist of one or any combination of the methods listed below.

a. **Walls.** Low-profile walls consisting of brick, stone, stucco, or other quality durable material approved by the Director, and including a decorative cap or top finish as well as edge detail at wall ends. Plain concrete blocks are not allowed as a screening wall material unless capped and finished with stucco or other material approved by the Director.

- b. *Fences.* An open fence of wrought iron or similar material combined with plant materials to form an opaque screen. Use of chain-link or vinyl fencing for screening purposes is prohibited.
- c. *Planting.* Plant materials consisting of compact evergreen plants that form an opaque screen. Such plant materials must achieve a minimum height of two feet within 18 months after initial installation and must be permanently maintained.
- d. *Berms.* Berms planted with grass, ground cover, or other low-growing plant materials.



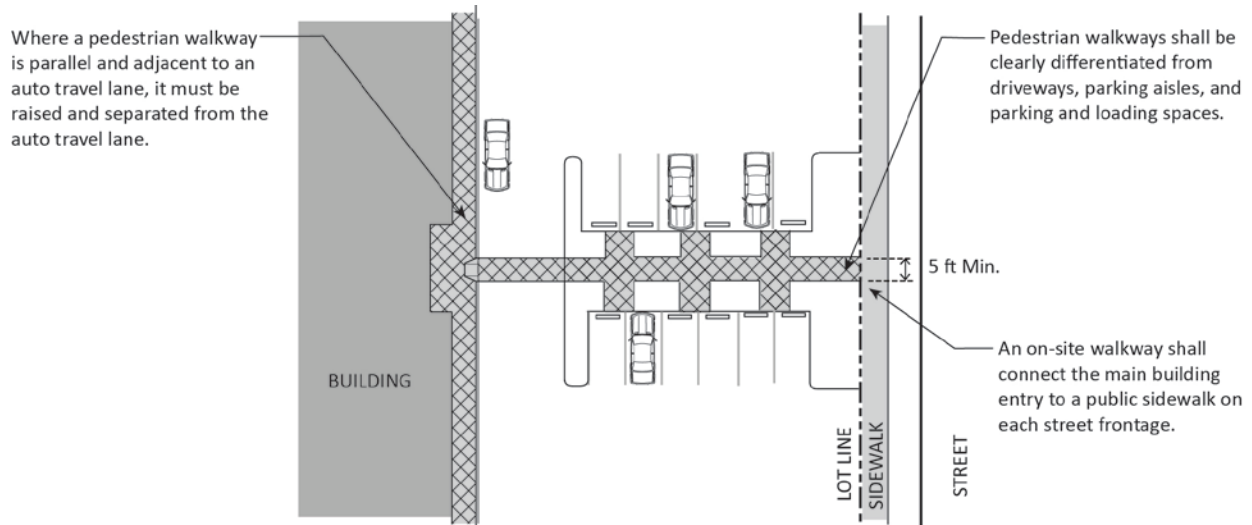
**FIGURE 17.23.090.M: SCREENING OF PARKING AREAS**

**N. Circulation and Safety.**

1. Visibility shall be assured for pedestrians, bicyclists, and motorists entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.
2. Off-street parking areas of four or more spaces shall be provided with sufficient maneuvering room so that all vehicles can enter and exit from a public street by forward motion only.
3. Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing up unreasonable distances or making other dangerous or hazardous turning movements.
4. Separate vehicular and pedestrian circulation systems shall be provided where possible. Multi-unit residential developments of five or more units must provide pedestrian access that is separate and distinct from driveways. Parking areas for commercial and mixed-use developments that are 80 feet or more in depth and/or include 25 or more parking spaces must have distinct and dedicated pedestrian access from the commercial use to parking areas and public sidewalks, according to the following standards:
  - a. *Connection to Public Sidewalk.* An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the

shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.

- b. *Materials and Width.* Walkways shall provide at least five feet of unobstructed width and be hard-surfaced.
- c. *Identification.* Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces through the use of elevation changes, a different paving material, or similar method.
- d. *Separation.* Where a pedestrian walkway is parallel and adjacent to an auto travel lane, it must be raised and separated from the auto travel lane by a raised curb at least four inches high, bollards, or other physical barrier.



**FIGURE 17.23.090.N: PEDESTRIAN CIRCULATION**

- O. **Alternative Parking Area Designs.** Where an applicant can demonstrate to the satisfaction of the Director that variations in the requirements of this Section are warranted in order to achieve environmental design and green building objectives, including but not limited to achieving certification under the LEED™ Green Building Rating System or equivalent, an alternative parking area design may be approved.
- P. **Maintenance.** Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times.

## Chapter 17.24 Performance Standards

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### 17.24.010 Purpose

The purposes of this Chapter are to:

- A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;
- B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions; and
- C. Protect industry from arbitrary exclusion from areas of the City.

### 17.24.020 General Standard

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

### 17.24.030 Measurement of Impacts

Measurements necessary for determining compliance with the standards of this Chapter shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.

### 17.24.040 Dust and Fumes

Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, unless authorized under federal, State, or local law. Sources of air emissions shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the Bay Area Air Quality Management District.

### 17.24.050 Electromagnetic Interference

No use, activity or process shall cause electromagnetic interference with normal radio and television reception, or with the function of other electronic equipment beyond the lot line of the site in which it is situated. All uses, activities and processes shall comply with applicable Federal Communications Commission regulations.

### 17.24.060 Fire and Explosive Hazards

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited with the exception of those substances such as, but not limited to, chemicals, insecticides, hospital materials and waste products, required by law to be disposed of by burning, and those instances wherein the Fire Department deems it a practical necessity.

#### **17.24.070 Glare**

No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located.

#### **17.24.080 Hazardous and Extremely Hazardous Materials**

The use, handling, storage and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities, processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system or onto the ground.

#### **17.24.090 Heat and Humidity**

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property.

#### **17.24.100 Noise**

- A. **Noise Limits.** It shall be unlawful for any person to disturb the peace, quiet, and comfort of the community, or any portion thereof, or neighborhood therein, by creating or causing to be created any unreasonable noises.
1. **Applicability.** The provisions of this Subsection apply to noises from all sources within the City except the following:
    - a. *Alarms and Warning Devices:* Aural alarms or warning devices, including but not limited to fire alarms, burglar alarms, and emergency vehicle sirens and air horns. However, if a standard or minimum noise level is prescribed for particular type of aural alarm or warning device by the laws or regulations of the State of California, the noise emitted from such alarm or warning device shall not exceed such standard or minimum level by more than three dBA.
    - b. *Emergency Response Activities:* Noise from emergency response activities.
    - c. *Events at Which No Mechanical or Amplifying Equipment is Employed:* Noise from events conducted lawfully and without the use of sound of any kind that is mechanically produced or amplified or focused by any means.
    - d. *Audio Equipment Used by Public Safety Officers:* Noise from audio equipment used or operated by public safety officers in the performance of their duties.
    - e. *Generators Required for Medical Purposes or During Power Outages:* Noise from generators required for medical purposes or during power outages.
    - f. *Permitted for Temporary Uses or Activities:* Specific uses or activities for which a temporary exemption was granted through a Conditional Use Permit, Minor Use Permit, or other permit or authorization granted by the City.



2. **Noise Restriction by Decibel.**
  - a. *Residential Property Noise Limits.*
    - i. No person shall produce or allow to be produced by human voice, machine, device, or any combination of same, on residential property, a noise level at any point outside of the property plane that exceeds 70 dBA between the hours of 7:00 a.m. and 9:00 p.m. or 60 dBA between the hours of 9:00 p.m. and 7:00 a.m.
    - ii. No person shall produce or allow to be produced by human voice, machine, device, or any combinations of same, on multifamily residential property, a noise level more than 60 dBA three feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and doors of the dwelling unit are closed, except within the dwelling unit in which the noise source or sources may be located.
  - b. *Commercial and Industrial Property Noise Limits.* Except for commercial and industrial property abutting residential property, no person shall produce or allow to be produced by human voice, machine, device, or any other combination of same, on commercial or industrial property, a noise level at any point outside of the property plane that exceeds 70 dBA.
    - i. Abutting Residential Property. Commercial and industrial property that abuts residential property shall be subject to the residential property noise limits set forth in subsections (a)(i) and (ii) above.
  - c. *Public Property Noise Limits.* Except as otherwise provided in these regulations, no person shall produce or allow to be produced on public property, by human voice, machine, device, or any combination of same, a noise level that exceeds 60 dBA at a distance of 25 feet or more from the source. Noise from activities of the City of Newark is exempted from these regulations.
3. **Construction and Landscaping Activities.** Unless otherwise provided pursuant to a duly-issued permit or a condition of approval of a land use entitlement, the construction, alteration, or repair of structures and any landscaping activities, occurring between the hours of 10:00 a.m. and 6:00 p.m. on Sundays and holidays, and 7:00 a.m. and 7:00 p.m. on other days, shall be subject to the following:
  - a. No individual device or piece of equipment shall produce a noise level exceeding 83 dBA at a distance of 25 feet from the source. If the device or equipment is housed within a structure on the property, the measurement shall be made outside the structure at a distance as close as possible to 25 feet from the equipment.
  - b. The noise level at any point outside of the property plane shall not exceed 86 dBA. During all other times, the decibel levels set forth in Subsection 17.24.100.A.2, Noise Restriction by Decibel, control.
4. **Violation.** Any person who violates or causes or permits another person to violate any provision of this Section is guilty of an infraction.

5. **Enforcement.** Any code enforcement officer or police officer who determines that a noise in violation of this Section exists may issue an administrative citation to the person(s) violating this Section in accordance with Chapter 7.18 of this Code. The fine amount(s) shall be in accordance with Section 1.16.010(C) of this Code. Any recipient of an administrative citation under this Section may contest the violation pursuant to Section 7.18.030 and an administrative hearing shall be conducted as provided for in Section 7.22.020.
6. **Continuing violation.** For purposes of this Section only, a person may be issued an administrative citation each time a police officer responds to the same location and determines a violation of this Section has occurred.

**B. Noise Creation and Noise Exposure.**

1. **Acoustic Study.** An acoustic study shall be required for any proposed project which could create or be subject to a noise exposure greater than that deemed “normally acceptable” by the General Plan.
2. **Noise Attenuation Measures.** Any project subject to the acoustic study requirements of Subsection 17.24.100.A.1, Acoustic Study, may be required as a condition of approval to incorporate noise attenuation measures deemed necessary to ensure that noise standards are not exceeded.
  - a. New noise-sensitive uses (e.g., schools, hospitals, churches, and residences) shall incorporate noise attenuation measures to achieve and maintain an interior noise level of 45 dBA.
  - b. Noise attenuation measures identified in an acoustic study shall be incorporated into the project to reduce noise impacts to satisfactory levels.
  - c. Emphasis shall be placed upon site planning and project design measures. The use of noise barriers shall be considered and may be required only after all feasible design-related noise measures have been incorporated into the project.

**17.24.110 Waste Disposal**

- A. **Discharges to Water or Sewers.** Liquids and solids of any kind shall not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board.
- B. **Containment.** Wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. Closed containers shall be provided and used for the storage of any materials which by their nature are combustible, volatile, dust, or odor producing or edible or attractive to rodents, vermin, or insects.
- C. **Incineration.** There shall be no rubbish or refuse incineration on the premises.

**17.24.120 Vibration**

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction,

demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

- A. **Development Near Railroads.** An acoustic study shall be required for any proposed development within 200 feet of a railroad track. Measures may be required to ensure that vibration impacts remain below acceptable levels.

## Chapter 17.25 Signage Standards

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### 17.25.010 Purpose

The purpose of this Chapter is to promote the public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. More specifically, this Chapter is intended to:

- A. Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages;
- B. Allow signs to serve as an effective channel of communication while preventing visual clutter that will detract from the aesthetic character of the City;
- C. Protect and improve the local economy and quality of life by preserving and enhancing the appearance of the streetscape;
- D. Maintain and enhance the City's appearance by regulating the location, number, type, quality of materials, size, illumination, and maintenance of signs;
- E. Restrict signs that may create a nuisance to nearby properties, violate privacy, or create hazards or unreasonable distractions for pedestrians or drivers;
- F. Provide clear and unambiguous sign standards that enable fair and consistent enforcement; and
- G. Ensure that the constitutionally guaranteed right of free speech is protected.

### 17.25.020 Applicability

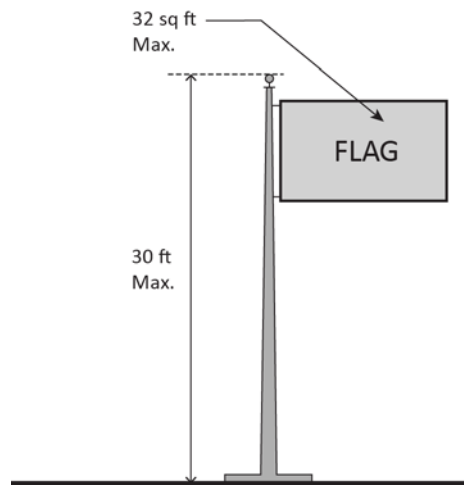
The provisions of this Chapter apply to all signs in all zoning districts, unless otherwise specified, constructed or physically altered on or after the effective date of this Ordinance.

- A. Nothing in this Chapter shall be construed to prohibit a person from holding a sign while picketing or protesting on public property that has been determined to be a traditional or designated public forum, so long as the person holding the sign does not block ingress and egress from buildings, create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on trails, or violate any other reasonable time, place, and manner restrictions adopted by the City.
- B. The provisions of this Chapter shall not require alteration of the display of any registered mark, or any trademark, service mark, trade name, or corporate name that may be associated with or incorporated into a registered mark, where such alteration would require the registered mark to be displayed in a manner differing from the mark as exhibited in the certificate of registration issued by the United States Patent and Trademark Office. It is the responsibility of the applicant to establish that a proposed sign includes a registered mark.

### 17.25.030 Exempt Signs

The following signs are exempt from the permit requirements of this Chapter, and they do not count toward the total sign area limit for a site, provided that they conform to the specified standards.

- A. **Address Signs.** Required address identification signs that are in conformance with the Building Code.
- B. **Commercial Displays on Vehicles.** Displays on vehicles related to the goods or services provided by the vehicle owner or operator and public transit/public carrier graphics on properly licensed buses, taxicabs, and similar vehicles for hire that legally pass through the City.
- C. **Commercial Mascot Signs.** Commercial signs held or attended by a person serving as commercial mascots.
  - 1. **Location.** Limited to Commercial and Mixed-Use Districts.
  - 2. **Number.** No more than two commercial mascot signs per business.
  - 3. **Maximum Size.** The area of each sign held or attended by a person shall not exceed six square feet.
  - 4. **Timing of Display.** Commercial Mascot signs shall not be displayed during hours when the business establishment related to the specific commercial mascot sign is not open to the public.
- D. **Directional Signs.** Directional and/or informational signs not more than six square feet in area for the direction or convenience of the public such as outlining/assisting vehicle and pedestrian circulation within a site, egress, ingress, and any public facilities such as restrooms, telephones, walkways, and other similar features.
- E. **Open House Directional Signs.** Up to four off-site signs directing the public to "open house" events for the viewing of lots, premises, dwellings or structures that are for sale, lease, or rent, are permitted on private land, provided they comply with the following standards:
  - 1. No sign or signs exceeds four square feet in area, or three feet in height from finished grade.
  - 2. The sign or signs may not be placed more than two hours before the start or remain more than two hours after the conclusion of the open house event.
- F. **Flags.** Flags erected and located in accordance with the following standards:
  - 1. **Location.** Flagpoles shall not be located within any required setback.
  - 2. **Height.** The maximum flagpole height is 30 feet.
  - 3. **Number.** No more than two flags per lot in Residential Districts, no more than three flags per lot in all other districts.
  - 4. **Maximum Size.** The maximum individual flag size is 32 square feet.



**FIGURE 17.25.030.F: FLAGS**

- G. **Government Signs.** Official notices issued by a court, public body, or office and posted in the performance of a public duty; notices posted by a utility or other quasi-public agency; signs erected by a governmental body to direct or regulate pedestrian or vehicular traffic; non-commercial bus stop signs erected by a public transit agency, or other signs required or authorized by law.
- H. **Historic Plaques and Commemorative Signs.** Historic plaques, memorial signs or tablets, or commemorative signs indicating names of buildings and dates of building erection, either attached to or cut into the surfaces of buildings, provided that no such sign exceeds four square feet in area.
- I. **Interior Signs.** Signs that are located in interior areas of a building or site not visible from the public right-of-way, and at least three feet from a window, door, or other exterior wall opening.
- J. **Mobile Vendor Signs.** Signs fixed to mobile vending vehicles that identify or advertise the name, product, or service provided by the vendor. Each mobile vending vehicle is limited to a maximum sign area of eight square feet.
- K. **Nameplate.** One nameplate for each tenant or occupancy not to exceed two square feet in area indicating the name of the occupant or tenant.
- L. **Off-Site Signs.** Off-premise signs no more than six square feet in size.

#### **17.25.040 Prohibited Signs**

Unless otherwise permitted by a specific provision of this Chapter, the following sign types are prohibited:

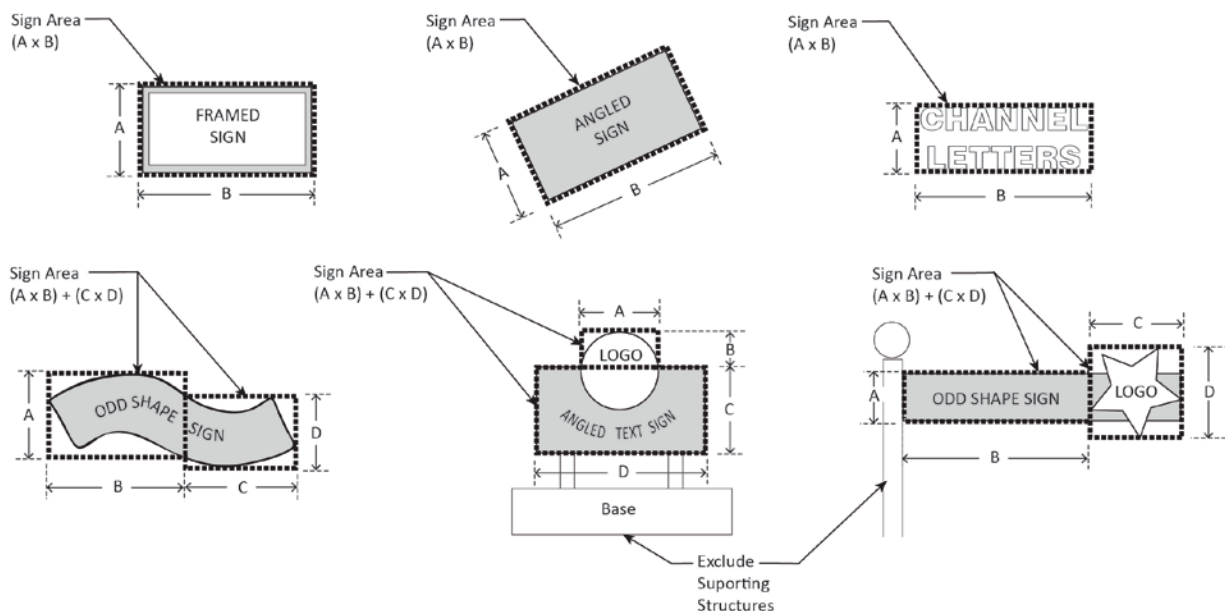
- A. **Animated or Moving Signs.** Animated, flashing, blinking, reflecting, revolving, or other similar sign with visibly moving or rotating parts or visible mechanical movement of any kind, unless expressly permitted by another section of this Chapter. This provision does not apply to signs using digital display technology, such as LED (light emitting diodes) or functionally equivalent display methods, which are permitted, subject to the regulations of this Chapter.

- B. **Balloons, Inflatable Signs, Streamers, Pennants and Other Attention-Getting Devices.** Balloons, inflatable signs, streamers, pennants, and other attention-getting devices, made of light-weight fabric or similar material, designed to rotate or move with the wind, that direct, promote, or that are otherwise designed to attract attention are prohibited except when used in conjunction with outdoor automobile sales.
- C. **Cabinet or Can Signs.** Internally lit cabinet and can signs.
- D. **General Advertising.** Temporary signs that publicize or promote other businesses or causes using methods of advertising (in contrast to self-promotion, on-site sales, or on-site advertising). General advertising is also known as advertising for hire.
- E. **Mobile Billboards.** Any sign carried or conveyed by a vehicle for the primary purpose of general advertising for hire. The purpose of this prohibition is to eliminate mobile billboard advertising within the City in order to reduce traffic congestion, promote the safe movement of vehicular traffic, to reduce air pollution, and improve the aesthetic appearance of the City. This prohibition does not apply to displays on vehicles related to the goods or services provided by the vehicle owner or operator and public transit/public carrier graphics on properly licensed buses, taxicabs, and similar vehicles for hire that legally pass through the City.
- F. **Roof Signs.**
  - 1. Attached signs that extend above the roofline or parapet (whichever is higher) of a building with a flat roof.
  - 2. Attached signs that extend above the deck line of a mansard roof.
  - 3. Signs on rooftop structures, such as penthouse walls or mechanical enclosures.
- G. **Search Lights and Klieg Lights.** Search and Klieg lights when used as attention-attracting devices for commercial uses.
- H. **Signs Located in the Public Right-of-Way or on Public Property.** Other than official government signs or warning signs required by law, no inanimate sign can be placed in or project into the public right-of-way or on public property unless authorized by an encroachment permit.
- I. **Signs Affixed to Trees.** Signs affixed to or cut into any tree or other living vegetation.
- J. **Signs on Terrain.** Signs cut, burned, marked, or displayed in any manner on a street, sidewalk, cliff or hillside.
- K. **Signs of Certain Materials.** Signs made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.
- L. **Signs Creating Traffic Hazards or Affecting Pedestrian Safety.** Signs must not be placed or located in such a manner as to constitute a safety hazard or to impede the public use of the public right-of-way.
  - 1. Signs placed, mounted, erected, or installed in any manner that obstructs use of any door, window or fire escape.
  - 2. Signs mounted or displayed in such a manner that blocks or impedes the normal pedestrian use or public sidewalks. A minimum unobstructed width of four feet must be maintained on sidewalks at all times.

3. Signs located in such a manner as to constitute a traffic hazard or obstruct the view of traffic, any authorized traffic sign, or signal device.
  4. Signs that may create confusion with any authorized traffic sign, signal, or device because their color, location, or wording, or use of any phrase, symbol, or character interferes with, misleads, or confuses vehicular drivers in their use of roads or conflicts with any traffic control sign or device.
  5. Signs at or near any street intersection that will obstruct the free and clear vision of drivers and pedestrians. Other than traffic control signals, no sign can be installed in the visibility triangle at intersections, extending horizontally 15 feet from the corner of the intersection and vertically, from a height of three feet to a height of eight feet.
- M. **Signs for Prohibited Uses.** A sign displaying a commercial message promoting a business that is a prohibited use and has not been established as a legal nonconforming use.
- N. **Signs that Produce Noise or Emissions.** Signs that produce visible smoke, vapor, particles, odor, noise, or sounds that can be heard at the property line, excluding voice units at menu boards and devices for servicing customers from their vehicles, such as drive-up windows at banks.

**17.25.050 Sign Measurement**

- A. **Measuring Sign Area.** The area of a sign face includes the entire area within a single continuous perimeter composed of squares and rectangles that enclose the extreme limits of all sign elements, including, without limitation, sign structures or borders, written copy, logos, symbols, illustrations, and color. Supporting structures, such as sign bases and columns, are not included in sign area provided that they contain no lettering or graphics except for addresses or required tags. The area of an individual sign shall be calculated as follows.



**FIGURE 17.25.050.A.1: MEASURING SIGN AREA**



1. **Single-Faced Signs.** The sign area of a sign with a single face area is the area of the sign face.
2. **Double-Faced Signs.** Where two faces of a double-faced sign are located two feet or less from one another at all points, or located at an interior angle of 45 degrees or less from one another, the sign area of double-faced signs is computed as the area of one face. Where the two faces are not equal in size, the larger sign face will be used. Where two faces of a double-faced sign are located more than two feet or greater than 45 degrees from one another, both sign faces are counted toward sign area.

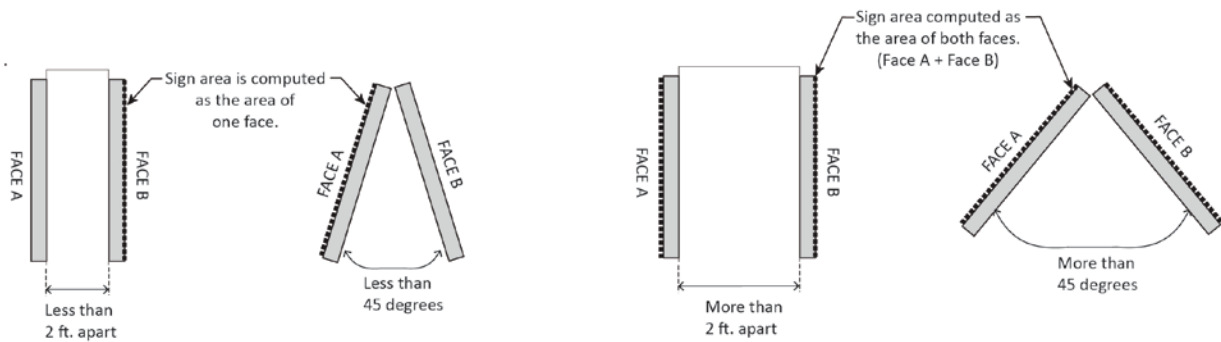


FIGURE 17.25.050.A.4: MEASURING DOUBLE-FACED SIGNS

3. **Multi-Faced Signs.** On a three-faced sign, where at least one interior angle is 45 degrees or less, the area of two faces (the largest and smallest face) must be summed to determine sign area. In all other situations involving a sign with three or more sides, sign area will be calculated as the sum of all faces.

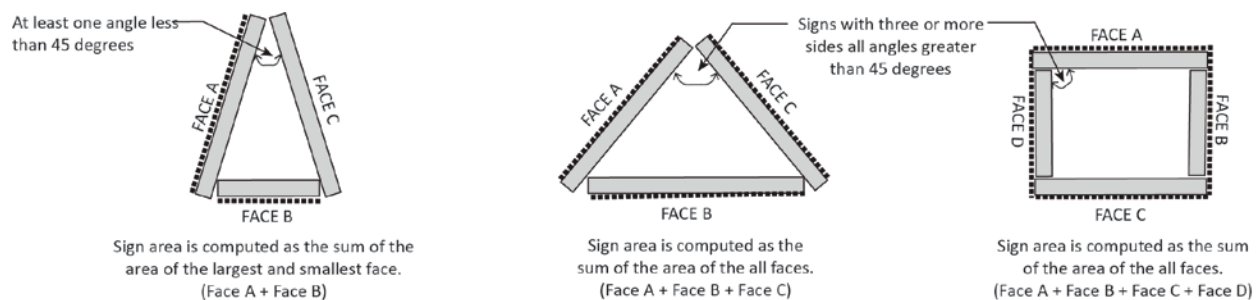
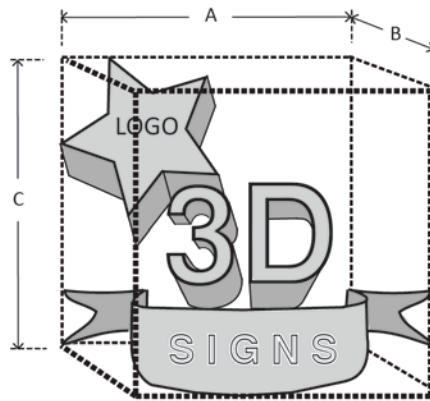


FIGURE 17.25.050.A.4: MEASURING MULTI-FACED SIGNS

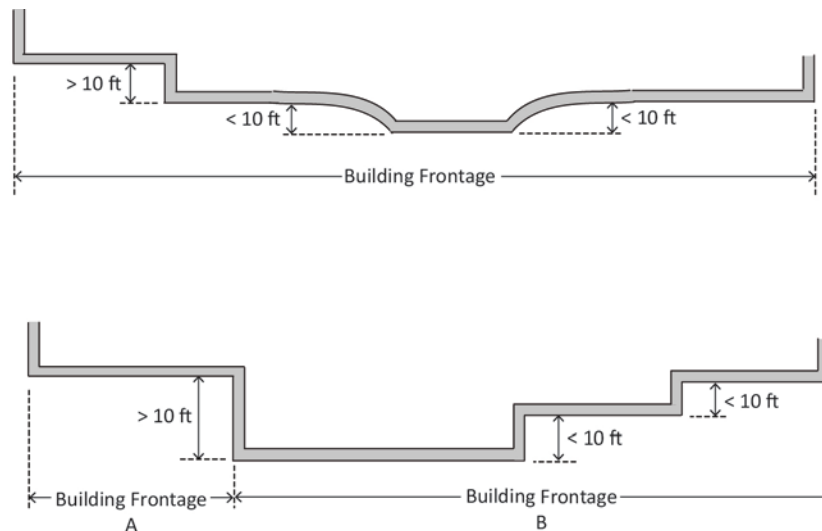
4. **Three-Dimensional Signs.** Signs that consist of, or have attached to them, one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture, or statue-like trademarks), may have a sign area that is the sum of all areas using the four vertical sides of the smallest rectangular prism that will encompass the sign.



Sign area is computed using the smallest rectangular prism that will encompass the entire sign.  
 $(2 \times (A + B)) \times (C)$

**FIGURE 17.25.050.A.4: MEASURING THREE-DIMENSIONAL SIGNS**

- B. **Measuring Sign Height.** The height of a sign is the vertical distance from the uppermost point used to measure sign area to the existing grade immediately below the sign.
  - 1. **Height of Freestanding Signs.** The height of freestanding signs shall be measured as the vertical distance from grade at the edge of the right-of-way along which a sign is placed to the highest point of the sign, including any structural or architectural components of the sign. When the grade at the edge of the right-of-way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the right-of-way shall not be included in determining the sign's overall height. Signs oriented towards a freeway shall be measured from the project site grade or pad, whichever is lower.
- C. **Measuring Sign Clearance.** Sign clearance shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.
- D. **Building Frontage.** A building's frontage is considered continuous if projections or recesses in a building wall do not exceed 10 feet in any direction. For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each building frontage.



**FIGURE 17.25.050.D: BUILDING FRONTAGE**

- E. **Street Frontage.** The length of street frontage is measured along the property line adjacent to the public right-of-way.

### 17.25.060 General Provisions

This Section establishes general standards that apply to all sign types and in all districts.

- A. **Applicable Codes.** In addition to complying with the provisions of this Section, all signs must be constructed in accordance with the Uniform Building Code, the Uniform Sign Code, the Electrical Code, and all other applicable laws, rules, regulations, and policies.
- B. **Changes to Copy of Approved Signs.** Changes to the copy of approved signs that were legally established and have not been modified so as to become illegal are exempt from permitting pursuant to this Ordinance. Changes to copy do not include changes to the type or level of illumination of an approved sign.
- C. **Noncommercial Signs.** Non-commercial signs are allowed wherever commercial signage is permitted and are subject to the same standards and total maximum allowances per site or building of each sign type specified in this Chapter. For purposes of this Chapter, all non-commercial speech messages will be deemed to be “on-site,” regardless of location.
- D. **Message Substitution.** A non-commercial message of any type may be substituted, in whole or in part, for any duly permitted commercial message, any non-commercial message may be substituted for any other non-commercial message, and any on-site commercial message may be substituted, in whole or in part, for any other on-site commercial message.
1. **No Additional Approval.** Such substitution of message may be made without any additional approval, permitting, registration, or notice to the City. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-

commercial speech, or favoring of any particular non-commercial message over any other noncommercial message.

2. **Limitations.** This message substitution provision does not: 1) create a right to increase the total amount of signage on a parcel, lot or land use; 2) affect the requirement that a sign structure or mounting device be properly permitted; 3) allow a change in the physical structure of a sign or its mounting device; or 4) authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message.

E. **Changeable Copy.**

1. **Manual Changeable Copy.** Manually changeable copy shall represent no more than 30 percent of the sign area.
2. **Automatic Changeable Copy and Electronic Message Center Signs.** Electronic Message Center (EMC) signs and automatic changeable copy in which copy can be changed or altered by electric, electro-mechanical, electronic, or any other artificial energy means, are allowed subject to the following standards.
  - a. **Permit Required.** All automatic changeable copy and electronic message center signs require Conditional Use Permit approval, except service and gas station price signs and time and temperature signs.
  - b. **Display Duration.** The display shall change no more frequently than once every eight seconds and must have an unlighted interval between copy displays of 0.3 second or more.
  - c. **Static Message.** Displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination, or the flashing, scintillating or varying of light intensity
  - d. **Light Intensity.** 0.3 foot-candles over ambient lighting conditions when measured at a distance equal to the square root of 100 times the area of the sign in square feet. All electronic copy must be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 foot-candle measurements.
  - e. **Automatic Controls.** All electronic message displays shall be equipped with automatic controls to allow for adjustment of brightness based on ambient lighting conditions.

F. **Illumination.** Illuminated channel letters and neon signs are allowed. However, internally illuminated signs and bare bulbs are prohibited. Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign structure, unless approved with a Minor Use Permit.

G. **Encroachment Permits.** Signs mounted on private property may project into or above public property or the public right-of-way only with approval by the Public Works Director of an encroachment permit.

- H. **Materials.** Signs shall be made of sturdy, durable materials. Paper, cardboard and other materials subject to rapid deterioration shall be limited to temporary signs. Fabric signs are limited to awnings, canopies, flags, and temporary signs.

**17.25.070 Allowed Signs by District**

This Section establishes the types and size of signs allowed per zoning district. These signs are also subject to the regulations in “General Provisions for All Sign Types” and “Standards for Specific Sign Types”.

- A. **Types of Signs Allowed.** Table 17.25.070.A establishes the types of signs allowed per zoning district.

<b>TABLE 17.25.070.A: ALLOWED SIGNS BY DISTRICT</b>							
<i>✓ Allowed (subject to compliance with this Chapter)</i>				<i>- Not Allowed</i>			
<i>District</i>	<i>Sign Type</i>						
	<i>A-frame</i>	<i>Awning and Canopy</i>	<i>Freestanding</i>	<i>Projecting and Shingle</i>	<i>Window</i>	<i>Wall</i>	<i>High Rise Building Identification</i>
<b>All Districts</b>							
See Section 17.25.080, Signage Allowances for Specific Uses and Development and Section 17.25.090.G, Temporary Signs.							
<b>Commercial and Mixed Use Districts</b>							
NC	✓	✓	✓	✓	✓	✓	-
CMU	✓	✓	✓	✓	✓	✓	-
CR	✓	✓	✓	✓	✓	✓	-
CC	✓	✓	✓	✓	✓	✓	✓
RC	✓	✓	✓	✓	✓	✓	✓
<b>Employment Districts</b>							
OP	-	✓	✓	✓	✓	✓	✓
BTP	-	✓	✓	✓	✓	✓	✓
LI	-	✓	✓	✓	✓	✓	✓
GI	-	✓	✓	✓	✓	✓	✓
<b>Public and Semi-Public Districts</b>							
PF	-	-	✓	-	✓	✓	-
TS	-	✓	✓	✓	✓	✓	-
PK	-	-	✓	-	-	✓	-
OS	-	-	✓	-	-	✓	-
<b>Resource Production District</b>							
RP	-	-	✓	-	-	✓	-

B. **Allowed Sign Area.** Table 17.25.070.B establishes the maximum aggregate sign area allowed per zoning district.

1. **Sign Area Included in Calculation of Aggregate Sign Area.** The sign area of awning and canopy signs, projecting and shingle signs, and wall signs is included in the calculation of aggregate sign area.
2. **Sign Area Excluded from the Calculation of Aggregate Sign Area.** The sign area of exempt signs, signage allowances for specific uses and development, freestanding signs, a-frame signs, window signs, temporary signs, and high-rise building identification signs are not included in the calculation of aggregate sign area.

<b>TABLE 17.25.070.B: MAXIMUM ALLOWABLE AGGREGATE SIGN AREA</b>	
<i>District</i>	<i>Maximum Allowable Aggregate Sign Area</i>
Residential Districts	Allowable sign area is determined by the specific sign allowances in Section 17.25.080, Signage Allowances for Specific Uses and Development
NC, CMU, and CR Districts	2 square feet per linear foot of building frontage or width of tenant space Plus 1 square foot per 4 lineal feet of street frontage for developments with two or more tenants
CC District	3 square feet per linear foot of building frontage or width of tenant space Plus 1 square foot per 2 lineal feet of street frontage for developments with two or more tenants
RC District	3 square feet per linear foot of building frontage or width of tenant space Plus 1 square foot per 2 lineal feet of street frontage for developments with two or more tenants See also Section 17.25.090.B.4, Additional Freestanding Signs in the RC District
OP District	1 square foot per linear foot of building frontage or width of tenant space Plus 1 square foot per 4 lineal feet of street frontage for developments with two or more tenants
BTP District	See Section 17.25.090, Standards for Specific Sign Types
LI and GI Districts	1 square foot per linear foot of building frontage or width of tenant space Plus 1 square foot per 4 lineal feet of street frontage for developments with two or more tenants
Public and Semi-Public and Resource Production Districts	1 square foot per 2 linear feet of building frontage or width of tenant space Plus 1 square foot per 4 lineal feet of street frontage for developments with two or more tenants

### **17.25.080 Signage Allowances for Specific Uses and Development**

This Section establishes signage allowances for specific uses and development. These signs are allowed in addition to the signs allowed by district in Section 17.25.070, Allowed Signs by District, and are not included in the calculation of aggregate sign area. These signs are also subject to the regulations in “Standards for Specific Sign Types” unless otherwise stated.

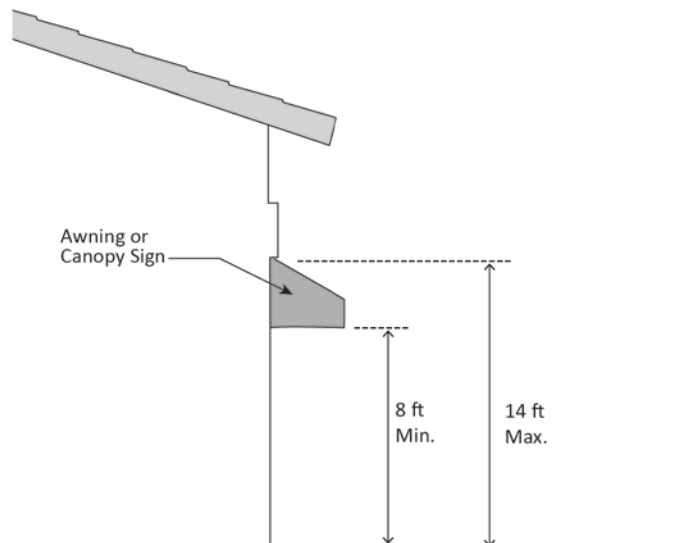
- A. **Residential Developments.** Residential developments of two or more units or lots are allowed freestanding signs and wall signs with a total aggregate sign area of one square foot per two dwelling units, subject to the following standards.
1. **Maximum Number of Signs.** One per street frontage.
  2. **Maximum Size per Sign.** 20 square feet.
  3. **Maximum Height of Freestanding Signs.** Four feet.
- B. **Non-Residential Uses in Residential Districts.** Nonresidential uses that are the primary use on a site in a Residential District are allowed total aggregate sign area of one square foot per eight feet of street frontage. Allowed sign types and the maximum sign area for individual signs is as follows.
1. **Awning and Canopy Signs.** Six square feet or 25 percent of the surface area of the awning, whichever is less.
  2. **Freestanding Signs.** Six square feet.
  3. **Projecting and Shingle Signs.** Six square feet.
  4. **Window Signs.** 15 percent of window area.
  5. **Wall Signs.** 10 square feet.
- C. **Menu/Order Board Signs.** Outdoor menu/order board signs are subject to the following standards:
1. **Uses Allowed With.** Outdoor menu/order board signs are allowed on the site of a permitted drive-in, walk-up, or drive-thru facility.
  2. **Maximum Number.** A maximum of two per business with a drive-thru facility and one per business with a walk-up window.
  3. **Maximum Size.** The area of each menu/order board sign shall not exceed 32 square feet.
  4. **Maximum Height.** Six feet.
  5. **Location.**
    - a. Menu/order board signs shall be located adjacent to the drive-thru aisle or walk-up window; and
    - b. The signs shall not be located so as to impair the vision of the driver of a vehicle traveling either into, out of, or through the drive-thru aisle.
- D. **Display Structures.** Display structures for pedestrian viewing are allowed in Commercial and Mixed-Use Districts pursuant to Master Sign Program approval. Such structures may include enclosed displays or displays incorporated into the structure such as bus stop benches, kiosks, or weather protection structures.

### 17.25.090 Standards for Specific Sign Types

This Section establishes general standards for specific sign types that apply to all districts where such signs are allowed.

A. **Awning and Canopy Signs.** Signs painted on awnings, canopies, arcades, or similar attachments or structures are subject to the following standards.

1. **Maximum Number.** One for each establishment having entrance under or offering service under the awning or canopy.
2. **Maximum Size.** 10 square feet or 25 percent of the surface area of the awning, whichever is less. The sign area of awning and canopy signs is included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
3. **Maximum Height.** 14 feet.
4. **Minimum Sign Clearance.** Eight feet.
5. **Illumination.** Awning and canopy signs shall not be illuminated.



**FIGURE 17.25.090.A: AWNING AND CANOPY SIGNS**

B. **Freestanding Signs.** Freestanding signs are subject to the following standards.

1. **Maximum Number.** One per 50 feet of street frontage.
2. **Maximum Size.** The maximum sign area per freestanding sign is listed below. The sign area of freestanding signs is not included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
  - a. *NC, CMU, and CR Districts:* 100 square feet.
  - b. *CC District:* 150 square feet.
  - c. *RC District:* 250 square feet.
  - d. *OP District:* 100 square feet.



- e. *BTP District: 60 square feet.*
- f. *LI and GI Districts: 100 square feet.*
- g. *Public and Semi-Public and Resource Production Districts: 60 square feet.*

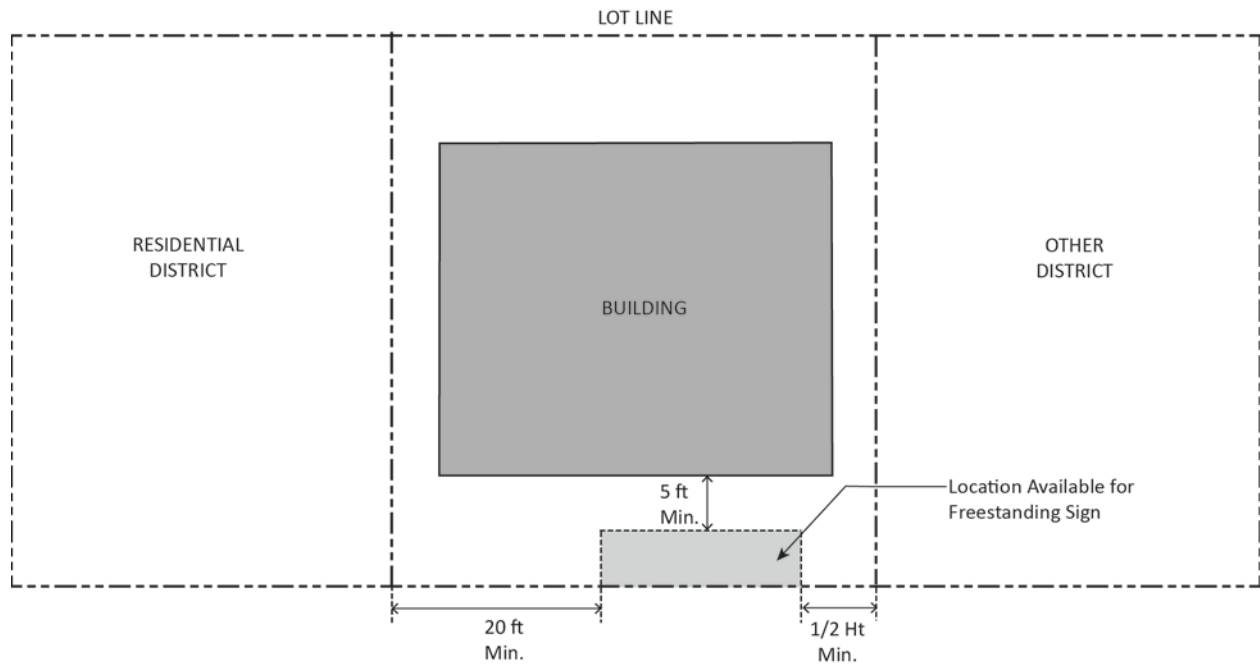
3. **Maximum Height.**

- a. *NC, CMU, and CR Districts: 20 feet.*
- b. *CC District: One sign may be up to 40 feet. 20 feet for all other freestanding signs.*
- c. *RC District: One sign may be up to 100 feet. 20 feet for all other freestanding signs.*
- d. *OP District: 20 feet.*
- e. *BTP District: Up to two signs per street entrance may be up to eight feet. Three feet for all other freestanding signs*
- f. *LI and GI Districts: One sign may be up to 30 feet. 20 feet for all other freestanding signs.*
- g. *Public and Semi-Public and Resource Production Districts: Eight feet.*

4. **Additional Freestanding Signs in the RC District.** In the RC District, one additional sign up to 250 square feet in size and up to 40 feet high is allowed at each entrance from a public street. This additional sign is not included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.

5. **Placement.**

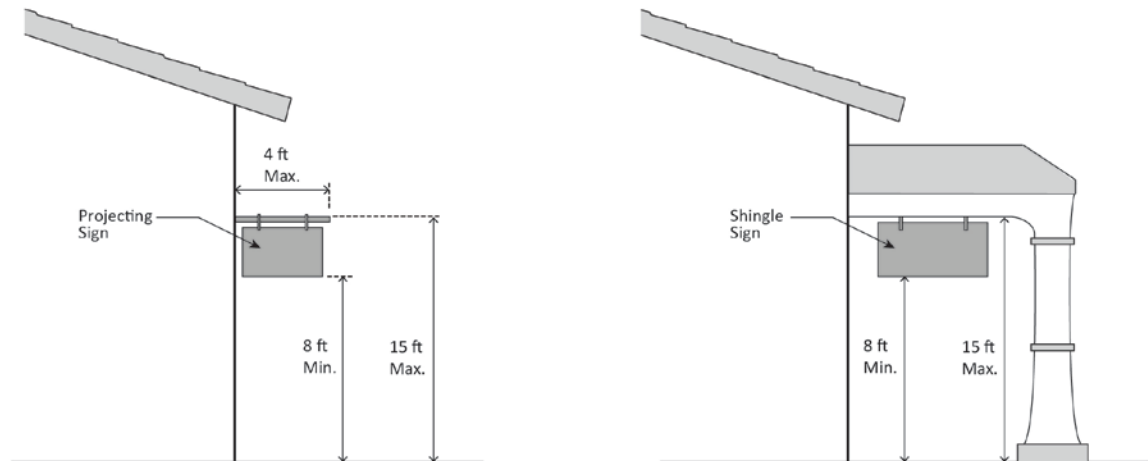
- a. Freestanding signs shall be located a minimum of five feet from any building.
- b. Freestanding signs shall be located a minimum of 20 feet from the lot line of any lot in a Residential District.
- c. Freestanding signs shall be setback from all other property lines a minimum distance equal to one-half the height of the sign. Freestanding signs shall also meet visibility requirements at street intersections and driveways pursuant to Chapter 10.36, Visibility Requirements, of the Newark Municipal Code.



**FIGURE 17.25.090.B: FREESTANDING SIGNS**

C. **Projecting and Shingle Signs.** Signs that project horizontally from the exterior wall of a building or are suspended beneath a marquee, covered walkway, canopy, or awning, are subject to the following standards.

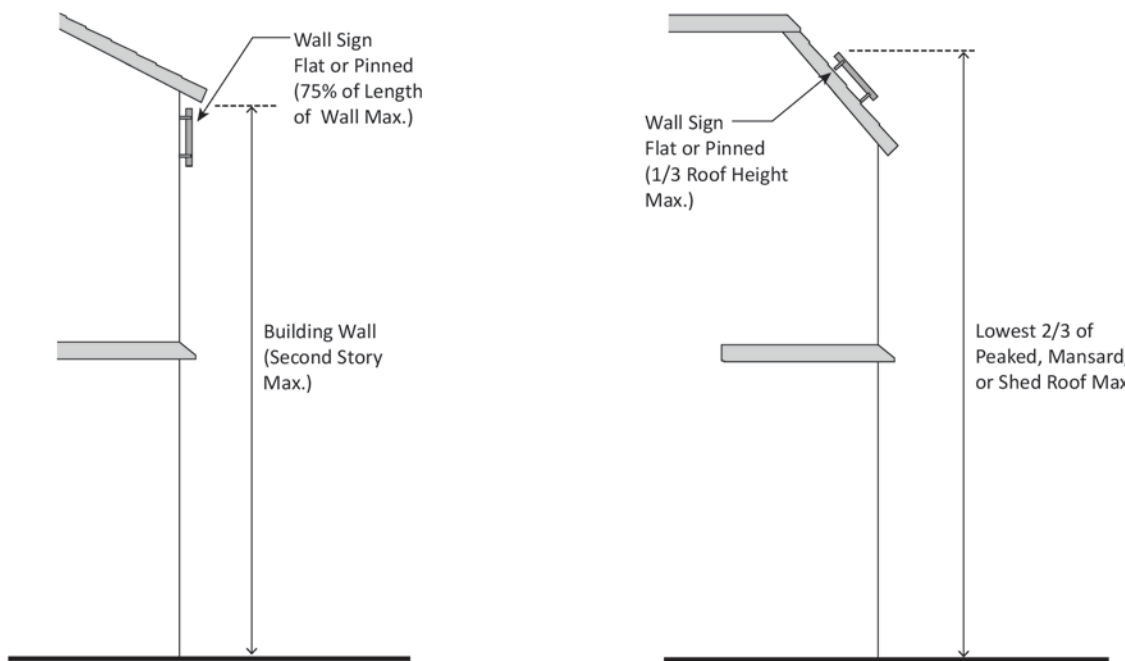
1. **Maximum Number.** One for each building frontage or tenant space.
2. **Maximum Size.** Nine square feet. The sign area of projecting and shingle signs is included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
3. **Maximum Height.** 15 feet.
4. **Minimum Sign Clearance.** Eight feet.
5. **Projection Allowed.**
  - a. **Projecting Sign.** A projecting sign cannot extend more than four feet from the building to which it is attached and must be designed and located so as to cause no harm to street trees. Signs projecting into the public right-of-way are subject to an encroachment permit.
  - b. **Shingle Sign.** A shingle sign cannot extend further than the outer edge of the marquee, covered walkway, canopy, or awning from which it is suspended.
6. **Illumination.** Projecting and shingle signs shall not be illuminated.



**FIGURE 17.25.090.C: PROJECTING AND SHINGLE SIGNS**

- D. **Wall Signs.** Wall signs include any sign attached to, erected against or painted upon the wall of a building or structure. Wall signs are subject to the following standards.
1. **Maximum Number.** One per building frontage or tenant space.
  2. **Maximum Size.** Wall sign copy shall not occupy more than 75 percent of the length of the wall to which the sign is attached. The sign area of wall signs is included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
    - a. *BTP District.* In the BTP District, wall signs are limited to 10 square feet per tenant.
  3. **Material.** In Commercial and Mixed-Use Districts, wall signs shall consist of channel sign elements with the exemption of business logos.
  4. **Attachment.**
    - a. Attached flat against or pinned away from a building wall, but shall not extend or protrude more than 15 inches from the wall; or
    - b. Attached to the facade of a building or on a sloping roof (mansard roof), but shall not extend above the upper edge of the facade or the sloping roof.
  5. **Placement.**
    - a. Wall signs shall not be placed higher than the second story of a building.
    - b. Wall signs shall not cover or interrupt major architectural features, including such features as doors, windows, or tile embellishments.
    - c. Wall signs shall not extend higher than the building wall upon which they are attached except on a peaked, mansard, or shed roof where the sign may be placed in such a manner that the highest point on the sign shall be no higher than

the lowest two-thirds of the roof height and providing that the vertical dimension of the sign shall be no greater than one-third the vertical dimension of the roof.



**FIGURE 17.25.090.D: WALL SIGNS**

E. **A-Frame Signs.** A-Frame signs are subject to the following standards.

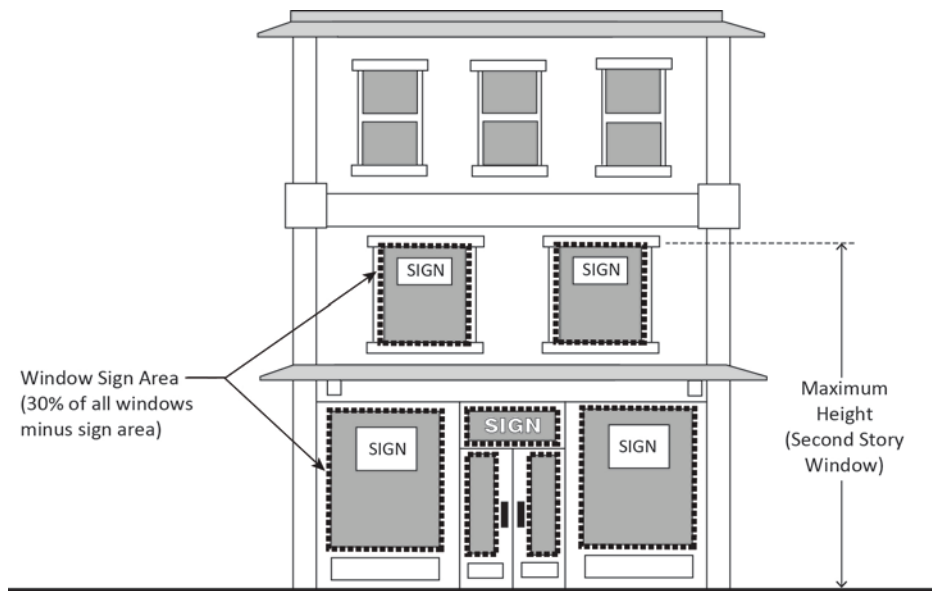
1. **Maximum Number.** One per business.
2. **Maximum Size.** Six square feet. The sign area of a-frame signs is not included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
3. **Maximum Height.** Four feet.
4. **Placement.** A-Frame signs must be placed on private property directly in front of the business it is identifying.
5. **Hours of Display.** A-Frame signs shall be removed during hours when the establishment is not open to the public and cannot be displayed after the activity with which they are associated with is over.

F. **High-rise Building Identification Signs.** High-rise building identification signs are allowed on buildings of at least four stories, subject to the following standards.

1. **Maximum Number.** One per street frontage.

2. **Maximum Size.** One square foot per linear foot of building frontage. The sign area of high-rise building identification signs is not included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
  3. **Location.** Signs shall be located on the upper-most story of the building.
- G. **Temporary Signs.** Any temporary sign, banner, balloon, pennant, valance or advertising display for any event of limited duration including, but not limited to, entertainment, sporting events, elections, construction, sales of goods, and real estate sales and rental may be erected and located in accordance with the following standards. Tenants and units include planned future tenants and units to be constructed for which a planning approval has been granted or for which a Building Permit has been issued.
1. **RS and RL Districts.**
    - a. **Maximum Sign Area.** Six square feet per street frontage.
    - b. **Maximum Height.** Six feet above existing grade.
    - c. **Location.** Signs greater than three square feet in size shall be setback from all property lines a minimum of five feet.
  2. **RM and RH Districts.**
    - a. **Maximum Sign Area.** 20 square feet per street frontage.
    - b. **Maximum Height.** 10 feet above existing grade.
    - c. **Additional Individual Unit Signs.** Each groundfloor unit is also allowed one sign up to six square feet in size and six feet in height. Each upperfloor unit is allowed one sign up to three square feet in size and located no higher than the eave line or parapet line of the unit.
    - d. **Location.** Signs between three and 10 square feet in size shall be setback from all property lines a minimum of five feet. Signs 10 square feet in size or larger shall be setback from all property lines a minimum of 10 feet.
  3. **NC, CMU, CR, CC, and OP Districts.**
    - a. **Maximum Sign Area.** 32 square feet per street frontage.
    - b. **Maximum Height.** Six feet above existing grade
    - c. **Additional Individual Tenant/Unit Signs.** Each groundfloor tenant/unit is allowed one sign up to three square feet in size and six feet in height. Each upperfloor tenant/unit is allowed one sign up to three square feet in size and located no higher than the eave line or parapet line of the unit.
    - d. **Location.** Signs between three and 10 square feet in size shall be setback from all property lines a minimum of five feet. Signs 10 square feet in size or larger shall be setback from all property lines a minimum of 10 feet.
  4. **RC, BTP, LI, and GI Districts.**
    - a. **Maximum Sign Area.** 64 square feet per street frontage.
    - b. **Maximum Height.** 10 feet above existing grade

- c. *Additional Individual Tenant/Unit Signs.* Each groundfloor tenant/unit is allowed one sign up to six square feet in size and six feet in height. Each upperfloor tenant/unit is allowed one sign up to three square feet in size and located no higher than the eave line or parapet line of the unit.
    - d. *Location.* Signs between three and 10 square feet in size shall be setback from all property lines a minimum of five feet. Signs 10 square feet in size or larger shall be setback from all property lines a minimum of 10 feet.
- 5. ***PK and TS Districts.***
  - a. *Maximum Sign Area.* Six square feet per street frontage.
  - b. *Maximum Height.* Six feet above existing grade.
- 6. ***PF, OS, and RP Districts.***
  - a. *Maximum Sign Area.* 12 square feet per street frontage.
  - b. *Maximum Height.* 10 feet above existing grade.
  - c. *Location.* Signs between three and 10 square feet in size shall be setback from all property lines a minimum of five feet. Signs 10 square feet in size or larger shall be setback from all property lines a minimum of 10 feet.
- 7. ***Time Limits.*** Temporary signs shall be removed within 14 days after the conclusion of the event the drive, the election, or the purpose served by the sign.
  - a. Any such sign that remains more than 14 days after the event shall be considered abandoned and the City Clerk and/or Public Works Director, or any of their agents, are authorized to remove the sign without notice.
- 8. ***Removal.*** The City Clerk and/or Public Works Director, or any of their agents, are authorized to remove any sign found to be in violation of this section and shall store the sign in a safe location. The City Clerk and/or Public Works Director shall reasonably attempt to contact the person or entity responsible for posting the sign, such as the organization, campaign, committee, and/or candidate. If the sign is not retrieved within 14 calendar days after such notification, or reasonable attempt thereof, the sign shall be considered as abandoned and the City Clerk and/or Public Works Director, or any of their agents, are authorized to dispose of the sign without further notice.
- H. ***Window Signs.*** Permanent window signs painted on or otherwise adhered directly onto a window and signs that block a window in any way are subject to the following standards.
  - 1. ***Maximum Size.*** 25 percent of the window area. The sign area of window signs is not included in the calculation of aggregate sign area allowed pursuant to Table 17.25.070.B, Maximum Allowable Aggregate Sign Area.
  - 2. ***Height.*** Window signs shall not be mounted or placed on windows higher than the second story.



**FIGURE 17.25.090.H: WINDOW SIGNS**

### 17.25.100 Sign Permit Required

- A. **Sign Permit Required.** Except as otherwise expressly provided in this Chapter, it is unlawful for any person to affix, place, erect, suspend, attach, construct, structurally or electrically alter (not including a face change of sign copy), move, or display any temporary or permanent sign within the City without first obtaining a sign permit from the Director. No sign permit is required for exempt signs and for cleaning or other normal maintenance of a properly approved sign, unless a structural or electrical change is made.
- B. **Design Review Required.** All signs 25 square feet or more in size are subject to the design review provisions of Chapter 17.34, Design Review.
- C. **Conditional Use Permit Required for Outdoor Advertising Structures (Billboards).** Outdoor advertising structures displaying general advertising for hire are allowed when oriented towards a freeway in the RC and BTP districts subject to Conditional Use Permit approval.
- D. **Applications for Filing, Processing and Review.**
1. **Filing and Filing Fee.** Application for a Sign Permit shall be made upon forms furnished by the Director and accompanied by the required fee and working drawings adequate to show:
    - a. The location, dimensions, construction and design, including colors, materials, lighting, electrical elements, and advertising copy, of the sign.
    - b. The location and dimensions of existing structures and the relationship of the proposed sign to existing structures.
    - c. The location, dimensions, and design of all existing signs.

2. **Compliance with Standards.**

- a. Upon acceptance of a sign application, the Director shall review the request for compliance with the standards and requirements of this Chapter, and with any standards established in a Master Sign Program pursuant to Section 17.25.110, Master Sign Program.
- b. The Director's decision shall clearly state any conditions of approval or reasons for disapproval and applicable appeal provisions.
- c. No permit for construction will be issued until design review, if required, has been granted and the application has been found in conformance with the approved design.

E. **Permit Number Identification.** A tag issued by the City indicating the Sign Permit number shall be affixed to the sign so as to be readily visible by City inspectors.

**17.25.110 Master Sign Programs**

A. **Purpose.** The purpose of a Master Sign Program is to provide a method for an applicant to integrate the design and placement of signs within a project with the overall development design to achieve a more unified appearance.

B. **Applicability.**

- 1. A Master Sign Program is required for:
  - a. Projects with four or more nonresidential tenants,
  - b. Multi-unit developments of 50 or more units, and
  - c. Whenever five or more signs are proposed for a building or site.

C. **Application.** Master Sign Program applications shall contain all written and graphic information needed to fully describe the proposed sign program, including the proposed location and dimension of each sign, as well as proposed color schemes, font types, materials, methods of attachment or support, and methods of illumination. A Master Sign Program application shall also include calculation of total allowed sign area, and total proposed sign area, for the site.

D. **Allowable Modifications.** A Master Sign Program may provide for deviations from the standards of this Chapter.

E. **Review Authority.** All Master Sign Programs are subject to review and approval of the Review Authority for the project with which the signs are associated. A Master Sign Program may be submitted separately or as part of the permit application for the project.

- 1. The Planning Commission shall be the Review Authority for any Master Sign Program application requesting additional sign area, additional height, or an increase in the number of signs otherwise allowed by this Chapter.
- 2. The Director may, at his or her discretion, refer any application for a Master Sign Program to the Planning Commission for a decision rather than acting on it himself or herself.

F. **Required Findings.** In order to approve a Master Sign Program, the Review Authority must find that all of the following are met, in addition to other applicable regulations in this Section:



1. The proposed signs are compatible in style and character with any building to which the signs are to be attached, any surrounding structures and any adjoining signage on the site;
  2. Future tenants will be provided with adequate opportunities to construct, erect or maintain a sign for identification; and
  3. Directional signage and building addressing is adequate for pedestrian and vehicular circulation and emergency vehicle access.
- G. **Lessees to Be Informed of Master Sign Program.** Lessees within developments subject to the requirements of an approved Master Sign Program shall be made aware of the Master Sign Program in their lease.

#### **17.25.120 Nonconforming Signs**

- A. **Continuance and Maintenance.** Reasonable and routine maintenance and repairs may be performed on signs that are nonconforming provided there is no expansion of any nonconformity.
- B. **Abandonment of Nonconforming Sign.** Whenever a nonconforming sign has been abandoned, or the use of the property has been discontinued for a continuous period of six months, the nonconforming sign must be removed.
- C. **Restoration of a Damaged Sign.** A nonconforming sign may be restored if it meets either of the following criteria:
  1. A sign with damage that does not exceed 50 percent of the total sign area, including hardware and attachments, provided that the repairs start within 60 days of the date of damage and are diligently pursued to completion.
  2. A sign that is a danger to the public or is unsafe as determined by the Building Official.

#### **17.25.130 Sign Maintenance**

Each sign displayed within the City, including exempt signs, shall be maintained to comply with the following standards:

- A. Graffiti on a sign shall be removed within two days of notice of its placement on such sign.
- B. The display upon any sign area of a sign shall be maintained in good condition, without rips, tears, and similar damage.
- C. All parts, portions, units and materials composing a sign, together with the frame, background, surface, support or enclosure therefore shall be maintained in a safe condition, painted, and adequately protected from weathering with all braces, bolts and structural parts and supporting frames and fastenings reasonably free from deterioration, rot, rust, and loosening so that they do not create a hazard to persons or property or constitute an attractive nuisance.
- D. Any sign or sign structure that is sagging, leaning, fallen, decayed, broken, deteriorated, or other dilapidated condition shall be promptly repaired, to the satisfaction of the City, or removed.
- E. Whenever any sign, by virtue of its physical nature and condition, poses an immediate and serious threat to the public safety, the sign may be removed by City personnel, or its physical deficiency

cured, to the extent necessary to protect the public safety. The cost of such removal or repair shall be assessed against the sign owner.

- F. An on-premise sign identifying an activity, business, service or product shall be removed within 30 days following the actual discontinuance of the activity, business, service or product. If the sign is not so removed, the Director may have the sign removed in accordance with the public nuisance abatement provisions of this Ordinance.

#### **17.25.140 Enforcement**

Signs which do not conform to the provisions of this Chapter and are erected after its effective date and signs erected after the effective date of this Chapter without obtaining the permit required thereby are declared to be unlawful and a public nuisance. All signs declared to be unlawful by this Section and all persons erecting or maintaining them shall be subject to the terms of Chapter 17.41, Enforcement and Abatement Procedures.

## Chapter 17.26 Standards for Specific Uses

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### 17.26.010 Purpose

The purpose of this chapter is to establish standards for specific uses and activities that are permitted or conditionally permitted in several or all districts. These provisions are supplemental standards and requirements to minimize the impacts of these uses and activities on surrounding properties and to protect the health, safety, and welfare of their occupants and of the general public.

### 17.26.020 Applicability

Each land use and activity covered by this chapter shall comply with the requirements of the section applicable to the specific use or activity, in addition to any applicable standard this Ordinance requires in the zoning district where the use or activity is proposed and all other applicable provisions of this Ordinance.

- A. The uses that are subject to the standards in this chapter shall be located only where allowed by base zoning district or overlay district use regulations.
- B. The uses that are subject to the standards in this chapter are allowed only when authorized by the planning permit required by base district regulations, such as a Conditional Use Permit, except where this chapter establishes a different planning permit requirement for a specific use.

### 17.26.030 Accessory Uses

An accessory use shall be secondary to a primary use and shall be allowed only in conjunction with a principal use or building to which it relates under the same regulations as the main use in any zoning district. These regulations are found in the use regulation tables in Article II, Base and Overlay Districts, and may be subject to specific standards found in this chapter or within each district, as specified in the tables. Accessory uses and structures are also subject to the development and site regulations found in Chapter 17.17, General Site Regulations.

### 17.26.040 Accessory Dwelling Units

Accessory Dwelling Units (ADUs) shall be located, developed, and operated in compliance with the following standards:

- A. **Categories.** ADUs include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the principal residence. There are two categories of ADUs, distinguished by the size and location of the ADU and the extent to which the ADU results in a net increase in habitable floor space on the property. These categories are defined as follows:
  - 1. **Standard ADUs.** Standard ADUs (SADUs) may be attached to the principal residence or may be a detached structure and include ADUs that meet any of the following criteria when constructed:
    - a. A net increase in habitable floor space on a property; or
    - b. A floor area exceeding 500 square feet; or

- c. Created within the footprint of an existing primary residence without incorporating an existing bedroom.
  2. **Junior ADUs.** Junior ADUs (JADUs) include ADUs that meet all of the following criteria when constructed:
    - a. No net increase in habitable floor space on a property; and
    - b. A floor area of 500 square feet or less; and
    - c. Contained entirely within the existing walls of an existing principal residence, and
    - d. Created at least in part through the conversion of an existing bedroom.
- B. **Regulations Applicable to All Accessory Dwelling Units ("ADUs"):**
  1. **Permitting Procedure.** Any application for an ADU that meets the applicable location and development standards contained in this Section shall be subject to ministerial review and approval without discretionary review or public hearing. All permits shall be issued within 120 days of submission of a complete application for ADUs conforming to the provisions of this Section.
  2. **Building Permit Required.** No ADU shall be established or maintained until there has been a Building Permit approved by the City. The application for the permit shall include:
    - a. Site plan indicating the location of the principal residence, the location and type of the proposed ADU, and parking (for those ADUs where parking is required);
    - b. Floor plans of the principal residence and proposed ADU; and
    - c. Elevations of all sides of the principal residence and ADU.
  3. **Applicability of Fees.**
    - a. This Ordinance shall not be construed to prohibit the City from adopting an ordinance or regulation relating to services or utility connection fees that applies to a single-unit residence that contains an ADU so long as that ordinance or regulation applies uniformly to all single-unit residences regardless of whether they include an ADU.
    - b. Nothing in this Section shall be construed so as to impact the connection or fees charged by other government entities.
  4. **Locational Criteria.**
    - a. In no case shall the total number of dwelling units exceed two (including the principal residence) on any lot wherein a principal single-unit residence has been authorized.
    - b. ADUs are not required to meet the density requirements of the General Plan or Zoning Ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling). However, ADUs shall otherwise be consistent with the General Plan text and diagrams as provided in California Government Code §65852.2.

- c. An ADU shall be located only within the area of the lot allowed for the principal residence as established by its zoning district, except as provided in this Section.
  - d. An ADU may be attached to the principal residence either created through conversion of existing floor area or addition of new floor area to the principal residence or may also be detached.
  - e. An ADU shall not be counted in any ordinance, policy, or program to limit growth, such as, but limited to, the number of residential units permitted in a year.
5. **Occupancy Criteria.**
- a. The rental of ADUs for terms shorter than 30 days shall be prohibited.
  - b. Nothing in this Section shall be construed so as to limit the ADU or principal residence on the lot from remaining vacant.
6. **Size.**
- a. An ADU must be a minimum of 150 square feet and may not exceed the lower of 600 square feet or 50 percent of the existing living area of the principal residence on the property.
  - b. An ADU may not include more than one bedroom.
7. **Design.**
- a. An ADU shall incorporate architectural features, building materials and colors that are compatible with the principal residence and the adjacent neighborhood.
  - b. Outside stairways to the ADU shall not be in the front of the principal residence.
  - c. If the ADU is visible from the public right of way it shall be subject to Design Review.
8. **Building Safety.**
- a. A smoke alarm and carbon monoxide detector shall be installed in all ADUs.
  - b. No fire sprinklers shall be required for the ADU, unless the associated improvements are required under the Newark Municipal Code, or are associated with a new detached ADU on a property where sprinklers would otherwise be required for a new single-unit home.
  - c. A permanent foundation shall be required for all detached ADUs.
  - d. This Section shall not be construed so as to prohibit the City from adopting an ordinance or regulation relating to fire or life protection requirements for ADUs so long as the ordinance or regulation applies uniformly to all single-unit homes within the zoning district regardless of whether the single-unit residence has an ADU or not.
9. **Deed Restriction.** A deed restriction, which shall run with the land, shall be filed and recorded with the County of Alameda for each ADU prior to the issuance of a building permit and shall include the following:

- a. A prohibition on the sale of the ADU separate from the sale of the principal residence, including a statement that the deed restriction may be enforced against future purchasers.
- b. Occupancy restrictions and requirements, as specified in this Section.
- c. A restriction on the size and attributes of the ADU that conforms with this Section.

C. **Regulations Applicable to Standard Accessory Dwelling Units ("SADUs").**

1. **Location.** A SADU may only be permitted where only one principal residence exists on the lot. SADUs are not permitted in duplexes, triplexes, or other buildings with more than one principal residence.
2. **Building Height.** A SADU may not exceed the building height limitation applicable to the principal residence on the lot.
3. **Connection to Street.** No passageway shall be required in conjunction with the construction of a SADU, unless such a connection is mandated by the Americans with Disabilities Act, or other State or Federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky and that extends from the street to the door of the SADU.
4. **Separation.** Except as noted in Paragraph 5 below, detached SADUs must be separated from other habitable structures on site by at least 10 feet. The separation may be reduced to eight feet if one structure is equipped with fire sprinklers or six feet if both structures maintain fire sprinklers. Roof eave projections into this separation may be limited by applicable building code(s).
5. **Garage Conversions.** An existing garage may only be converted to a SADU if the property will meet all applicable parking standards upon completion of the SADU. Setback requirements shall not apply to an existing garage that is converted to an ADU, provided that any walls within setback areas comply with applicable building and fire codes. In the event an ADU is constructed above an existing or newly constructed garage, a setback requirement of five feet from the side and rear property lines shall be required.
6. **Parking.** One parking space per bedroom shall be required for a SADU, except as noted below:
  - a. Required parking may be provided through any of the following methods:
    - i. Conventional garages or carports;
    - ii. Uncovered paved areas such as an extended driveway;
    - iii. Tandem parking in an existing driveway; or
    - iv. Parking on other locations on the property, unless specific findings are made that parking in setback areas is not feasible based upon life safety conditions. Mechanical lifts may be permitted where consistent with design review criteria.
  - b. No off-street parking shall be required for a SADU in any of the following instances:

- i. The SADU is located within one-half mile of public transit. The term "public transit" shall mean transit service adequate to facilitate area residents' reliance on transit for primary mobility. Factors used to determine adequacy include, but are not limited to, ridership, routing, frequency, and reliability. The City Council finds and declares that no area in Newark currently meets this definition of adequate public transit; however the City Council shall review this determination each time the Housing Element is updated;
      - ii. The SADU is located within a designated architecturally and historically significant historic district or on a property that includes a register resource or potential register resource;
      - iii. The SADU is located entirely within the existing principal residence or an existing habitable accessory structure and results in no net addition of habitable floor area on the property;
      - iv. The SADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the SADU;
      - v. The SADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.
    - c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a SADU, and replacement parking is required, the replacement parking spaces may be provided as in Subparagraph 6.a above.
    - d. Although permitted by right in Residential Districts under this Chapter. in situations in which there is 90 percent overnight street parking occupancy within a 150-foot radius of the subject property, the Council may, after review and consideration by the Planning Commission, issue a Conditional Use Permit pursuant to Chapter 17.35 to a property owner to construct a SADU. The City Council may, in its discretion, impose reasonable conditions, including, but not limited to, requiring existing covered parking be used for vehicle parking.
  7. **Fees.** SADUs resulting in a net increase in habitable floor area on a property may be subject to City impact fees that are proportionate to the burden of the proposed ADU on City services. However, under no circumstance may the SADU be considered equivalent to a new principal dwelling unit for the purpose of fee calculation.
- D. **Junior Accessory Dwelling Units (JADUs).** The purpose of the Junior Accessory Dwelling Unit (JADU) regulations is to implement specific policies of the Housing Element of the Newark General Plan and specific provisions of State law authorizing the creation of JADUs. The intent of the JADU regulations is to expand the affordable rental housing stock through the repurposing of underutilized floor area in existing single-unit homes.
1. **Applicability.** Performance standards for JADUs shall apply in the RS District, on lots within those portions of planned districts allowing single-unit dwellings, and on qualifying RL, RM, and RH lots developed with only one principal single-unit dwelling.

2. **Development Standards.**
  - a. *Number Per Lot.* Only one JADU is permitted on a single-unit residential lot. A JADU is not permitted if another ADU already exists on the property.
  - b. *Location.* The JADU shall be constructed entirely within the existing walls of an existing single-family home and must incorporate an existing bedroom.
  - c. *Size.* The JADU shall not exceed 500 square feet in size.
  - d. *Unit Access.* The JADU shall include an exterior entrance that is separate from the main entrance to the single-family home. The exterior entry shall not be located on the front of the principal residence. If the exterior entry is on the second floor, the stairway shall not be located in the front of the principal residence. Interior access between the JADU and the principal residence is required, and can be a door equipped with a double lock. A second interior doorway may be provided for sound attenuation.
  - e. *Sanitation.* A JADU may include a bathroom or may share bathroom facilities within the principal residence.
  - f. *Kitchen.* The JADU shall include an efficiency kitchen, which shall include all of the following:
    - i. A sink with a maximum waste line diameter of 1.5 inches.
    - ii. A cooking facility with appliances that do not require electrical service greater than 120 volts and that do not use propane gas.
    - iii. A food preparation counter no less than six feet in length and storage cabinets that are of reasonable size in relation to the size of the JADU. The food preparation area may not be located in a closet.
3. **Parking.** No additional off-street parking shall be required beyond that required for the principal residence. The principal residence shall meet the current off-street parking standard in effect at the time the JADU is approved.
4. **Building and Fire Code Requirements.** For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate dwelling unit. No fire wall separation or noise attenuation measures are required between the principal residence and the JADU.

### 17.26.050 Adult Businesses

Adult businesses shall be located and operated in compliance with following standards.

- A. **Purpose.** It is the purpose and intent of this Section to regulate the operations of adult businesses, which tend to have judicially recognized adverse secondary effects on the community, including, but not limited to, increases in crime in the vicinity of adult businesses; degradation of the city's commercial and industrial base; increases in vacancies in residential areas in the vicinity of adult businesses; interference with residential property owners' enjoyment of their properties when such properties are located in the vicinity of adult businesses as a result of increases in crime, litter, noise, and vandalism; and the deterioration of neighborhoods. Special regulation of these



businesses is necessary to prevent these adverse secondary effects and the blighting or degradation of the neighborhoods in the vicinity of adult businesses while at the same time protecting the First Amendment rights of those individuals who desire to own, operate or patronize adult businesses.

- B. **Location.** Adult businesses shall be located a minimum of 500 feet from any other such establishment, public park, child day care facility, or school and a minimum of 100 feet from any Residential district.
- C. **Violations.** In addition to Chapter 17.41, Enforcement and Abatement Procedures, the following provisions apply to adult businesses.
  - 1. Any owner, operator, manager, employee or independent contractor of an adult business violating or permitting, counseling, or assisting the violation of any of these provisions regulating adult businesses shall be subject to any and all civil remedies, including license revocation.
  - 2. In addition to the remedies set forth in paragraph 1, above, any adult business that is operating in violation of these provisions regulating adult businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation.

#### **17.26.060 Automobile/Vehicle Sales and Services**

Automobile/vehicle sales and service establishments shall be located, developed and operated in compliance with following standards.

- A. **Landscaping and Screening.** All automobile/vehicle sales and service establishments shall provide landscaping and screening in compliance with the following.
  - 1. A masonry wall at least six feet in height shall be provided along all lot lines adjacent to a Residential District.
  - 2. At least 10 percent of the site shall be landscaped. All landscaped areas shall be permanently maintained in compliance with Chapter 17.21, Landscaping.
  - 3. A landscaped planter with a minimum inside width of six feet and enclosed within a six-inch-high curb shall be provided along the front and street side property lines, except for vehicular circulation openings. A landscaping buffer with a minimum inside width of at least three feet shall be provided along all other property lines.
  - 4. Additional screening and landscaping may be required where necessary to prevent visual impacts on adjacent properties.
- B. **Application Review and Findings for Approval.** The decision-making authority shall only approve a Use Permit for an automobile/vehicle sales and service facility only if it finds that:
  - 1. The project is designed so that form and scale are harmonious and consistent with the character of the specific site, the adjacent uses and structures, and the surrounding neighborhood.
  - 2. The site design, including the location and number of driveways, will promote safe and efficient on-site and off-site traffic circulation.

3. Service bay openings are designed to minimize the visual intrusion on surrounding streets and properties.
  4. Lighting is designed to be low-profile, indirect or diffused and to avoid adverse impacts on surrounding uses.
  5. The washing facility will not have an adverse impact on water supply and quality.
- C. **Conditions of Approval.** Conditions of approval may include limitations on operational characteristics of the use; restrictions on outdoor storage and display, location of pump islands, canopies and service bay openings; and/or requirements for buffering, screening, lighting, planting areas, or other site elements, in order to avoid adverse impacts on adjacent lots or the surrounding area.
- D. **Automobile/Vehicle Sales and Leasing.** Automotive servicing or repair is permitted as an accessory use for automobile/vehicle sales and leasing establishments that offer maintenance and servicing of the type of vehicles sold on site.
- E. **Automobile/Vehicle Service and Repair, Major and Minor.** In addition to other applicable standards of this section, major and minor automobile/vehicle service and repair uses, as well as any other uses, such as auto dealerships or service stations, that perform auto servicing as an accessory activity, are subject to the following standards.
1. **Noise.** All body and fender work or similar noise-generating activity shall be conducted within an enclosed masonry or similar building with sound-attenuating construction to absorb noise. Air compressors and other service equipment shall be located inside a building.
  2. **Work Areas.** All work shall be conducted within an enclosed building except: pumping motor vehicle fluids, checking and supplementing various fluids, and mechanical inspection and adjustments not involving any disassembly.
  3. **Vehicle Storage.** Vehicles being worked on or awaiting service or pick-up shall be stored within an enclosed building or in a parking lot on the property that is screened in compliance with Section 17.17.100, Screening. Unattended vehicles may not be parked or stored on the sidewalk adjoining the property, in the street, or in any portion of the public right-of-way within the City.
  4. **Litter.** The premises shall be kept in an orderly condition at all times. No used or discarded automotive parts or equipment or permanently disabled, junked, or wrecked vehicles may be stored outside a building.
- F. **Automobile/Vehicle Washing.** In addition to other applicable standards of this section, automobile/vehicle washing facilities are subject to the following standards.
1. **Washing Facilities.** No building or structure shall be located within 30 feet of any public street or within 20 feet of any interior property line of a Residential District. Vehicle lanes for car wash openings shall be screened from public streets to a height of 40 inches. Screening devices shall consist of walls and/or berms with supplemental plant materials.
  2. **Hours of Operation.** Automobile/vehicle washing facilities are limited to 7:00 a.m. to 10:00 p.m., seven days a week. When abutting a Residential District, the hours of operation shall be between 8:00 a.m. to 8:00 p.m., seven days a week.

- G. **Service Stations.** In addition to other applicable standards of this section, service stations and any other commercial use that includes fuel pumps for retail sales of gasoline are subject to the following standards.
1. **Pump Islands.** Pump islands shall be located a minimum of 20 feet from any property line to the nearest edge of the pump island. A canopy or roof structure over a pump island may encroach up to 10 feet within this distance.
  2. **Work Areas.** All work shall be conducted within an enclosed building except: pumping motor vehicle fluids, checking and supplementing various fluids, and mechanical inspection and adjustments not involving any disassembly.
  3. **Abandonment.** Any service station shall in the case of abandonment or non-operation of the primary use be dismantled and the site cleared within 12 months subsequent to the close of the last business day.

#### 17.26.070 Check Cashing Business

Check cashing businesses shall be located, developed, and operated in compliance with the following standards.

- A. **Maximum Size.** Limited to 2,500 square feet in size.
- B. **Location.** Check cashing businesses shall be located on an arterial or higher classification street, and at least 1,000 feet from any other check cashing business.
- C. **Queuing Area.** Adequate queuing area shall be provided within the building. Queuing on the sidewalk is prohibited.
- D. **Security.** A security plan shall be provided for review and approval by the Director. The plan shall provide for adequate security, including a central station alarm system to the Police Department. Bars on the windows are prohibited.

#### 17.26.080 Community Gardens

Community gardens shall be located, developed, and operated in compliance with the following standards:

- A. **Management.** A manager shall be designated for each garden who shall serve as liaison between gardeners, property owner(s), and the City.
- B. **Hours of Operation.** Gardens shall only be tended between dawn and dusk.
- C. **Buildings and Structures.** Accessory buildings, such as sheds, greenhouses, hoopouses, or farmstands are allowed and shall comply with the property development standards of the zoning district.
- D. **Equipment.** Only household garden tools and equipment, applicators and products, may be used. This includes, but not limited to, soil preparation, cultivation, planting, application of chemicals, dust control, harvesting, etc. Pull behind equipment is prohibited.
- E. **Operational Plan.** The applicant shall submit an operational plan that identifies roles and responsibilities, contact information, and operations.

- F. **Maintenance.**
  - 1. The operator shall be responsible for the overall maintenance of the site and shall remove weeds, debris, etc. in a timely manner.
  - 2. Soil amendments, composting, and waste material shall be managed and shall not attract nuisance flies or support growth of flies.
- G. **Sale of Produce.** Incidental sales of items grown on-site are permitted.
- H. **Composting.** Composting is limited to the materials generated on-site and shall be used on-site.
- I. **Utilities.** The land shall be served by a water supply sufficient to support the cultivation practices used on the site.
- J. **Restrooms.** If proposed, restrooms shall be connected to public utilities. Portable restrooms are not permitted.

#### 17.26.090 Day Care

Day care centers and large family daycare homes shall be located, developed and operated in compliance with the following standards:

- A. **License.** The operator shall secure and maintain a license from the State of California Department of Social Services.
- B. **Location.** Unless specifically allowed pursuant to a Use Permit approval, day care centers and large family daycare homes serving seven or more persons shall be located at least 300 feet from any other residential care facility, day care center, or large family day care home serving seven or more persons.
  - 1. **Adult Day Care Center Location Limitation.** Adult day care centers serving seven or more persons shall be located on a lot with frontage on an arterial.
- C. **Pick-up and Drop-off Plan.** A plan and schedule for the pick-up and drop-off of children or clients shall be provided for approval by the Director. The plan shall demonstrate that adequate parking and loading are provided to minimize congestion and conflict points on travel aisles and public streets. The plan shall include an agreement for each parent or client to sign that includes, at a minimum:
  - 1. A scheduled time for pick-up and drop-off with allowances for emergencies; and
  - 2. Prohibitions of double-parking, blocking driveways of neighboring properties, or using driveways of neighboring properties to turn around.
- D. **Additional Requirements for Day Care Centers.** In addition to the requirements listed above, Day Care Centers shall comply with the following standards:
  - 1. **Screening.** A periphery wall, constructed of wood or masonry, or landscaping screen shall be provided to screen outdoor activity areas and shall achieve 75 percent opacity. Chain metal fencing or barbed wire is prohibited.
  - 2. **Outdoor Space.** Outdoor use area and play equipment and structures shall not be located in any required front or street side setback.

3. **Hours of Operation.** Hours of operation shall only be within the hours of 6:00 a.m. and 7:00 p.m., Monday through Friday. Additional hours may be allowed subject to approval of a Minor Use Permit.
4. **Noise.** Outdoor activities shall not occur before 9:00 a.m. or after 6:00 p.m.

#### **17.26.100 Drive-In and Drive-Through Facilities**

Drive-in or drive-through facilities shall be located, developed and operated in compliance with the following standards:

- A. **Drive-In and Drive-Through Aisles.** Drive-in and drive-through aisles shall be designed to allow safe, unimpeded movement of vehicles at street access points and within the travel aisles and parking space areas.
  1. A minimum 15-foot interior radius at curves and a minimum 12-foot width is required.
  2. Each drive-in and drive-through entrance and exit shall be at least 100 feet from an intersection of public rights-of-way, measured at the closest intersecting curbs, and at least 25 feet from the nearest curb cut on an adjacent property.
  3. Each entrance to an aisle and the direction of flow shall be clearly designated by signs and/or pavement markings or raised curbs outside of the public right-of-way.
- B. **Landscaping.** Each drive-through aisle shall be screened with a combination of decorative walls and landscape to a height of 20 inches to prevent headlight glare and direct visibility of vehicles from adjacent streets and parking lots.
- C. **Pedestrian Walkways.** Pedestrian walkways shall not intersect drive-in or drive-through aisles, unless no alternative exists. In such cases, pedestrian walkways shall have clear visibility, emphasized by enhanced paving or markings.

#### **17.26.110 Emergency Shelters**

Emergency shelters shall be located, developed, and operated in compliance with the following standards:

- A. **Location.** Emergency shelters shall be located at least 300 feet of another emergency shelter.
- B. **Number of Residents.** No more than 50 clients may be present on the premises at any one time.
- C. **Length of Occupancy.** Occupancy by an individual or family may not exceed 60 days. Extensions up to a total stay of 180 days may be provided if no alternative housing is available, upon determination by the Director.
- D. **Common Area.** The shelter shall provide at least 10 square feet per bed of public or communal gathering space, exclusive of hallways.
- E. **Parking Reduction.** The Director may reduce the number of on-site parking spaces required by Section 17.23.040, Required Parking Spaces, where a shelter is located on a bus route, or other evidence is provided to indicate that less parking will be needed. The shelter shall, however, provide at least one space for each staff member who will be on duty when residents are present, and at least one space for residents.

- F. **Lighting and Illumination.** The shelter shall provide outdoor lighting sufficient to provide illumination and clear visibility to all outdoor areas, with minimal shadows or light leaving the property. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the neighborhood.
- G. **Outdoor Activities.** All functions associated with the shelter, except for children's play areas, outdoor recreation areas, and parking shall take place within the building proposed to house the shelter. There shall be no space for clients to congregate in front of the building, and there shall be no outdoor public telephones.
- H. **Designated Smoking Area.** The shelter shall provide a designated smoking area, preferably outside, that is not visible from public rights-of-way.
- I. **Noise.** The use shall be conducted in conformance with the noise standards set forth for multifamily housing in the noise element of the General Plan.
- J. **Supervision.** On-site management shall be provided any time that clients are present at the shelter.
- K. **Management and Security Plan.** The operator of the shelter shall submit a management and security plan for approval by the Director. The Plan shall address issues identified by the Director, including emergencies, transportation, client supervision, security, client services, staffing, and good neighbor issues.

#### **17.26.120 Farmer's Markets**

Farmer's markets shall be located, developed, and operated in compliance with the following standards:

- A. **Required Permits.** Farmer's markets are allowed in all districts subject to Minor Use Permit approval. The market operator and vendors shall obtain a Minor Use Permit and secure all necessary licenses, certificates and health permits, including permits for street closure, if applicable. All permits (or copies of them) shall be in the possession of the farmer's market manager or the vendor, as applicable, on the site of the farmer's market during all hours of operation.
- B. **Management Plan.** A management plan shall be prepared and provided to the Zoning Administrator. The management plan shall include the following:
  - 1. Identification of a market manager or managers, who shall be present during all hours of operation.
  - 2. A set of operating rules addressing the governance structure of the market; the method of assigning booths and registering vendors; hours of operation; maintenance; security; refuse collection; and parking.
- C. **Hours of Operation.** Market activities may be conducted between the hours of 7:00 a.m. and 10:00 p.m. with specific hours and duration to be approved by the City. Set-up of market operations cannot begin more than two hours prior to the operational hours of the market and take-down shall be completed within two hours of the close of the market.
- D. **Waste Disposal.** Adequate composting, recycling, and trash containers shall be provided during hours of operation, and shall be removed from site for appropriate disposal. The site shall be cleaned at the end of each day of operations, including the removal of all stalls and debris.

### 17.26.130 Live-Work Units

Joint living and working quarters (Live-Work Units) shall be located, developed, and operated in compliance with the following standards:

- A. **Establishment.** Live-work units may be established through the conversion of existing buildings or by new construction, permitted or conditionally permitted as specified in Division II: Base and Overlay Districts.
- B. **Permitted Work Activity.** The work activity in a building where live-work units are allowed shall be any use permitted by right or use permit in the zoning district, except that, in order to protect the health and safety of persons who reside in a live-work unit or in a building which contains one or more live-work units, no work activity shall be permitted nor shall any live-work unit be established on any site that contains those uses which the Zoning Administrator finds would, by virtue of size, intensity, hours of operation, number of employees or the nature of the operation, have the potential to adversely affect others living or working in or nearby the live-work development by reason of dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts, or would be hazardous by way of materials, process, product or wastes.
- C. **No Separate Sale or Rental of Portions of Unit.** No portion of a live-work unit may be separately rented or sold as a commercial space for a person or persons not living in the premises or as a residential space for a person or persons not working in the same unit.

### 17.26.140 Home Occupations

Home occupations shall be located, developed, and operated in compliance with the standards of this Section. An inspection may be required to verify compliance with applicable standards.

- A. **Applicability.** This Section applies to home occupations in any residential unit in the City regardless of the zoning designation. It does not apply to family day care, which is regulated separately.
- B. **General Standards.** All home occupations shall be located and operated consistent with the following standards:
  1. **Residential Appearance.** The residential appearance of the unit within which the home occupation is conducted shall be maintained, and no exterior indication of a home occupation is permitted except signs in conformance with Chapter 17.25, Signage Standards.
  2. **Location.** All home occupation activities shall be conducted entirely within the residential unit, or within a garage that is attached to, and reserved for, the residential unit. When conducted within a garage, the doors thereof shall be closed, and the area occupied shall not preclude the use of required parking spaces for parking.
  3. **Floor Area Limitation.** No more than 20 percent of the floor area of the dwelling unit may be used in the conduct of the home occupation.
  4. **Structural Modification Limitation.** No dwelling shall be altered to create an entrance to a space devoted to a home occupation that is not from within the building, or to create features not customary in dwellings.

5. **Employees.** No employees or independent contractors other than residents of the dwelling shall be permitted to work at the location of a home occupation except as otherwise allowed for cottage food operations.
6. **On-Site Client Contact.** No customer or client visits are permitted except for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring) which may have up to two students at one time.
7. **Direct Sales Prohibition.** Home occupations involving the display or sale of products or merchandise are not permitted from the site except by mail, telephone, internet, or other mode of electronic communication or except as otherwise allowed for cottage food operations.
8. **Storage.** There can be no storage of materials, supplies, and/or equipment for the home occupation in an accessory building or outdoors. Storage may only occur within a garage if it does not occupy or obstruct any required parking space. Contractors whose work is conducted entirely off site (and who use their home solely for administrative purposes related to the contracting business) may store construction, electrical, landscaping, plumbing, or similar supplies or materials within a single vehicle of one-half ton or less.
9. **Equipment.** Home occupations shall not be permitted which involve mechanical or electrical equipment which is not customarily incidental to domestic use.
10. **Hazardous Materials.** Activities conducted and equipment or materials used shall not change the fire safety or occupancy classifications of the premises, nor use utilities different from those normally provided for residential use. There shall be no storage or use of toxic or hazardous materials other than the types and quantities customarily found in connection with a dwelling unit.
11. **Nuisances.** A home occupation shall be conducted such that no offensive or objectionable noise, dust, vibration, smell, smoke, heat, humidity, glare, refuse, radiation, electrical disturbance, interference with the transmission of communications, interference with radio or television reception, or other hazard or nuisance is perceptible at or beyond any lot line of the unit or structure within which the home occupation is conducted, or outside the dwelling unit if conducted in other than a single-unit detached residence.
12. **Traffic and Parking Generation.** Home occupations shall not generate a volume of pedestrian, automobile, or truck traffic that is inconsistent with the normal level of traffic in the vicinity or on the street on which the dwelling is located or which creates the need for additional parking spaces, or involve deliveries to or from the premises in excess of that which is customary for a dwelling unit.
13. **Commercial Vehicles and Attachments.** Home occupations involving more than one commercial vehicle parked on-site shall not be permitted. No attachments of equipment or machinery used for business purposes shall be permitted either on the vehicle or on the site when the vehicles are not in use and such equipment or machinery is within view from the public right-of-way or neighboring properties. Storage of attachments of equipment and machinery are not permitted in areas visible from public rights-of-way or neighboring properties, unless part of an active approved construction project on the site.



- C. **Cottage Food Operations.** A cottage food operation is allowed as a home occupation and an accessory use to any legally established residential unit subject to the following standards:
1. **Minor Use Permit Required.** Cottage food operations are allowed subject to Minor Use Permit approval.
  2. **Registration.** Cottage food operations shall be registered as “Class A” or “Class B” cottage food operations and shall meet the respective health and safety standards set forth in Section 114365 et seq. of the California Health and Safety Code.
  3. **Sales.** Sales directly from a cottage food operation are limited to the sale of cottage food products. A cottage food operation shall not have more than \$50,000 in gross annual sales in each calendar year.
  4. **Operator and Employee Allowed.** Only the cottage food operator and members of his or her household living in the unit, as well as one full-time equivalent cottage food employee, may participate in a cottage food operation.
  5. **Equipment.** Cottage food operations may employ kitchen equipment as needed to produce products for which the operation has received registration, provided that equipment would not change the residential character of the unit, result in safety hazards, or create smoke or steam noticeable at the lot line of an adjoining residential property. Venting of kitchen equipment shall not be directed toward neighboring residential uses.
- D. **Prohibited Home Occupations.** The following specific businesses are not permitted as home occupations.
1. Automobile/vehicle sales and services;
  2. Animal care, sales, and services;
  3. Eating and drinking establishments;
  4. Hotels and motels;
  5. Hospitals and clinics;
  6. Firearm sales;
  7. Personal services; and
  8. Retail sales.

#### **17.26.150 Hookah Lounges**

Hookah lounges shall be located a minimum of 500 feet from any other such establishment, public park, child day care facility, or school and a minimum of 100 feet from any Residential District.

#### **17.26.160 Marijuana and Cannabis**

All activity related to marijuana and cannabis, both medical and recreational is prohibited. The prohibition includes commercial cultivation, testing, manufacturing, distribution, delivery and dispensaries (fixed or mobile) of marijuana/cannabis. Cultivation of marijuana or cannabis for non-commercial personal purpose is allowed as long as it is consistent with State law and Chapter 5.36 of the Newark Municipal Code.

### 17.26.170 Outdoor Dining and Seating

Outdoor dining and seating shall be located, developed, and operated in compliance with the following standards:

- A. **Applicability.** The standards of this Section apply to outdoor dining and seating located on private property. Outdoor dining and seating located in the public-right-of-way is subject to an encroachment permit issued by the Public Works Department.
- B. **Accessory Use.** Outdoor dining and seating shall be conducted as an accessory use to a legally established eating and drinking establishment that is located on the same lot or an adjacent lot.
- C. **Hours of Operation.** The hours of operation are limited to the hours of operation of the associated eating and drinking establishment.
- D. **Parking.** Where an outdoor dining and seating area occupies less than 500 square feet, additional parking spaces for the associated eating and drinking establishment are not required. Parking shall be provided according to the required ratio in Chapter 17.23, Parking and Loading, for any outdoor dining and seating area exceeding 500 square feet.
- E. **Pedestrian Pathway.** A four-foot pedestrian pathway shall be maintained and unobstructed. If there is more than a four-foot-wide pathway provided, outdoor dining may be located outside of the required four feet.
- F. **Litter Removal.** Outdoor dining and seating areas shall remain clear of litter at all times.

### 17.26.180 Outdoor Display and Sales

Outdoor display and sales shall be located, developed, and operated in compliance with the following standards:

- A. **Temporary Outdoor Display and Sales.** The temporary outdoor display and sale of merchandise shall comply with Section 17.26.260, Temporary Uses, and Chapter 17.35, Use Permits.
- B. **Produce Displays.** The outdoor display of fresh produce associated with an existing Food and Beverage Retail Sales establishment on the same site is allowed, subject to the following standards.
  - 1. The display shall not disrupt the normal function of the site or its circulation and shall not encroach upon parking spaces, driveways, or required landscaped areas or block pedestrian walkways.
  - 2. All produce shall be removed or enclosed at the close of each business day.
- C. **Permanent or Ongoing Outdoor Display and Sales.** The permanent or ongoing outdoor display of merchandise, except for automobile/vehicle sales and leasing requires Minor Use Permit approval and shall comply with the following standards:
  - 1. **Relationship to Main Use.** The outdoor display and sales area shall be directly related to a business occupying a primary structure on the subject parcel.
  - 2. **Allowable Merchandise.** Only merchandise sold at the business is permitted to be displayed outdoors.

3. **Display Locations.** The displayed merchandise shall occupy a fixed, specifically approved and defined location and shall not disrupt the normal function of the site or its circulation and shall not encroach upon parking spaces, driveways, or required landscaped areas or block pedestrian walkways.
- D. **Outdoor Vending Machines Prohibited.** Outdoor vending machines other than those for the sale of newspapers is prohibited.

### 17.26.190 Personal Services

Personal service establishments shall be located, developed, and operated in compliance with the following standards:

- A. **Hours of Operation.** Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m. unless otherwise specified in a Use Permit.
- B. **Fortune, Palm, and Card Reader.** Fortune, palm, and card reader establishments shall be located at a minimum of 500 feet from any other such establishment, public park, child day care facility, or school and a minimum of 100 feet from any Residential District.
- C. **Massage Establishments.** Massage establishments shall comply with Chapter 5.24, Massage Establishments, of the Newark Municipal Code. Establishments, including sole proprietorships, which offer massage in exchange for compensation that do not comply with Chapter 5.24, Massage Establishments, of the Newark Municipal Code are prohibited.
- D. **Tattoo or Body Modification Parlor.** The following standards regulate the operation of facilities that perform tattooing and body modification to provide for the health, safety and welfare of the public and ensure compliance with California Health and Safety Code Section 119300 et seq.
  1. **Location.** Tattoo and body modification parlors shall be located a minimum of 500 feet from any other such establishment, public park, child day care facility, or school and a minimum of 100 feet from any Residential District.
  2. **Registration Required.** Any person who is engaged in the business of tattooing or body modification shall provide evidence of registration with the Alameda County Department of Health.

### 17.26.200 Personal Storage

Personal storage facilities shall be located, developed, and operated in compliance with the following standards:

- A. **Business Activity.** All personal storage facilities shall be limited to inactive items such as furniture and files. No retail, repair, or other commercial use shall be conducted out of the individual rental storage units.
- B. **No Hazardous Materials Storage.** No storage of hazardous materials is permitted.
- C. **Notice to Tenants.** As part of the rental process, the facility manager shall inform all tenants of conditions restricting storage of hazardous materials and limitation on the use of the storage units. These restrictions shall be included in rental contracts and posted at a conspicuous location within the front of each rental unit.

- D. **Open Storage.** Open storage, outside an enclosed building, shall be limited to vehicles and trailers and screened from public view by building façades or solid fences.
- E. **Exterior Wall Treatments and Design.** Exterior walls visible from a public street or Residential District shall be constructed of decorative block, concrete panel, stucco, or similar material. These walls shall include architectural relief through articulation, trim, change in color at the base, variations in height, the use of architectural “caps,” attractive posts, or similar measures. A gate(s) shall be decorative iron or similar material.
- F. **Screening.** Where screening walls are required or proposed, they shall be constructed of decorative block, concrete panel, stucco, or similar material. The walls shall include architectural relief through variations in height, the use of architectural “caps,” attractive posts, or similar measures. All gates shall be decorative iron or similar material.
- G. **Perimeter Wall.** A six-foot-high screening shall be provided around the perimeter of the development at locations where the solid façades of the storage structures do not provide a perimeter barrier. The wall shall be located outside the required front setback and a minimum of four feet from a street lot line.

#### 17.26.210 Recycling Facilities

Recycling facilities shall be located, developed, and operated in compliance with the following standards:

- A. **Reverse Vending Machines.**
  - 1. **Accessory Use.** Reverse vending machines may be installed as an accessory use to a permitted or conditionally permitted primary commercial or public/semi-public use on the same site.
  - 2. **Location.** Machines shall be located within the same building as the permitted commercial or public/semi-public use. Machines shall not be located within 50 feet of a Residential District or 1,000 feet of any business that sells alcohol. Machines shall not be located outdoors.
  - 3. **Identification.** Machines shall be clearly marked to identify the type of material to be deposited, operating instructions, the identity and phone number of the operator or responsible person to call if the machine is inoperative, and a notice stating that no material shall be left outside of the reverse vending machine.
  - 4. **Signs.** The maximum sign area on a machine is four square feet, exclusive of operating instructions.
  - 5. **Trash Receptacle.** Machines shall provide a 40-gallon garbage can for nonrecyclable materials located adjacent to the reverse vending machine.
- B. **Recycling Collection Facilities.**
  - 1. **Size.** Recycling collection facilities shall not exceed a building site footprint of 350 square feet or include more than three parking spaces (not including space periodically needed for the removal or exchange of materials or containers).
  - 2. **Equipment.** No power-driven processing equipment, except for reverse vending machines, may be used.

3. **Location.** Facilities shall not be located within 50 feet of a Residential District or within 1,000 feet of any business that sells alcohol.
  4. **Setback.** Facilities shall be set back at least 10 feet from any street lot line and not obstruct pedestrian or vehicular circulation.
  5. **Containers.** Containers shall be constructed of durable waterproof and rustproof material and secured from unauthorized removal of material. Capacity sufficient to accommodate materials collected in the collection schedule.
  6. **Identification.** Containers shall be clearly marked to identify the type of accepted material, hours of operation, the identity and phone number of the operator or responsible person to call if the machine is inoperative, and a notice stating that no material shall be left outside.
  7. **Signs.** The maximum sign area shall be 20 percent of the area of the side of facility or container or 16 square feet, whichever is larger. In the case of a wheeled facility, the side is measured from the pavement to the top of the container. The Director may authorize increases in the number, size and nature of additional signs for necessary directional or identification purposes but not for outdoor advertising.
  8. **Parking.** Patrons and the attendant shall not reduce available parking spaces below the minimum number required for the main use unless an approved parking study shows available capacity during recycling facility operation.
  9. **Site Maintenance.** Sites shall be maintained clean, sanitary, and free of litter and any other undesirable materials.
- C. **Recycling Processing Facility.**
1. **Location.** Facilities shall not abut a Residential District.
  2. **Screening.** The facility, including all storage and storage containers, shall be screened from public rights-of-way, by solid masonry walls or located within an enclosed structure.
  3. **Outdoor Storage.** Exterior storage of material shall be in sturdy containers or enclosures that are secured and maintained in good condition. Storage, including storage containers, shall not be visible above the height of the required solid masonry walls.
  4. **Identification.** Facilities shall be clearly marked with the name and phone number of the facility operator and hours of operation.

### 17.26.220 Residential Care Facilities

Residential care facilities serving seven or more persons shall be located, developed and operated in compliance with the following standards:

- A. **Licensing.** Residential care facilities serving seven or more persons shall be licensed and certified by the State of California and shall be operated according to all applicable State and local regulations.
- B. **Location.** Unless specifically allowed pursuant to a Use Permit approval, residential care facilities serving seven or more persons shall be located on a lot with frontage on an arterial and at least

300 feet from any other residential care facility, day care center, or large family day care home serving seven or more persons.

- C. **Screening.** A periphery wall, constructed of wood or masonry, or landscaping screen shall be provided to screen outdoor use areas and shall achieve 75 percent opacity. Chain metal fencing or barbed wire is prohibited.
- D. **Complaints.** Upon receiving two substantiated complaints from two different residences within one calendar year, the Zoning Administrator shall review the residential care facility operation at a noticed public hearing conducted in accordance with the procedures outlined in Chapter 17.31, Common Procedures. The Zoning Administrator may take no action, revoke or modify the permit, or take other actions to address the nuisance.
  - 1. **Complaint Procedures.** Before submitting a complaint to the City pursuant to this subsection, a complainant shall first submit to the operator of the residential care facility a written complaint, signed by the complainant and setting forth the complainant's address and telephone number. If after 14 days from the submittal of a complaint to the operator, the complainant remains dissatisfied with the performance of the residential care facility, the complaint may then be submitted to the Community Development Department, including the original complaint letter, and documentation of any and all contact with the operator to resolve the issues identified in the original complaint. The Community Development Department shall investigate complaints within 14 days of receipt of the complaint to determine their validity.
  - 2. **Substantiated Complaint.** A complaint shall be considered substantiated if the Zoning Administrator determines that the operator has failed to respond appropriately to a complaint concerning hours, traffic and circulation, or noise.

### 17.26.230 Single Room Occupancy Units

Single room occupancy (SRO) units shall be located, developed, and operated in compliance with the following standards:

- A. **Maximum Occupancy.** Each SRO living unit shall be designed to accommodate a maximum of two persons.
- B. **Minimum Size.** An SRO living unit shall have at least 150 square feet of floor area, excluding closet and bathroom. No individual unit may exceed 400 square feet.
- C. **Minimum Width.** An SRO of one room shall not be less than 12 feet in width.
- D. **Entrances.** All SRO units shall be independently accessible from a single main entry, excluding emergency and other service support exits.
- E. **Cooking Facilities.** Cooking facilities shall be provided either in individual units or in a community kitchen. Where cooking is in individual SRO units, SRO units shall have a sink with hot and cold water; a counter with dedicated electrical outlets and a microwave oven or properly engineered cook top unit pursuant to Building Code requirements; a small refrigerator; and cabinets for storage.
- F. **Bathroom.** An SRO unit is not required to but may contain partial or full bathroom facilities. A partial bathroom facility shall have at least a toilet and sink; a full facility shall have a toilet, sink

and bathtub, shower or bathtub/shower combination. If a full bathroom facility is not provided, common bathroom facilities shall be provided in accordance with the Building Code for congregate residences with at least one full bathroom per floor.

- G. **Closet.** Each SRO unit shall have a separate closet.
- H. **Common Area.** Common area in an amount equal to 10 square feet per living unit shall be provided, excluding janitorial storage, laundry facilities and common hallways. At least 200 square feet in area of interior common space shall be provided as a ground floor entry area that provides a central focus for tenant social interaction and meetings.
- I. **Tenancy.** Tenancy of SRO units shall be limited to 30 or more days.
- J. **Facility management.** An SRO Facility with 10 or more units shall provide full-time on-site management. An SRO Facility with less than 10 units shall provide a management office on-site.
- K. **Management Plan.** A management plan shall be submitted with the permit application for all SRO projects. At minimum, the management plan shall include the following:
  1. **Security/Safety.** Proposed security and safety features such as lighting, security cameras, defensible space, central access, and user surveillance;
  2. **Management Policies.** Management policies including desk service, visitation rights, occupancy restrictions, and use of cooking appliance;
  3. **Rental Procedures.** All rental procedures, including weekly and monthly tenancy requirements;
  4. **Staffing and Services.** Information regarding all support services, such as job referral and social programs; and
  5. **Maintenance.** Maintenance provisions, including sidewalk cleaning and litter control, recycling programs, general upkeep, and the use of durable materials.

#### 17.26.240 Solar Energy Systems

Solar energy systems shall be located, developed, and operated in compliance with the following standards:

- A. **Height.**
  1. **Ground-Mounted Solar Energy Systems.** The maximum height of a ground-mounted solar energy collector system is 25 feet or the maximum height allowed in the base zoning district, whichever is less.
  2. **Roof-Mounted Solar Energy Systems.** Solar energy systems may extend up to five feet above the roof surface on which they are installed, even if this exceeds the maximum height limit in the district in which it is located.
- B. **Required Setback.** Installations less than six feet in height may be installed within a required side and rear setback, but no closer than three feet to any property line. All other installations shall meet the required setback of the base zoning district.
- C. **Required Permit.** Solar energy systems are allowed in all districts. A Use Permit is required for certain ground-mounted solar energy systems as follows:

1. **RP District.** In the RP District, roof-mounted solar energy systems are allowed, ground-mounted solar energy systems require Conditional Use Permit approval.
2. **Other Districts.** In districts other than the RP District, roof-mounted solar energy systems and ground-mounted solar energy systems located over a parking area are allowed. Ground-mounted solar energy systems that are not located over a parking area require Minor Use Permit approval.

### 17.26.250 Telecommunication Facilities

- A. **Applicability and Exemptions.** The requirements of this section apply to all telecommunication facilities that transmit and/or receive electromagnetic signals, including but not limited to personal communications services (cellular and paging) and radio and television broadcast facilities. The requirements apply to telecommunication facilities that are the primary use of a property and those that are accessory facilities, except that the following accessory facilities are exempt:
1. Licensed amateur (ham) radio and citizen band operations.
  2. Hand-held, mobile, marine, and portable radio transmitters and/or receivers.
  3. Emergency services radio.
  4. Radio and television mobile broadcast facilities.
  5. Antennas and equipment cabinets or rooms completely located inside of permitted structures.
  6. A single ground- or building-mounted receive-only radio or television antenna not exceeding the maximum height permitted by this Ordinance, including any mast, or a receive-only radio or television satellite dish antenna, subject to the following restrictions:
    - a. **Residential Districts.**
      - i. Satellite Dish One Meter or Less. A satellite dish that does not exceed one meter in diameter and is for the sole use of a resident occupying the same residential parcel is permitted anywhere on a lot in the Residential District so long as it does not exceed the height of the ridgeline of the primary structure on the same parcel.
      - ii. Satellite Dish Greater than One Meter. A satellite dish that is greater than one meter in diameter, is not located within a required front yard or side yard abutting a street, and is screened from view from any public right-of-way and adjoining property.
      - iii. Antennas. An antenna that is mounted on any existing building or other structure that does not exceed 25 feet in height. The antenna shall be for the sole use of a resident occupying the same residential parcel on which the antenna is located.



b. *Nonresidential Districts.*

- i. Satellite Dish Two Meters or Less. A satellite dish that does not exceed two meters in diameter is permitted anywhere on a lot in a nonresidential district so long as the location does not reduce required parking, diminish pedestrian or vehicular access, or require removal of required landscaping.
  - ii. Satellite Dish Greater than Two Meters. A satellite dish that is greater than two meters in diameter that is not located within a required front yard or side yard abutting a street and is screened from view from any public right-of-way and adjoining property.
  - iii. Mounted Antennas. An antenna that is mounted on any existing building or other structure when the overall height of the antenna and its supporting tower, pole or mast does not exceed a height of 30 feet, or 25 feet if located within 20 feet of a Residential district.
  - iv. Freestanding Antennas. A free standing antenna and its supporting tower, pole, or mast that complies with all applicable setback requirements when the overall height of the antenna and its supporting structure does not exceed a height of 30 feet or 25 feet if located within 20 feet of a Residential district.
  - v. Undergrounding Required. All wires and/or cables necessary for operation of an antenna shall be placed underground or attached flush with the surface of the building or the structure of the antenna.
7. Any antenna or wireless communications facility that is exempt from local regulation pursuant to the rules and regulations of the Federal Communications Commission (FCC) or a permit issued by the California Public Utilities Commission (CPUC). The owner or operator of such facility shall provide the Director with a copy of a current FCC or CPUC permit or a copy of applicable FCC regulations prior to its installation.
  8. Minor modifications to existing wireless facilities, including replacement in-kind or with smaller or less visible equipment, that meet the standards set forth in this Section and will have little or no change in the visual appearance of the facility.

B. **Permit Requirements.**

1. ***Replacement, Removal, or Co-location of Transmission Equipment (Eligible Facilities Request).*** The co-location of new transmission equipment, removal of transmission equipment, or the replacement of transmission equipment is permitted by right provided the modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station.
2. ***Stealth Facilities.*** Stealth facilities in which the antenna, and sometimes the support equipment, are hidden from view in a structure or concealed as an architectural feature, are permitted in all districts subject to Conditional Use Permit approval.
3. ***Co-located Facilities.*** Permitted by right when proposed to be co-located on a facility that was subject to a discretionary permit issued on or after January 1, 2007 and an environmental impact report was certified, or a negative declaration or mitigated

negative declaration was adopted for the wireless telecommunication collocation facility in compliance with the California Environmental Quality Act and the collocation facility incorporates required mitigation measures specified in that environmental impact report, negative declaration, or mitigated negative declaration.

4. ***Non-stealth Facilities.*** Permitted in the LI District and GI District subject to Conditional Use Permit approval.
- C. **Standards.** Telecommunication facilities shall be located, developed, and operated in compliance with all of the following standards and with applicable standards of the zoning district in which they are located.
1. ***Location and Siting.***
    - a. No new freestanding facility, including a tower, lattice tower, or monopole, shall be located within 1,000 feet of another freestanding facility, unless appropriate camouflage techniques have been used to minimize the visual impact of the facility to the extent feasible, and mounting on a building or co-location on an existing pole or tower is not feasible.
    - b. All wireless telecommunication facilities shall meet the building setback standards of the district which they are to be located.
    - c. When feasible, providers of personal wireless services shall co-locate facilities in order to reduce adverse visual impacts. The Director may require co-location or multiple-user wireless telecommunication facilities based on a determination that it is feasible and consistent with the purposes and requirements of this section.
    - d. When determined to be feasible and consistent with the purposes and requirements of this section, the Director shall require the applicant to make unused space available for future co-location of other telecommunication facilities, including space for different operators providing similar, competing services.
  2. ***Support Structures.*** Support structures for telecommunication facilities may be any of the following:
    - a. An existing nonresidential building.
    - b. An existing structure other than a building, including, but not limited to, light poles, electric utility poles, water towers, smokestacks, billboards, lattice towers, and flag poles. This term includes an electric utility pole erected to replace an existing electric utility pole, if the replacement pole will serve both electric and wireless communications functions, and if the replacement pole is substantially equivalent to the predecessor pole in placement, height, diameter and profile.
    - c. An alternative tower structure such as a clock tower, steeple, functioning security light pole, functioning recreational light pole, or any similar alternative-design support structure that conceals or camouflages the telecommunication facility. The term "functioning" as used herein means the light pole serves a useful and appropriate lighting function as well as a wireless communications function.

- d. Existing publicly-owned and operated monopole or a lattice tower exceeding the maximum height limit.
  - e. A single pole (monopole) sunk into the ground and/or attached to a foundation. Any new monopole shall be constructed to allow for co-location of at least one other similar communications provider.
  - f. A monopole mounted on a trailer or a portable foundation if the use is for a temporary communications facility.
3. **Height Requirements.**
- a. *Freestanding Antenna or Monopole.* A freestanding antenna or monopole shall not exceed a height of 15 feet above the height limit of the district in which it is located.
  - b. *Building-Mounted Facilities.* Building-mounted telecommunication facilities shall not exceed a height of 15 feet above the height limit of the district or 15 feet above the existing height of a legally established building or structure, whichever is lower, measured from the top of the facility to the point of attachment to the building.
  - c. *Facilities Mounted on Structures.* Telecommunication facilities mounted on an existing structure shall not exceed the height of the existing structure unless camouflaged as part of the structure design, except antennas may extend up to 15 feet above the height of an electric utility pole.
  - d. *Facilities Mounted on Light Poles.* A functioning security light pole or functioning recreational light pole shall have a height consistent with existing poles in the surrounding area or height usually allowed for such light poles.
4. **Design and Screening.** Telecommunication facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings, as well as any existing support structures, so as to reduce visual impacts to the extent feasible.
- a. *Stealth Facilities.* State of the art stealth design technology shall be utilized as appropriate to the site and type of facility. Where no stealth design technology is proposed for the site, a detailed analysis as to why stealth design technology is physically and technically infeasible for the project shall be submitted with the application.
  - b. *Other Facility Types.* If a stealth facility is not feasible, the order of preference for facility type is, based on their potential aesthetic impact: façade-mounted, roof-mounted, ground-mounted, and free-standing tower or monopole. A proposal for a new ground-mounted or free-standing tower shall include factual information to explain why other facility types are not feasible.
  - c. *Minimum Functional Height.* All free-standing antennas, monopoles, and lattice towers shall be designed to be the minimum functional height and width required to support the proposed antenna installation, unless it can be demonstrated that a higher antenna, monopole, or tower will facilitate co-location.

- d. *Camouflage Design.* Telecommunication facilities that are mounted on buildings or structures shall be designed to match existing architectural features, incorporated in building design elements, camouflaged, or otherwise screened to minimize their appearance in a manner that is compatible with the architectural design of the building or structure.
  - e. *Equipment Cabinets.* Equipment cabinets shall be located within the building upon which antennae are placed, if technically feasible. Otherwise, equipment cabinets and buildings, and associated equipment such as air conditioning units and emergency generators, shall be screened from view by a wall or landscaping, as approved by the City. Any wall shall be architecturally compatible with the building or immediate surrounding area.
  - f. *Landscaping.* Landscaping shall be provided for and maintained to screen any ground structures or equipment visible from a public right-of-way.
  - g. *Lighting.* Artificial lighting of a telecommunication facility, including its components, is prohibited, unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes if the beam is directed downwards, shielded from adjacent properties, and kept off except when personnel are present at night.
  - h. *Advertising.* No advertising shall be placed on telecommunication facilities, equipment cabinets, or associated structures.
5. **Security Features.** All facilities shall be designed to minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances.
- a. *Fencing.* Security fencing, if any, shall not exceed the fence height limit of the base district. Fencing shall be effectively screened from view through the use of landscaping. No chain link fences shall be visible from public view.
  - b. *Maintenance.* The permittee shall be responsible for maintaining the site and facilities free from graffiti.
6. **Radio Frequency Standards, Interference, and Noise.**
- a. *Radio Frequency.* Telecommunication facilities shall comply with federal standards for radio frequency emissions and interference. Failure to meet federal standards may result in termination or modification of the permit.
  - b. *Interference.* Telecommunications facilities shall not interfere with public safety radio communications.
  - c. *Noise.* Telecommunication facilities and any related equipment, including backup generators and air conditioning units, shall not generate continuous noise in excess of 40 decibels (dBa) measured at the property line of any adjacent residential property, and shall not generate continuous noise in excess of 50 dBa during the hours of 7:00 a.m. to 10:00 p.m. and 40 dBa during the hours of 10:00 p.m. to 7:00 a.m. measured at the property line of any nonresidential adjacent property. Backup generators shall only be operated during power outages and for

testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:00 a.m. and 5:00 p.m.

7. **Co-location.** The applicant and owner of any site on which a telecommunication facility is located shall cooperate and exercise good faith in co-locating telecommunication facilities on the same support structures or site. Good faith shall include sharing technical information to evaluate the feasibility of co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing information normally will not be considered as an excuse to the duty of good faith.
  - a. All facilities shall make available unused space for co-location of other telecommunication facilities, including space for these entities providing similar, competing services. Co-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a significant period of time. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the City may require the applicant to obtain a third party technical study at applicant's expense. The City may review any information submitted by applicant and permittee(s) in determining whether good faith has been exercised.
  - b. All co-located and multiple-user telecommunication facilities shall be designed to promote facility and site sharing. Telecommunication towers and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings, shall be shared by site users whenever possible.
  - c. No co-location may be required where it can be shown that the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing telecommunication facilities or failure of the existing facilities to meet federal standards for emissions.
  - d. Failure to comply with co-location requirements when feasible or cooperate in good faith as provided for in this section is grounds for denial of a permit request or revocation of an existing permit.
8. **Fire Prevention.** All telecommunication facilities shall be designed and operated in a manner that will minimize the risk of igniting a fire or intensifying one that otherwise occurs.
  - a. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings.
  - b. The exterior walls and roof covering of all above-ground equipment shelters and cabinets shall be constructed of materials rated as non-flammable in the Building Code.
  - c. Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures.
  - d. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and wind-blown embers to the extent feasible.

9. **Surety Bond.** As a condition of approval, an applicant for a building permit to erect or install a telecommunication facility shall be required to post a cash or surety bond in a form and amount acceptable to the City Attorney to cover removal costs of the facility in the event that its use is abandoned or the approval is otherwise terminated.
- D. **Required Findings.**
1. **General Findings.** In approving a telecommunication facility, the decision-making authority shall make the following findings:
    - a. The proposed use conforms with the specific purposes of this section and any special standards applicable to the proposed facility;
    - b. The applicant has made good faith and reasonable efforts to locate the proposed facility on a support structure other than a new ground-mounted antenna, monopole, or lattice tower or to accomplish co-location;
    - c. The proposed site results in fewer or less severe environmental impacts than any feasible alternative site; and
    - d. The proposed facility will not be readily visible or it is not feasible to incorporate additional measures that would make the facility not readily visible.
  2. **Additional Findings for Facilities Not Co-Located.** To approve a telecommunication facility that is not co-located with other existing or proposed facilities or a new ground-mounted antenna, monopole, or lattice tower the decision-making authority shall find that co-location or siting on an existing structure is not feasible because of technical, aesthetic, or legal consideration including that such siting:
    - a. Would have more significant adverse effects on views or other environmental considerations;
    - b. Is not permitted by the property-owner;
    - c. Would impair the quality of service to the existing facility; or
    - d. Would require existing facilities at the same location to go off-line for a significant period of time.
  3. **Additional Findings for Setback Reductions.** To approve a reduction in setback, the decision-making authority shall make one or more of the following findings:
    - a. The facility will be co-located onto or clustered with an existing, legally established telecommunication facility; and/or
    - b. The reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.
  4. **Additional Findings for Any Other Exception to Standards.** The Planning Commission may waive or modify requirements of this section upon finding that strict compliance would result in noncompliance with applicable federal or State law.
- E. **Vacation and Removal of Facilities.** The service provider shall notify the Director of the intent to vacate a site at least 30 days prior to the vacation. The operator of a telecommunications facility

shall remove all unused or abandoned equipment, antennas, poles, or towers within 60 days of discontinuation of the use and the site shall be restored to its original, pre-construction condition.

### 17.26.260 Temporary Uses

This section establishes standards for certain uses that are intended to be of limited duration of time and that will not permanently alter the character or physical facilities of the site where they occur.

- A. **Temporary Uses Not Requiring a Use Permit.** The following types of temporary uses may be conducted without a Use Permit. Other permits, such as Building Permits, may be required.
1. **Garage and Yard Sales.** Sales of personal property conducted by a resident of the premises may be conducted in accordance with the following standards.
    - a. No more than two garage/yard sales shall be conducted on a site in any calendar year.
    - b. No single sale event shall be conducted for longer than three consecutive days.
    - c. Garage sales shall not be held for more than two consecutive weekends. Each weekend that sales are conducted constitutes a single sale event.
    - d. Garage sales shall be conducted between the hours of 8:00 a.m. and 7:00 p.m.
    - e. A maximum of four off-site directional signs, not to exceed 18 inches by 24 inches, shall be permitted. Signs may be displayed only during the hours the garage sale is actively being conducted and shall be removed at the completion of the sale. No signs shall be placed on utility poles or in the public right-of-way.
    - f. The display of property for sale shall be located at least five feet from the property line.
  2. **Non-Profit Fund Raising.** Fund raising sales for up to three days per event is permitted on a site by a non-profit organization, not to be conducted more frequently than three times per year per site.
  3. **Temporary Construction Office Trailers.** On-site temporary construction offices during the period of construction. Screening may be required by the Director.
  4. **Sales Offices and Model Homes.** Model homes with sales offices and temporary information/sales offices in new residential developments are subject to the following requirements.
    - a. *Time Limits.*
      - i. Temporary Sales Office. A temporary information/sales trailer may be used during the construction of the model homes for a maximum period of six months or completion of the first phase of the development, whichever occurs first.
      - ii. Model Homes. Model homes may be established and operated for a term period of four years or until completion of the sale of the lots or units, whichever comes first. One year extensions may be approved by the Zoning Administrator until the sale of all lots/residences is completed.

- b. *Location of Sales.* Real estate sales conducted from a temporary sales office are limited to sales of lots or units within the development.
- c. *Return to Residential Use.* Prior to the sale of any of the model homes as a residence, any portion used for commercial purposes shall be converted to its intended residential purpose.

**B. Temporary Uses Requiring a Minor Use Permit.** Other temporary uses may be permitted with Minor Use Permit approval, subject to the following.

- 1. **Standards.** Temporary uses authorized through a Minor Use Permit are subject to the following standards. Additional or more stringent requirements may be established through the Minor Use Permit process in order to prevent the use from becoming a nuisance with regard to the surrounding neighborhood or the City as a whole.
  - a. *Mobile Vendor Services.* Mobile vendor services may be permitted in accordance with the following standards.
    - i. Display of Permits. The mobile vendor shall display current business tax certificate, health department permit (and decal), and mobile vending permit in plain view and at all times on the exterior of the vending vehicle.
    - ii. Type of Vehicle. The mobile vending vehicle shall be a self-propelled vehicle maintained in operating condition at all times. The vehicle shall not become a fixture of the site and shall not be considered an improvement to real property.
    - iii. Products. Operations are limited to the sales of food and beverage items for immediate consumption.
    - iv. Site Condition. The site shall be maintained in a safe and clean manner at all times. Exterior storage of refuse, equipment or materials associated with the mobile vending service is prohibited.
  - b. *Seasonal Sales.* The annual sales of holiday related items such as Christmas trees, pumpkins and similar items may be permitted in accordance with the following standards:
    - i. Time Period. Seasonal sales associated with holidays are allowed up to a month preceding and one week following the holiday. Christmas tree sales are allowed from Thanksgiving Day through December 31st.
    - ii. Goods, Signs and Temporary Structures. All items for sale, as well as signs and temporary structures, shall be removed within 10 days after the end of sales, and the appearance of the site shall be returned to its original state.
  - c. *Special Events and Sales.* Other short term special events that do not exceed three consecutive days, may be permitted in accordance with the following standards:
    - i. Location. Events are limited to nonresidential districts.
    - ii. Number of Events. No more than four events at one site shall be allowed within any 12-month period.



- iii. Signs. Outdoor uses may include the addition of one nonpermanent sign up to a maximum size of four square feet in area.
  - iv. Existing Parking. The available parking shall not be reduced to less than 66 percent of the minimum number of spaces required by Chapter 17.23, Parking and Loading.
  - v. Time Limit. When located adjacent to a Residential District, the hours of operation shall be limited to 9:00 a.m. to 7:00 p.m.
  - vi. Temporary Outdoor Sales. Temporary outdoor sales—including, but not limited to, grand opening events, and other special sales events—are also subject to the following standards:
    - (1) Temporary outdoor sales shall be part of an existing business on the same site.
    - (2) Outdoor display and sales areas shall be located on a paved or other approved hard surfaced area on the same lot as the structure(s) containing the business with which the temporary sale is associated.
    - (3) Location of the displayed merchandise shall not disrupt the normal circulation of the site, nor encroach upon driveways, pedestrian walkways, or required landscaped areas, or obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.
2. **Application.** An application for a Minor Use Permit for a temporary use shall be submitted at least 20 days before the use is intended to begin. The application shall be on the required form and shall include the written consent of the owner of the property or the agent of the owner.
3. **Required Findings.** The Community Development Director may approve an application for a temporary use only upon making both of the following findings:
- a. The proposed use will not unreasonably affect adjacent properties, their owners and occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the City; and
  - b. The proposed use will not unreasonably interfere with pedestrian or vehicular traffic or circulation in the area surrounding the proposed use, and will not create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.
4. **Conditions of Approval.** In approving a Minor Use Permit for a temporary use, the Director may impose reasonable conditions deemed necessary to ensure compliance with the findings listed above, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports, and temporary structures and electrical service. The Director

may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

- C. **Temporary Uses Requiring a Conditional Use Permit.** Other temporary events and special events, outdoor sales, and displays that exceed three consecutive days, may be allowed with the approval of a Conditional Use Permit so long as they are not intended to extend longer than one month and they are determined to not impact neighboring uses or otherwise create significant impacts.

#### **17.26.270 Tobacco Retailers**

Tobacco retailers shall be located, developed, and operated in compliance with the following standards:

- A. **Location.** Tobacco retailers shall be located a minimum of 1,000 feet from any other such establishment, public park, child day care facility, or school.
- B. **Access to Merchandise.** Products shall be secured so that only store employees have immediate access to the tobacco products and/or tobacco paraphernalia. Self-service displays are prohibited.
- C. **Advertising and Display of Tobacco Products.** Tobacco retailers shall comply with local, state and/or federal laws regarding sales, advertising or display of tobacco products, including, posting a sign prominently near the cash register or other point of sale, the legal age to buy tobacco products and checking the identification of all purchasers to ensure they are of legal age.
- D. **Selling or Exchange of Tobacco Products.** No minor person may sell or exchange tobacco products.
- E. **Sales to Minors.** Tobacco products shall not be given or sold to minors.

**Chapter 17.27 Reserved**

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**Chapter 17.28 Reserved**

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**Chapter 17.29 Reserved**

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# Division IV: Administration and Permits

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## **Chapter 17.30 Planning Authorities**

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### **17.30.010 Purpose**

The purpose of this Chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of the Zoning Ordinance. Subsequent chapters provide detailed information on procedures, applications, and permits. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall interpret and apply the provisions of this Ordinance as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan.

### **17.30.020 City Council**

The powers and duties of the City Council under this Ordinance include, but are not limited to the following:

- A. Consider and adopt, reject or modify amendments to the General Plan map and text pursuant to the provisions of Chapter 17.38, Amendments to General Plan, and of the Government Code, following a public hearing and recommended action by the Planning Commission.
- B. Consider and adopt amendments to the Zoning Map and to the text of this Ordinance pursuant to the provisions of Chapter 17.39, Amendments to Zoning Ordinance and Map, and the Government Code, following a public hearing and recommended action by the Planning Commission.
- C. Adopt guidelines for design review pursuant to Chapter 17.34, Design Review.
- D. Hear and decide applications for development agreements, pursuant to Chapter 17.40, Development Agreements.
- E. Hear and decide appeals from decisions of the Planning Commission pursuant to Section 17.31.110, Appeals.
- F. Call for review a decision of the Director, Zoning Administrator, or Planning Commission pursuant to Section 17.31.100, Calls for Review.
- G. Appoint and remove members of the Planning Commission as provided for in Title 2, Administration and Personnel, of the Newark Municipal Code.
- H. Establish, by resolution, a Municipal Fee Schedule listing fees, charges, and deposits for various applications and services provided, pursuant to this Ordinance.

### **17.30.030 Planning Commission**

The Planning Commission is established and organized pursuant to Chapter 2.12, Planning Commission, of the Newark Municipal Code and the requirements of the Government Code. The powers and duties of the Planning Commission under this Ordinance include, but are not limited to the following:

- A. Conduct hearings and make recommendations to the City Council on proposed amendments to the General Plan map and text, pursuant to Chapter 17.38, Amendments to General Plan.



- B. Conduct hearings, and make recommendations to the City Council on proposed amendments to the Zoning Map and to the text of this Ordinance, pursuant to Chapter 17.39, Amendments to Zoning Ordinance and Map.
- C. Approve, conditionally approve, modify, or deny Conditional Use Permits and Variances, pursuant to Chapter 17.35, Use Permits, and Chapter 17.36, Variances.
- D. Hear and decide on modifications to approved Conditional Use Permits and Variances, pursuant to Section 17.31.140, Modification of Approved Plans.
- E. Hear and decide proposals to revoke permits, pursuant to Section 17.31.150, Revocation of Permits, following a public hearing.
- F. Hear and decide appeals from decisions of the Community Development Director or the Zoning Administrator on decisions, determinations, or interpretations made in the enforcement of this Ordinance and any other decisions that are subject to appeal, pursuant to Section 17.31.110, Appeals.
- G. Call for review a decision of the Director or Zoning Administrator pursuant to Section 17.31.100, Calls for Review.
- H. Make environmental determinations on any approvals it grants that are subject to environmental review under the California Environmental Quality Act pursuant to State law.
- I. Prepare and recommend to the City Council for adoption guidelines for conducting design review, pursuant to Chapter 17.34, Design Review.
- J. Conduct design review on any approvals it grants that are subject to design review pursuant to Chapter 17.34, Design Review.
- K. Such other duties and powers as assigned or directed by the City Council.

#### **17.30.040 Community Development Director**

The following powers and duties of the Community Development Director (the "Director") under this Ordinance include, but are not limited to the following.

- A. Maintain and administer the Zoning Ordinance, including processing of applications, abatements and other enforcement actions.
- B. Interpret the Zoning Ordinance to members of the public and to other City Departments.
- C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business. These rules and procedures shall be as approved by a resolution of the City Council following review and recommendation of the Planning Commission. They may include the administrative details of hearings officiated by the Director (e.g., scheduling, rules of procedure and recordkeeping).
- D. Issue administrative regulations for the submission and review of applications subject to the requirements of this Ordinance and Government Code Section 65950, Deadlines for Project Approval Conformance; Extensions.

- E. Review applications for permits and licenses for conformance with this Ordinance and issue a Zoning Clearance when the proposed use, activity or building is allowed by right and conforms to all applicable development and use standards.
- F. Review applications for discretionary permits and approvals under this Ordinance for conformance with applicable submission requirements and time limits.
- G. Review applications for discretionary permits and approvals to determine whether the application is exempt from review under the California Environmental Quality Act and notify the applicant if any additional information is necessary to conduct the review.
- H. Process and make recommendations to the City Council on all applications, amendments, appeals and other matters upon which the Council has the authority and the duty to act under this Ordinance.
- I. Process and make recommendations to the Planning Commission on all applications, appeals and other matters upon which the Commission has the authority and the duty to act under this Ordinance.
- J. Conduct design review pursuant to Chapter 17.34, Design Review.
- K. Approve, conditionally approve, modify or deny applications for Minor Use Permits, pursuant to Chapter 17.35, Use Permits.
- L. Refer items to the Planning Commission where, in his/her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- M. Negotiate the components and provisions of development agreements for recommendation to the City Council.
- N. Serve as Staff of the Planning Commission.
- O. Investigate and make reports to the Planning Commission on violations of permit terms and conditions when the City has initiated revocation procedures.
- P. Delegate administrative functions to members of the Planning Division as deemed necessary.
- Q. Serve as or appoint a Zoning Administrator pursuant to Section 17.30.050, Zoning Administrator.
- R. Other duties and powers as may be assigned by the City Council or established by legislation.

### **17.30.050 Zoning Administrator**

The Zoning Administrator is a City staff member appointed by the Director with the following powers and duties.

- A. Approve, conditionally approve, modify or deny requests for waivers to dimensional requirements, pursuant to Chapter 17.37, Waivers.
- B. Decide requests for minor modifications to approved permits, pursuant to Section 17.31.140, Modification of Approved Plans.
- C. Refer items to the Planning Commission where, in his/her opinion, the public interest would be better served by a Planning Commission public hearing and action.
- D. Other duties and powers as may be assigned by the Director.

**17.30.060 Summary of Review Authorities for Decisions and Appeals**

<b>TABLE 17.30.060: REVIEW AUTHORITY</b>				
<i>Type of Decision</i>	<i>Chapter</i>	<i>Advisory Body</i>	<i>Decision Maker</i>	<i>Appeal Body</i>
Interpretations	17.31	N/A	Director	Planning Commission
Minor Changes to Approved Permit	17.31	N/A	Zoning Administrator	Planning Commission
Major Changes to Approved Permit	17.31	Zoning Administrator	Review Authority of Original Permit	Appeal Body for Applicable Review Authority
Permit Revocation	17.31	Planning Commission	City Council	Superior Court
Zoning Clearance	17.32	N/A	Director	Planning Commission
Certificate of Occupancy	17.33	N/A	Building Official	City Council
Design Review	17.34	N/A	Director or Planning Commission	Planning Commission or City Council
Minor Use Permit	17.35	N/A	Director	Planning Commission
Conditional Use Permit	17.35	Director	Planning Commission	City Council
Variance	17.36	Director	Planning Commission	City Council
Waiver	17.37	N/A	Zoning Administrator	Planning Commission
General Plan Text and Map Amendments	17.38	Planning Commission	City Council	Superior Court
Zoning Text and Map Amendments	17.39	Planning Commission	City Council	Superior Court
Planned Development Districts	17.12	Planning Commission	City Council	Superior Court
Development Agreement	17.40	Planning Commission	City Council	Superior Court

## Chapter 17.31 Common Procedures

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### 17.31.010 Purpose

This Chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in this Ordinance, unless superseded by specific requirement of this Ordinance or State law.

### 17.31.020 Application Forms and Fees

- A. **Applicant.** The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof, satisfactory to the Director, of the right to use and possess the property as applied for, shall accompany the application.
- B. **Application Forms and Materials.**
1. **Application Forms.** The Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Ordinance.
  2. **Supporting Materials.** The Director may require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples and other items necessary to describe existing conditions and the proposed project and to determine the level of environmental review pursuant to the California Environmental Quality Act (CEQA).
  3. **Availability of Materials.** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.
- C. **Application Fees.**
1. **Schedule of Fees.** The City Council shall approve by resolution a Master Fee Schedule that establishes fees for permits, informational materials, penalties, copying, and other such items.
  2. **Payment of Fees.** No application shall be accepted as complete and processed without payment of a fee unless a fee waiver has been approved.
  3. **Multiple Applications.** The City's processing fees are cumulative. For example, if an application for Design Review also includes a Conditional Use Permit, both fees shall be charged.
  4. **Fee Waiver.** No fee shall be required when the applicant is the City, or if it is waived under any other provision of the Municipal Code.
  5. **Refund of Fees.** Application fees are refundable at the discretion of the Director with good cause unless otherwise provided for in the Newark Municipal Code or by policy of the City Council.

### 17.31.030 Pre-Application Review

Pre-application review is an optional review process that is intended to provide information on relevant policies, zoning regulations, and procedures. This review is intended for large or complex projects and projects that are potentially controversial.

- A. **Exemption from Permit Streamlining Act.** Pre-application review is not subject to the requirements of the California Permit Streamlining Act (the Act). An application that is accepted for pre-application review shall not be considered complete pursuant to the requirements of the Act unless and until the Director has received an application for approval of a development project, reviewed it, and determined it to be complete under Section 17.31.030, Review of Applications.
- B. **Review Procedure.** The Planning Division shall conduct pre-application review. The Director may consult with or request review by any City agency or official with interest in the application.
- C. **Recommendations are Advisory.** Neither the pre-application review nor the provision of information and/or pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from pre-application review are considered advisory only and shall not be binding on either the applicant or the City.

### 17.31.040 Review of Applications

- A. **Review Process.** The Director shall determine whether an application is complete within 30 days of the date the application is filed with the required fee.
- B. **Incomplete Application.** If an application is incomplete, the Director shall provide written notification to the applicant listing the applications for permit(s), forms, information, and any additional fees that are necessary to complete the application.
  - 1. **Zoning Ordinance Violations.** An application shall not be found complete if conditions exist on the site in violation of this Ordinance or any permit or other approval granted in compliance with this Ordinance, unless the proposed project includes the correction of the violations.
  - 2. **Appeal of Determination.** Determinations of incompleteness are subject to the provisions of Section 17.31.110, Appeals, except there shall be a final written determination on the appeal no later than 60 days after receipt of the appeal. The fact that an appeal is permitted to both the Planning Commission and the City Council does not extend the 60-day period.
  - 3. **Submittal of Additional Information.** The applicant shall provide the additional information within the time limit specified by the Director, which shall be no sooner than 30 days. The Director may grant one extension of up to 90 days.
  - 4. **Expiration of Application.** If an applicant fails to correct the specified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.

- C. **Complete Application.** When an application is determined to be complete, the Director shall make a record of that date. If an application requires a public hearing, the Director shall schedule it and notify the applicant of the date and time.
- D. **Extensions.** The Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Ordinance.

### 17.31.050 Environmental Review

All projects shall be reviewed for compliance or exemption with the California Environmental Quality Act (CEQA). Environmental review will be conducted pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines). If Title 14 of the California Code is amended, such amendments will govern City procedures.

### 17.31.060 Public Notice

Unless otherwise specified, whenever the provisions of this Ordinance require public notice, the City shall provide notice in compliance with State law as follows.

- A. **Mailed Notice.** At least 10 days before the date of the public hearing or 15 days before the date of action when no public hearing is required, the Director, or the City Clerk for hearings before the City Council, shall provide notice by First Class mail delivery to:
  - 1. The applicant, the owner, and any occupant of the subject property;
  - 2. All property owners of record within a minimum 500-foot radius of the subject property as shown on the latest available assessment role or a larger radius if deemed necessary by the Director in order to provide adequate public notification;
  - 3. All neighborhood and community organizations that have previously filed a written request for notice of projects in the area where the site is located; and
  - 4. Any person or group who has filed a written request for notice regarding the specific application.
- B. **Posted Notice.** The applicant shall post a notice, in a format approved by the Planning Division, in a prominent place on the site for the 10 days prior to a public hearing.
- C. **Newspaper Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required, the Director or the City Clerk for hearings before the City Council, shall publish a notice in at least one newspaper of general circulation in the City.
- D. **Alternative Method for Large Mailings.** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Director or City Clerk may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least 10 days prior to the hearing.
- E. **Contents of Notice.** The notice shall include the following information:
  - 1. The location of the real property, if any, that is the subject of the application;
  - 2. A general description of the proposed project or action;

3. The date, time, location, and purpose of the public hearing or the date of action when no public hearing is required;
  4. The identity of the hearing body or officer;
  5. The names of the applicant and the owner of the property that is the subject of the application;
  6. The location and times at which the complete application and project file, including any environmental impact assessment prepared in connection with the application, may be viewed by the public;
  7. A statement that any interested person or authorized agent may appear and be heard;
  8. A statement describing how to submit written comments; and
  9. For Council hearings, the Planning Commission recommendation.
- F. **Failure to Notify Individual Properties.** The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive a mailed notice.

#### **17.31.070 Conduct of Public Hearings**

Whenever the provisions of this Ordinance require a public hearing, the hearing shall be conducted in compliance with the requirements of State law as follows.

- A. **Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.
- B. **Scheduling.** Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Director.
- C. **Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.
- D. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.
- E. **Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
- F. **Continuance of Public Hearing.** The body conducting the public hearing may by motion continue the public hearing to a fixed date, time and place or may continue the item to an undetermined date and provide notice of the continued hearing.
- G. **Investigations.** The body conducting the hearing may cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it. Such investigation may be made by a committee of one or more members of the hearing body or by City staff. The facts established by such investigation shall be submitted to the hearing body either in writing, to be

filed with the records of the matter, or in testimony before the hearing body, and may be considered by the body in making its decision.

- H. **Decision.** The public hearing shall be closed before a vote is taken.

### **17.31.080 Timing and Notice of Action and Findings Required**

When making a decision to approve, approve with conditions, modify, revoke or deny any discretionary permit under this Ordinance, the responsible authority shall issue a Notice of Action and make findings of fact as required by this Ordinance.

- A. **Date of Action.** The responsible authority shall decide to approve, modify, revoke, or deny any discretionary permit following the close of the public hearing, or if no public hearing is required, within the time period set forth below. These deadlines do not apply to any action that has been appealed to the City Council in accordance with Section 17.31.110, Appeals. Time extensions may be granted pursuant to Section 17.31.130, Expiration and Extension.
1. **Project Exempt from Environmental Review.** Within 30 days of the date the City has determined an application to be complete, a determination must be made whether the project is exempt from Environmental Review per State CEQA requirements.
  2. **Project for which a Negative Declaration or Mitigated Negative Declaration is Prepared.** Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been completed and adopted for project approval, the City shall take action on the accompanying discretionary project.
  3. **Project for which an EIR is Prepared.** Within 180 days from the date the decision-making authority certifies a Final EIR, the City shall take action on the accompanying discretionary project.
- B. **Notice of Action.** After the Zoning Administrator, Director or Planning Commission takes any action to approve, modify, or deny an application that is subject to appeal under the terms of this Ordinance, the Director shall issue a Notice of Action. The Notice shall describe the action taken, including any applicable conditions, shall list the findings that were the basis for the decision, and shall include the procedure for appealing the decision. The Director shall file the Notice with the City Clerk and mail the Notice to the applicant, to the members of the City Council and the Planning Commission, and to any other person or entity that has filed a written request for such notification with the Planning Division.
- C. **Findings.** Findings, when required by State law or this Ordinance, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the permit.

### **17.31.090 Scope of Approvals**

- A. **Scope.** Any approval permits only those uses and activities actually proposed in the application, and excludes other uses and activities. Unless otherwise specified, the approval of a new use shall terminate all rights and approvals for previous uses no longer occupying the same site or location.



- B. **Conditions of Approval.** The site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval. Any approval may be subject to requirements that the applicant guarantees, warranties or insures compliance with permit's plans and conditions in all respects.
- C. **Actions Voiding Approval.** If the construction of a building or structure or the use established is contrary to the description or illustration in the application, so as to either violate any provision of this Ordinance or require additional permits, then the approval shall be deemed null and void.
- D. **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the permit holder, the property owner or successor property owners to comply with such conditions.

#### **17.31.100 Calls for Review**

- A. **Applicability.** Notice of decision by the Director or Zoning Administrator shall be communicated to the Planning Commission and City Council members immediately after approval. Notice shall be made to each member individually and any calls for review shall be made as follows:
  - 1. A member of the Planning Commission may call for review of a decision of the Director or Zoning Administrator.
  - 2. A member of the City Council may call for review of a decision of the Director, Zoning Administrator, or Planning Commission.
  - 3. If a decision is called for review by both the Planning Commission and the City Council, the City Council shall conduct the review.
  - 4. Such call for review shall not require any statement of reasons and shall not represent opposition to or support of a decision, application, or appeal.
- B. **Time Limits.** All calls for review shall be received within 14 calendar days of the date which the decision was communicated to the Planning Commission and City Council. In the event the 14-calendar day period ends on a Saturday, Sunday, or any other day the City is closed, the time period shall end at the close of business on the next consecutive business day.
- C. **Procedure.**
  - 1. **Design Review and Other Ministerial Actions.** Where the call for review regards a Design Review or other ministerial action, the call for review shall be scheduled as a staff report item at the next available meeting of the body which called for review.
  - 2. **Use Permits and Other Discretionary Actions.** Where the call for review regards a Use Permit or other discretionary action, the call for review shall be processed in the same manner as an appeal by any other person.

### 17.31.110 Appeals

- A. **Applicability.** Any action by the Zoning Administrator, Director, or Planning Commission in the administration or enforcement of the provisions of this Ordinance may be appealed in accordance with this Section.
1. **Appeals of Zoning Administrator Decisions.** Decisions of the Zoning Administrator may be appealed to the Planning Commission by filing a written appeal with the Planning Division.
  2. **Appeals of Director Decisions.** Decisions of the Director may be appealed to the Planning Commission by filing a written appeal with the Planning Division.
  3. **Appeals of Planning Commission Decisions.** Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk.
- B. **Rights of Appeal.** Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Ordinance.
- C. **Time Limits.** Unless otherwise specified in State or federal law, all appeals shall be filed in writing within 14 calendar days of the date which the action was taken. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.
- D. **Procedures.**
1. **Filing.** The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee.
  2. **Proceedings Stayed by Appeal.** The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses.
  3. **Transmission of Record.** The Director, or in the case of appeals to the City Council, City Clerk, shall schedule the appeal for consideration by the authorized hearing body within 45 days of the date the appeal is filed. The Director shall forward the appeal, the Notice of Action, and all other documents that constitute the record to the hearing body. The Director shall also prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.
- E. **Standards of Review.** When reviewing any decision on appeal, the appeal body shall use the same standards for decision-making required for the original decision. The appeal body may adopt the same decision and findings as were originally approved; it also may request or require changes to the application as a condition of approval.
- F. **Public Notice and Hearing.** Public notice shall be provided and the hearing conducted by the applicable appeal body pursuant to Chapter 17.31, Common Procedures. Notice of the hearing shall also be given to the applicant and party filing the appeal and any other interested person who has filed with the City Clerk a written request for such notice. In the case of an appeal of a Planning Commission decision, notice of such appeal shall also be given to the Planning Commission. The Planning Commission may be represented at the hearing.

- G. **Action.** An action to grant an appeal shall require a majority vote of the hearing body members. A tie vote shall have the effect of rejecting the appeal.

#### **17.31.120 Effective Dates**

A final decision on an application for any approval subject to appeal shall become effective after the expiration of the 14-calendar day appeal period following the date of action, unless an appeal is filed pursuant to Section 17.31.110, Appeals, or a member of the Planning Commission or City Council call for review of a decision pursuant to Section 17.31.100, Calls for Review. No building permit or business license shall be issued until the 15th calendar day following the date of the action. If a different termination date is fixed at the time of granting, or if actual construction or alteration has begun under valid building permits, the 14-calendar day period may be waived.

#### **17.31.130 Expiration and Extension**

- A. **Expiration.** The decision-maker, in the granting of any permit, may specify a time, consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare, within which the proposed use must be undertaken and actively and continuously pursued. If no time period is specified, any permit granted under this Ordinance shall automatically expire if it is not exercised or extended within two years of its approval.
- B. **Exercise of Use Permit.** A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the site.
- C. **Exercise of Building Permit.** A permit for the construction of a building or structure is exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- D. **Extensions.** The Zoning Administrator may approve a two-year extension of any permit or approval granted under this Ordinance upon receipt of a written application with the required fee within two years of the date of the approval.

#### **17.31.140 Modification of Approved Plans**

No change in the use or structure for which a permit or other approval has been issued is permitted unless the permit is modified as provided for in this Ordinance. For the purpose of this Section, the modification of a permit may include modification of a design review approval.

- A. **Minor Modifications.** The Zoning Administrator may approve minor changes to approved plans that are consistent with the original findings and conditions approved by the hearing body and would not intensify any potentially detrimental effects of the project.
- B. **Major Modifications.** A request for changes in conditions of approval of a discretionary permit or a change in an approved site plan or building plan that would affect a condition of approval shall be treated as a new application, except that the Zoning Administrator may approve changes determined to be minor.

### 17.31.150 Revocation of Permits

Any permit granted under this Ordinance may be revoked or modified for cause if any of the conditions or terms of the permit are violated or if any law or ordinance is violated. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

- A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the City Council, Planning Commission, Director, or Zoning Administrator.
- B. **Public Notice, Hearings and Action.** After conducting a duly-noticed public hearing, the Planning Commission shall act on the proposed revocation.
- C. **Required Findings.** The Planning Commission may revoke or modify the permit if it makes any of the following findings:
  - 1. The approval was obtained by means of fraud or misrepresentation of a material fact;
  - 2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or substantially changed in character;
  - 3. The use in question has ceased to exist or has been suspended for six months or more;
  - 4. There is or has been a violation of or failure to observe the terms or conditions of the permit or Variance, or the use has been conducted in violation of the provisions of this Ordinance, or any applicable law or regulation; or
  - 5. The use to which the permit or Variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.
- D. **Notice of Action.** Following Planning Commission action to revoke or modify a permit, the Director shall within seven days issue a Notice of Action describing the Commission's action, with its findings. The Director shall mail notice to the permit holder and to any person who requested the revocation proceeding.

### 17.31.160 Interpretations and Determinations

Requests for interpretations of this Ordinance and verifications relating to prior approvals or permits may be made to the Director. Requests shall be in writing. The decision of the Director on such requests may be appealed under Section 17.31.110, Appeals.

## Chapter 17.32 Zoning Clearance

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### 17.32.010 Purpose

This Chapter establishes procedures for conducting a Zoning Clearance to verify that each new or expanded use, activity, or structure complies with all of the applicable requirements of this Ordinance.

### 17.32.020 Applicability

A Zoning Clearance is required for buildings or structures erected, constructed, altered, repaired or moved, the use of vacant land, changes in the character of the use of land or building, or for substantial expansions in the use of land or building, which are allowed as a matter of right by this Ordinance.

### 17.32.030 Review and Decision

Before the City may issue any building permit, subdivision approval, or lot line adjustment, the Director shall review the application to determine whether the use, building, or change in lot configuration complies with all provisions of this Ordinance or any design review, Use Permit or Variance approval and that all conditions of such permits and approvals have been satisfied.

- A. **Application.** Applications and fees for a Zoning Clearance shall be submitted in accordance with the provisions set forth in Section 17.31.020, Application Forms and Fees. The Director may request that the Zoning Clearance application be accompanied by a written narrative, plans and other related materials necessary to show that the proposed development, alteration, or use of the site complies with all provisions of this Ordinance and the requirements and conditions of any applicable design review, Use Permit, or Variance approval.
- B. **Determination.** If the Director determines that the proposed use or building is allowed as a matter of right by this Ordinance, and conforms to all the applicable development and use standards, the Director shall issue a Zoning Clearance. An approved Zoning Clearance may include attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections, as a record of the proposal's conformity with the applicable regulations of this Ordinance.
- C. **Exceptions.** No Zoning Clearance shall be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations.

## **Chapter 17.33 Certificate of Occupancy**

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### **17.33.010 Purpose**

This Chapter establishes procedures for issuing a Certificate of Occupancy to verify that buildings and the proposed use of land complies with all applicable building and health laws and ordinances and with the requirements of this Ordinance.

### **17.33.020 Certificate of Occupancy Required**

No structure erected, moved, altered or enlarged after the effective date of this Ordinance shall be occupied or used, and no site shall be occupied or used until a Certificate of Occupancy has been issued by the Building Official.

### **17.33.030 Application**

Application for a Certificate of Occupancy shall be filed with the Building Official prior to the erection, moving, alteration or enlargement of any structure and prior to the commencement of a new use or a change in use of any structure or site.

### **17.33.040 Issuance**

The Building Official shall issue a Certificate of Occupancy upon receipt of written notice that the structure or site is ready for occupancy or use and after inspection; provided, that the structure or site and the intended use conform with all applicable building and health laws and ordinances and with the requirements of this Ordinance.

## Chapter 17.34 Design Review

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### 17.34.010 Purpose

This Chapter establishes the design review procedure to ensure that new development supports the goals and objectives of the General Plan and other adopted plans and guidelines. The specific purposes of the design review process are to:

- A. Promote excellence in site planning and design and the harmonious appearance of buildings and sites;
- B. Ensure that new and modified uses and development will be compatible with the existing and potential development of the surrounding area; and
- C. Supplement other City regulations and standards in order to ensure control of aspects of design that are not otherwise addressed.

### 17.34.020 Applicability

Design review is required for all projects that require a permit for new construction, reconstruction, rehabilitation, alteration, or other improvements to the exterior of a structure, site, or a parking area except for:

- A. Additions, construction, reconstruction, alterations, improvements, and landscaping for a project developed in compliance with a previous design review approval; and
- B. Replacement of exterior materials, including openings, with the same materials.

### 17.34.030 Assignment of Design Review Responsibilities

- A. **Planning Commission.** The Planning Commission shall have design review authority for all projects requiring Planning Commission approval (such as Conditional Use Permits and Variances).
- B. **Director.**
  - 1. The Director shall have design review authority for all projects that do not meet the criteria listed in Subsection A for a decision by the Planning Commission.
  - 2. The Director may refer items directly to the Planning Commission when in his/her opinion the public interest would be better served by having the Planning Commission conduct design review.

### 17.34.040 Procedures; Design Guidelines

- A. **Forms and Fees.** Written applications for design review applications shall be submitted to the Planning Division in compliance with the application procedures in Chapter 17.31, Common Procedures.
- B. **Design Guidelines.** All projects shall be consistent with applicable design guidelines. Design guidelines provide recommendations to be used in the design review process. They are intended to promote high-quality design, well-crafted and maintained buildings and landscaping, the use

of high-quality building materials, and attention to the design and execution of building details and amenities in both public and private projects.

- C. **Concurrent Processing.** When a development project requires a Use Permit, Variance, or any other discretionary approval, the design review application shall be submitted to the Planning Division as a part of the application for the underlying permit, Use Permit, or Variance.

#### **17.34.050 Scope of Design Review**

- A. **Design Review Considerations.** Design review shall be based on consideration of the requirements of this Chapter as they apply to the design of the site plan, structures, landscaping, and other physical features of a proposed project, including:
  1. Building proportions, massing, and architectural details;
  2. Site design, orientation, location, and architectural design of buildings relative to existing structures on or adjacent to the property, topography, and other physical features of the natural and built environment;
  3. Size, location, design, development, and arrangement of on-site parking and other paved areas;
  4. Exterior materials and, except in the case of design review of a single-family residence, color as they relate to each other, to the overall appearance of the project, and to surrounding development;
  5. Height, materials, design, fences, walls, and screen plantings;
  6. Location and type of landscaping including selection and size of plant materials, and design of hardscape; and
  7. Size, location, design, color, lighting, and materials of all signs.
- B. **Reduction in Density or Floor Area Ratio Prohibited.** Design review shall not result in a reduction in the residential density or the allowable square footage of a proposed project.

#### **17.34.060 Design Review Criteria**

When conducting design review, the review authority shall evaluate applications to ensure that they satisfy the following criteria, conform to the policies of the General Plan and any applicable specific plan, any adopted design guidelines, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain design review approval, projects must satisfy the following criteria to the extent they apply.

- A. The overall design of the project including its scale, massing, site plan, exterior design, and landscaping will enhance the appearance and features of the project site and surrounding natural and built environment.
- B. The project design is appropriate to the function of the project and will provide an attractive and comfortable environment for occupants, visitors, and the general community.
- C. Project details, materials, signage and landscaping, are internally consistent, fully integrated with one another, and used in a manner that is visually consistent with the proposed architectural design.



- D. The design of streetscapes, including street trees, lighting, and pedestrian furniture, is consistent with the intended character of the area.
- E. Parking areas are designed and developed to buffer surrounding land uses; compliment pedestrian-oriented development; enhance the environmental quality of the site, including minimizing stormwater run-off and the heat-island effect; and achieve a safe, efficient, and harmonious development.
- F. Lighting and lighting fixtures are designed to complement buildings, be of appropriate scale, provide adequate light over walkways and parking areas to create a sense of pedestrian safety, and avoid creating glare.
- G. Landscaping is designed to be compatible with and enhance the architectural character and features of the buildings on site, and help relate the building to the surrounding landscape.

#### **17.34.070 Notice of Action; Appeals; Expiration, Extensions, and Modifications**

**A. Notice of Action.**

1. ***Design Review by the Director.*** Where design review is conducted by the Director, Notice of Action shall be provided pursuant to Subsection 17.31.080.B, Notice of Action. In addition to the recipients identified in Subsection 17.31.080.B, Notice of Action, Notice shall also be provided as follows:
  - a. *Single-Unit Residential Development.* First Class mail delivery to all property owners within a minimum 200-foot radius of the subject property as shown on the latest available assessment role.
  - b. *Development Other Than Single-Unit Residential Development.* First Class mail delivery to all property owners within a minimum 400-foot radius of the subject property as shown on the latest available assessment role.
2. ***Design Review by the Planning Commission.*** Where design review is conducted by the Planning Commission, Notice of Action of design review shall be provided concurrently with the associated project approval (such as the Conditional Use Permit or Variance).

**B. Appeals.** Design review decisions are subject to the appeal provisions of Section 17.31.110, Appeals.

**C. Expiration, Extensions and Modifications.** Design review approval is effective and may only be extended or modified as provided for in Chapter 17.31, Common Procedures.

## Chapter 17.35 Use Permits

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### 17.35.010 Purpose

The Use Permit review and approval process is intended to apply to uses that are generally consistent with the purposes of the zoning district where they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties.

### 17.35.020 Applicability

Approval of a Use Permit is required for uses or developments specifically identified in Article II, Base and Overlay Districts, and/or any other section of this Ordinance which requires a Use Permit.

### 17.35.030 Review Authority

- A. **Conditional Use Permits.** The Planning Commission shall approve, conditionally approve, or deny applications for Conditional Use Permits based on consideration of the requirements of this Chapter.
- B. **Minor Use Permits.** The Zoning Administrator shall approve, conditionally approve, or deny applications for Minor Use Permits based on consideration of the requirements of this Chapter. The Zoning Administrator may, at his/her discretion, refer any application for a Minor Use Permit for a project that may generate substantial public controversy or involve significant land use policy decisions to the Planning Commission for a decision rather than acting on it himself/herself. In that case, the application shall be processed as a Conditional Use Permit.

### 17.35.040 Application Requirements

Applications for Use Permits shall be filed with the Planning Division on the prescribed application forms. In addition to any other application requirements, the application for a Use Permit shall include data or other evidence in support of the applicable findings required by Section 17.35.060, Required Findings, below.

### 17.35.050 Public Notice and Hearing

- A. **Conditional Use Permits.** All applications for Conditional Use Permits shall require public notice and hearing before the Planning Commission pursuant to Chapter 17.31, Common Procedures.
- B. **Minor Use Permits.** Minor Use Permit applications do not require public notice or hearing.

### 17.35.060 Required Findings

The decision-maker must make all of the following findings in order to approve or conditionally approve a Use Permit application. The inability to make one or more of the findings is grounds for denial of an application.

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Ordinance and all other titles of the Municipal Code;

- B. The proposed use is consistent with the General Plan and any applicable specific plan;
- C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements;
- D. Tax revenue generated by the development will exceed the City's cost of the service demand as a result of the development or a compelling community benefit will be provided.
- E. The proposed use complies with any design or development standards applicable to the zoning district or the use in question unless waived or modified pursuant to the provisions of this Ordinance;
- F. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and
- G. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

#### **17.35.070 Conditions of Approval**

In approving a Use Permit, the decision-maker may impose reasonable conditions or restrictions deemed necessary to:

- A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;
- B. Achieve the general purposes of this Ordinance or the specific purpose of the zoning district in which the project is located;
- C. Generate tax revenue in an amount that exceeds the City's cost of service demand as a result of the development or provide a compelling community benefit.
- D. Achieve the findings for a Use Permit listed in Section 17.35.060, Required Findings, above; or
- E. Mitigate any potentially significant impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The decision-maker may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

#### **17.35.080 Notice of Action; Appeals; Expiration, Extensions, and Modifications**

- A. **Notice of Action.** Notice of Action shall be provided pursuant to Subsection 17.31.080.B, Notice of Action.
- B. **Appeals.** A decision of the Zoning Administrator may be appealed to the Planning Commission and a decision of the Planning Commission may be appealed to the City Council, as provided in Section 17.31.110, Appeals.
- C. **Expiration, Extensions and Modifications.** Use Permits are effective and may only be extended or modified as provided for in Chapter 17.31, Common Procedures.

## Chapter 17.36 Variances

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### 17.36.010 Purpose

This Chapter is intended to provide a mechanism for relief from the strict application of this Ordinance where this will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

### 17.36.020 Applicability

Variances may be granted to vary or modify dimensional and performance standards, but Variances may not be granted to allow uses or activities that this Ordinance does not authorize for a specific lot or site.

### 17.36.030 Procedures

- A. **Review Authority.** The Planning Commission shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this Chapter.
- B. **Application Requirements.** Applications for a Variance shall be filed with the Planning Division on the prescribed application forms in accordance with the procedures in Chapter 17.31, Common Procedures. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section 17.36.040, Required Findings.
- C. **Public Notice and Hearing.** An application for a Variance shall require public notice and hearing before the Planning Commission pursuant to Chapter 17.31, Common Procedures.

### 17.36.040 Required Findings

After conducting a public hearing, the Planning Commission may approve or conditionally approve a Variance application if all of the following findings are made. The Commission shall deny an application for a Variance if it is unable to make any of the required findings, in which case it shall state the reasons for that determination.

- A. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning district, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone district;
- B. The granting of the application is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;
- C. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare or convenience; and
- D. The granting of the Variance will be consistent with the general purposes and objectives of this Ordinance, any applicable specific plans, and of the General Plan.

### **17.36.050 Conditions of Approval**

In approving a Variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section 17.36.040, Required Findings, above and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

### **17.36.060 Notice of Action; Appeals; Expiration, Extensions, and Modifications**

- A. **Notice of Action.** Notice of Action shall be provided pursuant to Subsection 17.31.080.B, Notice of Action.
- B. **Appeals.** The applicant or any other aggrieved party may appeal a decision on a Variance pursuant to the provisions of Section 17.31.110, Appeals.
- C. **Expiration, Extensions and Modifications.** Variances are effective and may only be extended or modified as provided for in Chapter 17.31, Common Procedures.

## Chapter 17.37 Waivers

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### 17.37.010 Purpose

The purpose of this Chapter is to establish an alternate means of granting relief from the requirements of this Ordinance when so doing would be consistent with the purposes of the Ordinance and it is not possible or practical to approve a Variance. It also allows the Director to grant waivers when necessary to comply with the Federal Fair Housing Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act to provide reasonable accommodation to persons with disabilities seeking fair access to housing through a waiver of the application of the City's zoning regulations.

### 17.37.020 Applicability

Waivers may be granted as follows:

- A. **Dimensional Requirements.** Relief from dimensional requirements of property development standards specified in this Ordinance, not to exceed 10 percent of the requirement, may be granted in accordance with the requirements of this Chapter.
- B. **Accommodation of Disabilities.** A waiver of any zoning regulation where the waiver is necessary to allow improvements to an existing building in order to provide reasonable accommodations to individuals with disabilities. This waiver is not available in the case of new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a waiver.
- C. **Exclusions.** Waivers cannot be granted for any of the following standards:
  - 1. Lot area, width, or depth.
  - 2. Residential density.

### 17.37.030 Procedures

- A. **Review Authority.** The Director shall approve, conditionally approve, or deny applications for waivers based on consideration of the requirements of this Chapter.
- B. **Concurrent Processing.** If a request for a waiver is being submitted in conjunction with an application for another approval, permit, or entitlement under this Ordinance, it shall be heard and acted upon at the same time and in the same manner as that application.
- C. **Application Requirements.** An application for a waiver shall be filed to the Director in accordance with Section 17.31.020, Application Forms and Fees. The application shall state in writing the nature of the waiver requested and explain why the findings necessary to grant the waiver are satisfied. The applicant shall also submit plans delineating the requested waiver.
- D. **Review of Requests for Reasonable Accommodation to Ensure Access to Housing.** The Director shall issue a written decision within 45 days of the date of the application and may grant the reasonable accommodation request, grant with waivers, or deny the request. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process.

### **17.37.040 Required Findings**

A decision to grant a waiver shall be based on the following findings:

- A. The waiver is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance.
- B. There are no alternatives to the requested waiver that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public.
- C. The granting of the requested waiver would not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Ordinance.
- D. If the waiver requested is to provide reasonable accommodation pursuant to State or federal law, in addition to any other findings that this Chapter requires, the decision-maker must also make the following findings:
  - 1. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;
  - 2. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or federal law;
  - 3. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
  - 4. That denial of the requested minor exception or waiver would impose a substantial burden on religious exercise or would conflict with any State or federal statute requiring reasonable accommodation to provide access to housing.

### **17.37.050 Conditions of Approval**

- A. In approving a waiver, the decision-maker may impose any conditions deemed necessary to:
  - 1. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;
  - 2. Achieve the general purposes of this Ordinance or the specific purposes of the zoning district in which the project is located;
  - 3. Achieve the findings for a waiver granted; or
  - 4. Mitigate any potentially significant impacts identified as a result of review conducted in compliance with the California Environmental Quality Act.
- B. Waivers approved based on State or federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.

**17.37.060 Notice of Action; Appeals; Expiration, Extensions, and Revisions**

- A. **Notice of Action.** Notice of Action shall be provided pursuant to Subsection 17.31.080.B, Notice of Action.
- B. **Appeals.** The applicant or any other aggrieved party may appeal a decision on waiver pursuant to the provisions of Section 17.31.110, Appeals.
- C. **Expiration, Extensions, and Revisions.** Waivers granted under this Chapter are effective and may only be extended or revised as provided for in Chapter 17.31, Common Procedures.



## Chapter 17.38 Amendments to General Plan Map and Text

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### 17.38.010 Purpose

This Chapter establishes procedures for making changes to the General Plan as provided for in State law when there are compelling reasons to do so. These circumstances include, but are not limited to, changes in State or federal law and problems and opportunities that were unanticipated at the time of Plan adoption or the last amendment.

### 17.38.020 Applicability

The procedures of this Chapter apply to all proposals to change the text of the General Plan and the diagrams that illustrate the application of its provisions.

### 17.38.030 Initiation

An amendment to the General Plan may be initiated by any qualified applicant identified in Section 17.31.020, Application Forms and Fees, or a motion of the City Council or Planning Commission.

### 17.38.040 Application Requirements

- A. **Application.** A qualified applicant shall submit an application for a General Plan amendment on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application.
- B. **Coordination with Other Applications.** The Planning Division may allow any necessary applications for amendments to zoning regulations or for approval under the requirements of this Zoning Ordinance or Title 16, Subdivisions, of the Newark Municipal Code to be processed simultaneously with the proposed General Plan amendment.

### 17.38.050 Review Procedures and Public Notice

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any application for a General Plan amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment complies with the purposes of this Chapter, a determination as to whether the proposed amendment will require amendment to other plans that the City Council has adopted, and an environmental document prepared in compliance with the California Environmental Quality Act.
- B. **Public Hearing Required.** All General Plan amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning Division shall provide notice consistent with Chapter 17.31, Common Procedures. Notice of the hearing also shall be mailed or delivered at least 10 days prior to the hearing to the Newark Unified School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

### **17.38.060 Planning Commission Hearing and Recommendation**

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Chapter 17.31, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed General Plan amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to the supporting the recommendation, and the relationship of the proposed amendment to applicable plans, and shall be transmitted to the City Council in the form of a Council memo, prepared by Planning Staff, with a copy of the approved minutes from the Planning Commission meeting.

### **17.38.070 City Council Hearing and Action**

- A. **City Council Hearing.** After receiving the report from the Planning Commission, the City Council shall hold a duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within 10 days after the Planning Commission action.
- B. **City Council Action.** After the conclusion of the hearing, the City Council may approve, modify or deny the proposed amendment. If the Council proposes any substantial modification not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 40 days after the referral, shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

## Chapter 17.39 Amendments to Zoning Map and Text

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### 17.39.010 Purpose

This Chapter provides procedures by which changes may be made to the text of this Zoning Ordinance and to the Zoning Map whenever the public necessity and convenience and the general welfare require such amendment to maintain consistency with the General Plan.

### 17.39.020 Applicability

The procedures in this Chapter shall apply to all proposals to change the text of this Zoning Ordinance or to revise a zoning district classification or zoning district boundary line shown on the Zoning Map.

### 17.39.030 Initiation

An amendment to the text of the Zoning Ordinance or to the Zoning Map may be initiated by any qualified applicant identified in Section 17.31.020, Application Forms and Fees, or a motion of the City Council or Planning Commission.

### 17.39.040 Application Requirements

- A. **Application.** A qualified applicant shall submit an application for a zoning amendment on a form prescribed by the Planning Division accompanied by the required fee. The Planning Division may require an applicant to submit such additional information and supporting data as considered necessary to process the application.
- B. **Coordination with Other Applications.** The Planning Division may allow any necessary applications for amendments to the General Plan or for approval under the requirements of this Zoning Ordinance or Title 16, Subdivisions, of the Newark Municipal Code to be processed simultaneously with the proposed zoning amendment.

### 17.39.050 Review Procedures and Public Notice

- A. **Staff Report.** The Director shall prepare a report and recommendation to the Planning Commission on any application for a zoning amendment. The report shall include, but is not limited to, a discussion of how the proposed amendment meets the criteria in Section 17.39.080, Criteria for Zoning Amendments, for approving a zoning amendment and an environmental document prepared in compliance with the California Environmental Quality Act.
- B. **Public Hearing Required.** All zoning amendments shall be referred to the Planning Commission, which shall hold at least one public hearing on any proposed amendment.
- C. **Public Notice.** At least 10 days before the date of the public hearing, the Planning Division shall provide notice consistent with Chapter 17.31, Common Procedures. Notice of the hearing also shall be mailed or delivered at least 10 days prior to the hearing to the Newark Unified School District and any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

### **17.39.060 Planning Commission Hearing and Recommendation**

- A. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing in conformance with Chapter 17.31, Common Procedures.
- B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a recommendation on the proposed zoning amendment to the City Council. Such recommendation shall include the reasons for the recommendation, findings related to the criteria for zoning amendments in Section 17.39.080, and the relationship of the proposed ordinance or amendment to applicable general and specific plans, and shall be transmitted to the City Council in the form of a Council memo, prepared by Planning Staff, with a copy of the approved minutes from the Planning Commission meeting.

### **17.39.070 City Council Hearing and Action**

- A. **City Council Hearing.** After receiving the report from the Planning Commission, the City Council shall hold a duly-noticed public hearing. The notice shall include a summary of the Planning Commission recommendation. If the matter under consideration is a proposal to reclassify a property from one zone to another and the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an interested party files a written request for a hearing with the City Clerk within 10 days after the Planning Commission action.
- B. **City Council Action.** After the conclusion of the hearing, the City Council may approve, modify or deny the proposed amendment. If the Council proposes any substantial modification not previously considered by the Planning Commission during its hearings, the proposed modification shall first be referred back to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing. The failure of the Planning Commission to report within 40 days after the referral, shall be deemed a recommendation to approve and the amendment shall be returned to Council for adoption.

### **17.39.080 Criteria for Zoning Amendments**

The Planning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment meets the following criteria:

- A. The amendment is consistent with the General Plan;
- B. Any change in district boundaries is necessary to achieve the balance of land uses desired by the City, consistent with the General Plan, and to increase the inventory of land within a given zoning district; and
- C. The amendment will promote the growth of the City in an orderly manner and to promote and protect the public health, safety, peace, comfort and general welfare.

## Chapter 17.40 Development Agreements

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### 17.40.010 Purpose

This Chapter establishes procedures and requirements for considering and entering into legally binding agreements with applicants for development projects, as provided for in State law. Such agreements provide a greater degree of certainty than the normal permit approval process by granting assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved.

### 17.40.020 Applicability

A development agreement may be considered for a complex or multi-phase development projects that will require a developer to make a substantial investment at the early stages of the project for planning and engineering for the entire project and for public facilities and services. In order to be considered for a development agreement, a project shall be consistent with the General Plan and any applicable specific plan unless the applicant has submitted an application for any necessary amendments to the General Plan or specific plan.

- A. **Property Subject to Annexation.** An applicant whose property is located within the City's sphere of influence, or whose property is the subject of a pending application for inclusion into the sphere of influence, may file an application to enter into a development agreement.
1. The agreement shall not become operative unless annexation proceedings annexing property to the City are completed within the period of time specified by the agreement.
  2. If the annexation is not completed within the time specified in the agreement or any extension of the agreement, the agreement shall be null and void.

### 17.40.030 Authority and Duties

- A. The Director shall negotiate the specific components and provisions of the development agreement on behalf of the City for Planning Commission review and recommendation to the City Council.
- B. The City Council shall have the exclusive authority to approve a development agreement.

### 17.40.040 Procedure

An applicant for a development project may request that the City review the application as a development agreement application in accordance with the following procedures. The City incorporates by reference the provisions of Government Code Sections 65864-65869.5. In the event of any conflict between these statutory provisions and this Section, this Section shall control.

- A. **Application Requirements.** An applicant shall submit an application for a development agreement on a form prescribed by the Director, accompanied by the required fees. The Director shall identify submittal requirements for applications for development agreements and may require an applicant to submit such additional information and supporting data as considered necessary to

process the application. In addition to any other information that the Director requires, each application for a development agreement shall be accompanied by the general terms and conditions of the agreement proposed by the applicant and shall include the contents required in Subsection B below.

**B. Contents of Development Agreements.**

1. **Required Contents.** A development agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.
2. **Improvements and Fees.** A development agreement may include requirements for construction and maintenance of on-site and off-site improvements or payment of fees in lieu of such dedications or improvements.
3. **Conditions.** A development agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions, but does not eliminate the applicant's responsibility to obtain all required land use approvals.
4. **Environmental Mitigation.** A development agreement may include, without limitation, conditions and restrictions imposed by the City with respect to the project, including those conditions, restrictions and mitigation measures proposed in any Final Environmental Impact Report applicable to the project that eliminate or mitigate adverse environmental impacts of the project.
5. **Phasing.** A development agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.
6. **Financing.** If the development agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
7. **Indemnity.** A development agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
8. **Performance Obligation Fees.** A development agreement may include provisions to guarantee performance of obligations stated in the agreement.

**17.40.050 Planning Commission Review and Recommendation**

- A. **Planning Commission Hearing.** The Planning Commission shall provide notice and conduct a public hearing in conformance with the provisions of Chapter 17.31, Common Procedures.
- B. **Recommendation to City Council.** Within 30 days after the public hearing has been closed by the Planning Commission, it shall render its decision in the form of a written recommendation to the City Council. Its report and recommendation, including proposed findings on the matters stated in Section 17.40.060.B, Findings, shall be forwarded to the City Council.

#### **17.40.060 City Council Review and Decision**

- A. **City Council Hearing.** Within 45 days after receipt of the written recommendation of the Planning Commission, the City Clerk shall set the matter for public hearing before the City Council. A public hearing shall be held within a reasonable time after receipt of the Planning Commission recommendation but no later than the time specified by Section 65943 of the Government Code.
- B. **Findings.** The City Council shall not approve a proposed development agreement unless it finds that its provisions are consistent with the General Plan and any applicable specific plan. This requirement may be satisfied by a finding that the provisions of a proposed development agreement are consistent with proposed General Plan or specific plan provisions to be adopted concurrently with the approval of the proposed development agreement.
- C. **Decision.** After the City Council completes the public hearing, the City Council shall approve, modify, or disapprove the development agreement. Approval of a development agreement shall be by ordinance. The ordinance shall refer to and incorporate by reference the text of the development agreement. Matters not previously considered by the Planning Commission during its hearing may, but need not, be referred back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.

#### **17.40.070 Execution and Recordation of Development Agreement**

Within 10 days after the ordinance approving the development agreement takes effect, the City Manager shall execute the development agreement on behalf of the City, and the City Clerk shall record the development agreement with the County Recorder.

#### **17.40.080 Annual Review**

The applicant shall be required to demonstrate compliance with the provisions of the development agreement at least once a year at which time the Director shall review each approved development agreement.

- A. **Finding of Compliance.** If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the development agreement no action is required.
- B. **Finding of Non-compliance.** If the Director finds the applicant has not complied with the provisions of the development agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which the applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If the applicant does not comply with any terms of compliance within the prescribed time limits, the development agreement shall be subject to termination or modification pursuant to this Chapter.
- C. **Appeal of Determination.** Within 10 days after issuance of a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the

appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

#### 17.40.090 Amendment or Cancellation

- A. **Mutual Agreement.** Any development agreement may be canceled or amended by mutual consent of the parties following compliance with the procedures specified in this Section.
  - 1. **Director Approval.** Any amendment to a development agreement which does not relate to the duration of the agreement, permitted uses of the property, density or intensity of use, timing of development, height or size of proposed buildings, provisions for reservation or dedication of land, or to any conditions, terms, restrictions and requirements relating to subsequent discretionary actions related to design or improvement or construction standards and specifications may be made by the Director without noticed public hearing. A development agreement may also specify procedures for additional administrative approval of minor amendments by mutual consent of the applicant and Director.
  - 2. **City Council Approval.** Except as provided in Paragraph 17.40.090.A.1, Director Approval, the procedure for proposing and adopting an amendment to, or the cancellation in whole or in part, of a development agreement, shall be the same as the procedure for entering into a development agreement in the first instance.
- B. **After Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the Director may refer the development agreement to the City Council for termination or modification. The City shall first give written notice to the party executing the agreement of its intention to initiate such proceedings. Such notice shall be given not less than 30 days in advance of public notice of the City Council hearing to consider an amendment or cancellation. After the public hearing, the City Council may terminate the development agreement, modify the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.
- C. **Recordation.** If the parties to the agreement or their successors in interest amend or cancel the development agreement, or if the City terminates or modifies the development agreement for failure of the applicant to fully comply with the provisions of the development agreement, the City Clerk shall record notice of such action with the County Recorder.
- D. **Rights of the Parties After Cancellation or Termination.** In the event that a development agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the development agreement shall terminate. If a development agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

#### 17.40.100 Effect of Approved Agreement

- A. **Existing Rules and Regulations.** Unless otherwise specified in the development agreement, the City's rules, regulations, and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the



property shall be those City rules, regulations, and official policies in force on the effective date of the development agreement. The applicant shall not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.

- B. **Future Rules and Regulations.** A development agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the development agreement. A development agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies. Unless otherwise specified in the development agreement, a development agreement shall not exempt the applicant from obtaining future discretionary land use approvals.
- C. **State and Federal Rules and Regulations.** In the event that any regulation or law of the State of California or the United States, enacted or interpreted after a development agreement has been entered into prevents or precludes compliance with one or more provisions of the development agreement, then the development agreement may be modified or suspended in the manner and pursuant to the procedures specified in the development agreement, as may be necessary to comply with such regulation or law.

#### **17.40.110 Enforcement**

The procedures for enforcement, amendment, modification, cancellation or termination of a development agreement specified in this Section and in Government Code Section 65865.4 or any successor statute, are non-exclusive. A development agreement may be enforced, amended, modified, cancelled or terminated by any manner otherwise provided by law or by the provisions of the development agreement.

#### **17.40.120 Judicial Review**

- A. Any judicial review of the initial approval by the City of a development agreement shall be by writ of mandate pursuant to Section 1085 of the Code of Civil Procedure. Any judicial review of any City action taken pursuant to this Chapter, other than the initial approval of a development agreement, shall be by writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure. The use of the phrase "substantial evidence" in this Chapter with respect to the quantum of proof necessary in conjunction with a finding of noncompliance is not intended to limit nor impose a standard of review upon any court pursuant to a proceeding initiated for that purpose.
- B. Any action or proceeding to attack, review, set aside, void or annul any decision of the City taken pursuant to this Chapter shall not be maintained by any person unless the action or proceeding is commenced within 90 days after the date of decision.

## **Chapter 17.41 Enforcement and Abatement Procedures**

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### **17.41.010 Purpose**

This Chapter establishes the responsibilities of various departments, officials, and public employees of the City to enforce the requirements of this Ordinance and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this Ordinance.

### **17.41.020 Enforcement**

All departments, officials, and public employees of the City vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Ordinance, and shall issue no permit or license for uses, buildings or purposes in conflict with the provisions of this Ordinance, and any such permit or license issued in conflict with the provisions of this Ordinance shall be null and void. It shall be the duty of the Building Inspector of the City to enforce the provisions of this Ordinance pertaining to the erection, construction, reconstruction, moving, conversion, alteration, or addition to or of any building or structure.

### **17.41.030 Revocation**

Any permit granted under the Zoning Ordinance may be revoked in accordance with the provisions in Section 17.31.150, Revocation of Permits, if any of the conditions or terms of such permit are violated or if any law or ordinance is violated in connection therewith. Notwithstanding this provision, no lawful residential use can lapse regardless of the length of time of the vacancy.

### **17.41.040 Voidable Conveyances**

Any deed of conveyance, sale or contract to sell made contrary to the provision of this Ordinance, is voidable at the sole option of the grantee, buyer, or person contracting to purchase, his heirs, personal representative or trustee in insolvency or bankruptcy, within one year after the date of execution of the deed of conveyance, sale or contract to sell but the deed of conveyance, sale or contract to sell is binding upon any assignee or transferee of the grantee, buyer or person contracting to purchase other than those above enumerated, and upon the grantor, vendor or person contracting to sell or his assignee, heir or devisee.

### **17.41.050 Nuisance Defined**

- A. Any building, structure, or planting set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Ordinance, any use of any land, building, or premises established, conducted, operated, or maintained contrary to the provisions of this Ordinance, and failure to comply with any of the conditions of a permit granted under this Ordinance is declared to be unlawful and a public nuisance.
- B. Any use, event, structure or building, whether non-conforming or otherwise, which meets any of the following criteria shall be deemed a public nuisance subject to abatement as set forth herein: disturbances of the peace, illegal drug activity including sales or possession thereof; public drunkenness, drinking in public, harassment of passers-by, gambling, prostitution, public vandalism, excessive littering, excessive noise (particularly between the hours of 11:00 p.m. and 7:00 a.m.), noxious smells or fumes, curfew violations, lewd conduct or police detention, citations

or arrests or any other activity declared by the City to be a public nuisance; violation of any provision of this Chapter or any other City, State or federal regulation, ordinance or statute.

#### **17.41.060 Penalty for Violation**

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, violating a provision of this Ordinance or failing to comply with a mandatory requirement of this Ordinance shall be guilty of an infraction. Upon conviction, such person shall be punished as set forth in Chapter 1.16, General Penalty, of the Newark Municipal Code. A person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed, continued or permitted by such person, firm or corporation, and shall be punished accordingly.

#### **17.41.070 Remedies**

The remedies provided for herein shall be cumulative and not exclusive. Upon a finding of nuisance pursuant to this Chapter, and after giving the property owner an opportunity to cure the nuisance and determining that the nuisance still exists, the Planning Commission or City Council may impose any remedy available at law or in equity, which shall include, but is not limited to, any of the following or combination thereof:

- A. Ordering the cessation of the use in whole or in part;
- B. Imposing reasonable conditions upon any continued operation of the use, including those uses that constitute existing non-conforming uses;
- C. Requiring continued compliance with any conditions so imposed;
- D. Requiring the user to guarantee that such conditions shall in all respects be complied with; or
- E. Imposing additional conditions or ordering the cessation of the use in whole or in part upon a failure of the user to comply with any conditions so imposed.

#### **17.41.080 Nuisance Abatement**

- A. **Initiation.** Proceedings under this Section to terminate, modify or condition (hereinafter abate or if context requires, abatement) any use, structure or building may be initiated by resolution of the Planning Commission or the City Council on its own accord or following recommendation by the Director. In either case, the resolution shall identify the use, building, or structure being considered, identify the property involved, set forth the reason or reasons for the proposed abatement, and fix a time and place for a public hearing on the proposed abatement. In the case of proceedings initiated by the Council, the resolution shall refer the matter for a public hearing before the Commission. A resolution initiating abatement proceedings may be adopted without a public hearing.
- B. **Notice.** Upon initiation of abatement proceedings, the Director shall give notice of a public hearing before the Commission pursuant to the provisions in Chapter 17.31, Common Procedures. In addition, within the prescribed time period, the Director shall also mail the notice of the hearing to the person or persons whose use, structure or building is the subject of the abatement proceedings, any person who requested initiation of abatement proceedings, and to any other person who has filed a written request with the Planning Division for such notice.

- C. **Public Hearing.** The Planning Commission shall conduct a duly-noticed public hearing and shall provide for testimony by City staff and the owner of the use, structure, or property that is the subject of the proceeding. Any other interested person shall also be given an opportunity to provide testimony.
- D. **Action.** The Planning Commission shall consider the staff report and the evidence, testimony, and facts presented at the hearing before taking action. If the Commission finds that the use, building, or structure constitutes a nuisance, it may impose any remedy as provided for in this Chapter.
- E. **Decision and Notice.** After the Commission takes abatement action to modify a permit, the Director shall issue a Notice of Action describing the Commission's action, with its findings. The Director shall mail the notice to the permit holder and to any person who has requested such notification by filing a written request with the Planning Division, and shall file a copy of the Notice of Action with the City Clerk. The Clerk shall present said copy to the Council at its next regular meeting.
- F. **Effective date; Appeal to Council.** A decision to abate a nuisance shall become effective immediately after the date of decision unless appealed to the Council within 15 days. If the Council finds, after a duly-noticed public hearing, that the use, structure or building constitutes a nuisance, it may impose any remedy provided for in this Chapter. If the Council finds that the use, structure or building is not a nuisance, it shall reverse the decision of the Commission.
- G. **City Attorney Action.** The City Attorney shall, upon order of the City Council, or on his or her own motion, immediately commence action or proceedings for the abatement and removal and enjoinder of said public nuisance in the manner prescribed by law, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any such building contrary to the provisions of this Ordinance.

#### **17.41.090 Recording a Notice of Violation**

- A. If compliance is not had with an order of the Director or the Building Official to correct violations of this Ordinance within the time specified therein, the City Manager may file in the Office of the Alameda County Recorder, a certified statement describing the property and certifying that:
  - 1. The property and/or structure is in violation of this Ordinance; and
  - 2. The owner has been so notified. The notice shall specifically describe the violations and a proof of service shall also be recorded with the Notice and Order.
- B. Whenever the corrections ordered have been completed, the Director shall file a new certified statement with the County Recorder certifying that all required corrections have been made so that the property and/or structure is no longer in violation of this Ordinance.

## **Chapter 17.42 Reserved**

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## **Chapter 17.43 Reserved**

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## **Chapter 17.44 Reserved**

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# Division V: Terms and Definitions

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## Chapter 17.45 Use Classifications

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### 17.45.010 Residential Uses

#### Residential Housing Types.

**Single-Unit Dwelling, Detached.** A dwelling unit that is designed for occupancy by one household with private yards on all sides. This classification includes individual manufactured housing units.

**Single-Unit Dwelling, Attached.** A dwelling unit that is designed for occupancy by one household located on a separate lot from any other unit (except an accessory dwelling unit, where permitted), and is attached through common walls to one or more dwellings on abutting lots. An attached single-unit dwelling is sometimes called a “townhouse” or a “condominium”.

**Two-Unit Dwelling.** A residential building containing two dwelling units, both of which are located on a single parcel (also referred to as a “duplex” or “two-flat”.) The dwelling units are attached and may be located on separate floors or side-by-side.

**Multi-Unit Development.** Three or more attached or detached dwelling units on a single lot. Types of multi-unit development include townhouses, multiple detached residential units, and apartment buildings.

**Accessory Dwelling Unit.** An attached or detached residential dwelling unit that is subordinate to a principal dwelling unit on the same lot, and that provides complete independent living facilities for one or more persons.

**Caretaker Unit.** A dwelling unit on the site of a commercial, industrial, public or semi-public use, occupied by employees and their immediate families employed for the purpose of on-site management, maintenance, or upkeep. Also business guests/employees on temporary assignment are allowed to reside in the unit.

**Family Day Care.** A day care facility licensed by the State of California, located in a residential unit where resident of the dwelling provides care and supervision for children under the age of 18 for periods of less than 24 hours a day.

**Small.** A facility that provides care for eight or fewer children, including children who reside at the home and are under the age of 10.

**Large.** A facility that provides care for seven to 14 children, including children who reside at the home and are under the age of 10.

**Group Residential.** Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. This classification includes rooming and boarding houses, dormitories and other types of organizational housing, private residential clubs, and extended stay hotels intended for long-term occupancy (30 days or more) but excludes Hotels, Motels, and Residential Care Facilities.



**Residential Care Facilities.** A facility licensed by the state of California to provide living accommodations, 24-hour care for persons requiring personal services, supervision, protection, or assistance with daily tasks. Amenities may include shared living quarters, with or without a private bathroom or kitchen facilities. This classification includes those both for and not-for-profit institutions, but excludes Supportive Housing and Transitional Housing.

**Small.** A facility that is licensed by the state of California to provide care for six or fewer persons.

**Large.** A facility that is licensed by the state of California to provide care for more than six persons.

**Residential Facility, Assisted Living.** A facility that provides a combination of housing and supportive services for the elderly or functionally impaired, including personalized assistance, congregate dining, recreational, and social activities. These facilities may include medical services. Examples include assisted living facilities, retirement homes, and retirement communities. These facilities typically consist of individual units or apartments, with or without kitchen facility, and common areas and facilities. The residents in these facilities require varying levels of assistance.

**Single Room Occupancy.** A residential facility where living accommodations are individual secure rooms, with or without separate kitchen or bathroom facilities for each room, are rented to one or two-person households for a weekly or monthly period of time. This use classification is distinct from a Hotel or Motel, which is a commercial use.

**Supportive Housing.** Dwelling units with no limit on length of stay, that are occupied by the target population as defined in subdivision (d) of Section 53260 of the California Health and Safety Code, and that are linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, where possible, work in the community.

**Transitional Housing.** Transitional housing is housing that has a predetermined end point in time, and operated under a program that requires the termination of assistance, in order to provide another eligible program recipient to the service. The program length is usually no less than six months.

#### **17.45.020 Public/Semi Public Uses**

**Cemetery.** Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains, including mausoleums, burial places, and memorial gardens.

**Colleges and Trade Schools.** Institutions of higher education providing curricula of a general, religious, or professional nature, granting degrees and including junior colleges, business and computer schools, management training, technical and trade schools, however excluding personal instructional services such as music lessons.

**Community Assembly.** A facility for public or private meetings, including community centers, union halls, meeting halls, and other membership organizations. Included in this classification is the use of functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, classrooms and storage.

**Community Garden.** Use of land for and limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity, by several individuals or households but not including on-site sales.

**Cultural Institutions.** An institution and/or associated facility engaged in activities to promote aesthetic and educational interest among the community that are open to the public on a regular basis. This classification includes performing arts centers for performances and events; spaces for display or preservation of objects of interest in the arts or sciences; libraries; museums; historical sites; aquariums; art galleries; and zoos and botanical gardens, all of which are public or private. This does not include schools or institutions of higher education providing curricula of a general nature.

**Day Care Centers.** Establishments providing non-medical care for persons on a less than 24-hour basis other than Family Day Care. This classification includes nursery schools, preschools, and day care facilities for children or adults, and any other day care facility licensed by the State of California.

**Emergency Shelter.** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less. as defined in Section 50801 of the California Health and Safety Code. Medical assistance, counseling, and meals may be provided.

**Government Offices.** Administrative, clerical, or public contact offices of a government agency, including postal facilities and courts, along with the storage and maintenance of vehicles. This classification excludes corporation yards, equipment service centers, and similar facilities that require maintenance and repair services and storage facilities for related vehicles and equipment (see Public Utilities).

**Hospital and Clinics.** State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons. This classification includes facilities for inpatient or outpatient treatment, including substance-abuse programs, as well as training, research, and administrative services for patients and employees. This classification excludes veterinaries and animal hospitals (see Animal Care, Sales, and Services).

**Hospitals.** A facility providing medical, psychiatric, or surgical services for sick or injured persons, primarily on an inpatient basis, and including supplementary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors. The institutions are to be licensed by the state of California to provide surgical and medical services.

**Clinic.** A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, administration, and related services to patients who are not lodged overnight. Services may be available without a prior appointment. This classification includes licensed facilities offering substance abuse treatment, blood banks and plasma centers, and emergency medical services offered exclusively on an out-patient basis. This classification does not include private medical and dental offices that typically require appointments and are usually smaller scale.

**Skilled Nursing Facility.** A State-licensed facility or a distinct part of a hospital that provides continuous skilled nursing care and supportive care to patients whose primary need requires the

availability of skilled nursing care on an extended basis. The facility provides 24-hour inpatient care and, as a minimum, includes physician, nursing, dietary, pharmaceutical services and an activity program. Intermediate care programs that provide skilled nursing and supportive care for patients on a less-than-continuous basis are classified as skilled nursing facilities.

**Instructional Services.** Establishments that offer specialized programs in personal growth and development such as music, martial arts, vocal, fitness and dancing instruction.

**Park and Recreation Facilities.** Parks, playgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, golf courses, and botanical gardens, as well as related food concessions or community centers within the facilities.

**Parking Lots and Structures.** Surface lots and structures offering parking for a fee when such use is not incidental to another on-site activity.

**Public Safety Facilities.** Facilities providing public-safety and emergency services, including police and fire protection and emergency medical services, with incidental storage, training and maintenance facilities.

**Schools.** Facilities for primary or secondary education, including public schools, charter schools, and private and parochial schools having curricula comparable to that required in the public schools of the State of California.

**Social Service Facilities.** Facilities providing a variety of supportive services for disabled and homeless individuals and other targeted groups on a less than 24-hour basis. Examples of services provided are counseling, meal programs, personal storage lockers, showers, instructional programs, television rooms, and meeting spaces. This classification is distinguished from licensed day care centers (see Day Care Facility), clinics, and emergency shelters providing 24-hour care (see Emergency Shelter).

**Tutoring Facilities.** Facilities offering academic instruction to individuals or to groups in a classroom setting where an adult accompanies a minor. Facilities where minors are not accompanied by adults are classified as Day Care Centers.

### **17.45.030 Commercial Uses**

**Adult Business.** An establishment of concern that, as a regular and substantial course of conduct, offers, sells or distributes adult-oriented merchandise, or that offers to its patrons materials, products, merchandise, services, entertainment or performances that have sexual arousal, sexual gratification, and/or sexual stimulation as their dominant theme, or are characterized by an emphasis on specified sexual activities or specified anatomical areas and are not customarily open to the general public because they exclude minors by virtue of their age. This classification does not include any establishment offering professional services conducted, operated, or supervised by medical practitioners, physical therapists, nurses, chiropractors, psychologist, social workers, marriage and family counselors, osteopaths, and persons holding licenses or certificates under applicable State law or accreditation from recognized programs when performing functions pursuant to the respective license or certificate.

**Animal Care, Sales, and Services.** Retail sales and services related to the boarding, grooming, and care of household pets including:

**Animal Sales and Grooming.** Retail sales of animals and/or services, including grooming, for animals on a commercial basis. Typical uses include dog bathing and clipping salons, pet grooming shops, and pet stores and shops. This classification excludes dog walking and similar pet care services not carried out at a fixed location, and excludes pet supply stores that do not sell animals or provide on-site animal services.

**Boarding/Kennels.** A commercial, non-profit, or governmental facility for keeping, boarding, training, breeding or maintaining dogs, cats, or other household pets not owned by the kennel owner or operator. Typical uses include pet clinics, pet day care, and animal shelters, but exclude pet shops and animal hospitals that provide 24-hour accommodation of animals receiving medical or grooming service.

**Veterinary Services.** Veterinary services for small animals. This classification allows 24-hour accommodation of animals receiving medical services but does not include kennels.

**Artist's Studio.** Work space for an artist or artisan including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft. This use is distinguished by incidental retail sales of items produced on the premises and does not include Live-Work units.

**Automobile/Vehicle Sales and Services.** Retail or wholesale businesses that sell, rent, and/or repair automobiles, boats, recreational vehicles, trucks, vans, trailers, and motorcycles including the following:

**Automobile Rentals.** Establishment providing for the rental of automobiles. Typical uses include car rental agencies.

**Automobile/Vehicle Sales and Leasing.** Sale or lease, retail or wholesale, of automobiles, light trucks, motorcycles, motor homes, and trailers, together with associated repair services and parts sales, but excluding body repair and painting. Typical uses include automobile dealers and recreational vehicle sales agencies

**Automobile/Vehicle Repair, Major.** Repair of automobiles, trucks, motorcycles, motor homes, boats and recreational vehicles, generally on an overnight basis that may include disassembly, removal or replacement of major components such as engines, drive trains, transmissions or axles; automotive body and fender work, vehicle painting or other operations that generate excessive noise, objectionable odors or hazardous materials, and towing services. This classification excludes vehicle dismantling or salvaging and tire retreading or recapping.

**Automobile/Vehicle Service and Repair, Minor.** The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the incidental sale, installation, and servicing of related equipment and parts. This classification includes the replacement of small automotive parts and liquids as an accessory use to a gasoline sales station or automotive accessories and supply store, and smog checks, tire sales and installation, auto radio/electronics installation, auto air conditioning/heater service, and quick-service oil, tune-up and brake and muffler shops where repairs are made or service provided in enclosed bays and no vehicles are stored overnight.

**Large Vehicle and Equipment Sales, Service and Rental.** Sales, servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other equipment used for construction, moving,

agricultural, or landscape gardening activities. Includes large vehicle operation training facilities. Sales of new or used automobiles or trucks are excluded from this classification.

**Service and Gas Stations.** Establishments primarily engaged in retailing automotive fuels or retailing these fuels in combination with activities, such as providing minor automobile/vehicle repair services; selling automotive oils, replacement parts, and accessories; and/or providing incidental food and retail services. This classification includes “mini-marts” and/or conveniences stores that sell products, merchandise, or services that are ancillary to the primary use related to the operation of motor vehicles where such sale is by means other than vending machines.

**Towing and Impound.** Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These establishments may provide incidental services, such as vehicle storage and emergency road repair services (for automobile dismantling, see Salvage and Wrecking).

**Washing.** Washing, waxing, or cleaning of automobiles or similar light vehicles.

#### **Banks and Financial Institutions.**

**Banks and Credit Unions.** Financial institutions providing retail banking services. This classification includes only those institutions serving walk-in customers or clients, including banks, savings and loan institutions, check-cashing services, and credit unions, but excluding check cashing businesses.

**Check-Cashing Businesses.** Establishments that, for compensation, engage in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes the business of deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33. Check Cashing Businesses do not include state or federally chartered banks, savings associations, credit unions, or industrial loan companies. They also do not include retail sellers engaged primarily in the business of selling consumer goods, such as consumables to retail buyers, that cash checks or issue money order incidental to their main purpose or business.

**Banquet Hall.** A facility accommodating gatherings, assembly, entertainment, and related support facilities (e.g., kitchens, offices, etc.) for special events or occasions.

**Business Services.** Establishments providing goods and services to other businesses on a fee or contract basis, including printing and copying, blueprint services, advertising and mailing, equipment rental and leasing, office security, custodial services, photofinishing, model building, taxi or delivery services with two or fewer fleet vehicles on-site.

**Commercial Entertainment and Recreation.** Provision of participant or spectator entertainment to the general public. These classifications may include restaurants, snack bars, and other incidental food and beverage services to patrons.

**Cinema/Theaters.** Any facility for the indoor display of films and motion pictures on single or multiple screens. This classification may include incidental food and beverage service to patrons as well as auditoriums within buildings.

**Indoor Sports and Recreation.** Establishments providing predominantly participant sports, indoor amusement and entertainment services conducted within an enclosed building, including coin-operated electronic amusement centers. Typical uses include bowling alleys, billiard parlors, card rooms, health clubs, ice and roller skating rinks, indoor racquetball courts, athletic clubs, and physical fitness centers.

**Outdoor Entertainment.** Predominantly spectator uses, conducted in open or partially enclosed or screened facilities. Typical uses include amusement and theme parks, sports stadiums and arenas, racetracks, amphitheaters, and drive-in theaters.

**Outdoor Recreation.** Predominantly participant sports conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, golf courses, miniature golf courses, tennis clubs, outdoor batting cages, swimming pools, archery ranges, and riding stables.

**Drive-Through Facility.** A motor vehicle drive-through facility which is a commercial building or structure or portion thereof which is designed or used to provide goods or services to the occupants of motor vehicles. It includes, but is not limited to, banks and other financial institutions, fast food establishments, and film deposit/pick-up establishments, but shall not include drive-in movies, service stations, or car-wash operations.

**Eating and Drinking Establishments.** Businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

**Bars/Night Clubs/Lounges.** Businesses serving beverages for consumption on the premises as a primary use and including on-sale service of alcohol including beer, wine, and mixed drinks. This use includes micro-breweries where alcoholic beverages are sold and consumed on site and any food service is subordinate to the sale of alcoholic beverages.

**Restaurant, Full Service.** Restaurants providing food and beverage services to patrons who order and are served while seated and pay after eating. Take-out service may also be provided.

**Restaurant, Limited Service.** Establishments where food and beverages are consumed on the premises, taken out, or delivered, but where limited table service is provided. This classification includes cafes, cafeterias, coffee shops, delicatessens, fast-food restaurants, sandwich shops, limited-service pizza parlors, self-service restaurants, and snack bars with indoor or outdoor seating for customers. This classification includes bakeries that have tables for on-site consumption of products as well as bakery product plants. It excludes catering services that do not sell food or beverages for on-site consumption.

**Restaurant, Take-Out Only.** Restaurants where food and beverages are prepared on a customer-demand basis and can be taken out or delivered, but are not consumed on the premises. No seating or other facilities for on-premises dining are provided.

**Farmer's Markets.** Temporary but recurring outdoor retail sales of food, plants, flowers, and products such as jellies, breads, and meats that are predominantly grown or produced by vendors who sell them.

**Food Preparation.** Businesses preparing and/or packaging food for off-site consumption, excluding those of an industrial character in terms of processes employed, waste produced, water used, and traffic generation. Typical uses include catering kitchens, retail bakeries, and small-scale specialty food production.

**Funeral Parlors and Interment Services.** An establishment primarily engaged in the provision of services, involving the care, preparation, or disposition of human remains and conducting memorial services. Typical uses include a crematory, columbarium, mausoleum, or mortuary.

**Hookah Lounge.** Any business which primarily serves tobacco or non-tobacco products (e.g., fruit, vegetables) whereby patrons, who are 18 years of age or older, share the tobacco or non-tobacco products from a hookah, water pipe, or similar device.

**Live-Work Units.** A unit that combines a work space and an integrated dwelling unit. It is occupied by a single household in a structure that has been constructed for such use or converted from commercial or industrial use and structurally modified to accommodate residential occupancy and work activity in compliance with the Building regulations. The working space is reserved for and regularly used by one or more occupants of the unit.

**Lodging.** Any establishment providing overnight accommodations to transient patrons for payment. This classification includes establishments that offer accommodations for periods of less than 30 consecutive days.

**Hotels.** An establishment providing overnight lodging to transient patrons where rooms open only to the interior of the building. Hotels may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public.

**Motels.** An establishment providing overnight lodging to transient patrons designed primarily for motorists, typically with parking directly outside of room doors. Rooms may open to the exterior of the building. Motels may provide recreation facilities available to guests but generally do not provide conference and meeting rooms, restaurants, or bars.

**Maintenance and Repair Services.** Establishments engaged in the maintenance or repair of office machines, household appliances, furniture, and similar items. This classification excludes maintenance and repair of motor vehicles (see Automotive/Vehicle Sales and Services) and personal apparel (see General Personal Services).

**Mobile Vendor.** A self-contained truck or trailer or non-motorized push cart that is readily movable without disassembling, and is used to sell merchandise, prepare and serve food and beverages, or provide other services.

**Nurseries and Garden Center.** Any establishment(s) primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, and sod that are predominantly grown elsewhere.

These establishments may sell a limited amount of a product they grow themselves. This classification includes commercial and wholesale greenhouses and nurseries offering plants for sale.

**Offices.** Offices of firms, organizations, or public agencies providing professional, executive, management, administrative or design services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment, insurance, and legal offices, excluding banks and savings and loan associations with retail banking services (see Banks and Financial Institutions). This classification also includes offices where medical and dental services are provided by physicians, dentists, chiropractors, acupuncturists, optometrists, and similar medical professionals, including medical/dental laboratories within medical office buildings, but excludes clinics or independent research laboratory facilities (see Research and Development) and hospitals.

***Business, Professional, and Technology.*** Offices of firms, organizations, or agencies providing professional, executive, management, administrative, financial, accounting, or legal services, but excluding those that primarily provide direct services to patrons that visit the office (see Offices, Walk-In Clientele).

***Medical and Dental.*** Offices providing consultation, diagnosis, therapeutic, preventive, or corrective personal-treatment services by doctors and dentists; medical and dental laboratories that see patients; and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/or dental research within the office is considered part of the office use if it supports the on-site patient services.

***Walk-In Clientele.*** Offices providing direct services to patrons or clients without prior appointments. This use classification includes employment agencies, insurance agent offices, real estate offices, travel agencies, utility company offices, and offices for elected officials. It does not include banks or check-cashing facilities, which are separately classified and regulated (see Banks and Financial Institutions).

## **Personal Services.**

***General Personal Services.*** An establishment providing non-medical services to individuals as a primary use, of personal convenience, as opposed to products that are sold to individual consumers, or from/by companies. Personal services include barber and beauty shops, shoe and luggage repair, photographers, laundry and cleaning services and pick-up stations, copying, repair and fitting of clothes, and similar services.

***Fortune, Palm, and Card Reader.*** An establishment providing any type of fortune telling, palm or card reading, psychic services, future telling, spirit communication, and/or any other related type of trade, donation, or compensation, retail or otherwise.

***Massage Establishments.*** Any establishment having a fixed place or business where any person engages in or carries on or permits to be engaged in or carried on any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this



practice. Such establishment shall have health enhancement as part of its purpose. Exempted from this definition are massage therapists operating in conjunction with and on the same premises as a physician, surgeon, chiropractor, osteopath, nurse or any physical therapist (State-licensed professions or vocations) who are duly State-licensed to practice their respective professions in the State of California.

***Tattoo or Body Modification Parlor.*** An establishment whose principal business activity is one or more of the following: 1) using ink or other substances that result in the permanent coloration of the skin through the use of needles or other instruments designed to contact or puncture the skin; or 2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

## **Retail Sales.**

***Building Materials Sales and Services.*** Retail sales or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and includes establishments devoted principally to taxable retail sales to individuals for their own use. This definition does not include Construction and Material Yards, hardware stores less than 10,000 square feet in floor area or plant nurseries.

***Convenience Markets.*** Establishments primarily engaged in the provision of frequently or recurrently needed small personal items or services for residents within a reasonable walking distance. These include various general retail sales and personal services of an appropriate size and scale to meet the above criteria. Typical uses include neighborhood grocery stores, convenience markets, and drugstores.

***Food and Beverage Sales.*** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include food markets, groceries, liquor stores, and retail bakeries.

***Gold, Semi-Precious, Precious Metal Buying Stores.*** Any establishment that buys, sells, ships, melts or changes/modifies gold, semi-precious or precious metals from consumers or other merchants.

***General Retail.*** The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes retail establishments with 25,000 square feet or less of sales area; including department stores, clothing stores, furniture stores, pet supply stores, small hardware stores (with 10,000 square feet or less of floor area), and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs.

***Pawn Store.*** A business that receives goods in pledge as security for a loan.

**Secondhand Store.** Any establishment whose business includes buying, selling, trading, selling on consignment, or auctioning secondhand tangible personal property. Tangible personal property shall be defined as stated in the California Business and Professions Code. Acceptance of donated material and goods are not allowed.

**Tobacco Retailer.** Any establishment that either devotes 20 percent or more of floor area or display area to, or derives 75 percent or more of gross sales receipts from, the sale or exchange of tobacco products and/or tobacco paraphernalia, including, but not limited to, cigarettes, cigars, tobacco, electronic cigarettes, hookah supplies, or other smoke related accessories and supplies.

#### **17.45.040 Industrial Uses**

**Construction and Material Yards.** Storage of construction materials or equipment on a site other than a construction site.

**Custom Manufacturing.** Any establishment primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, candle-making shops, woodworking, and custom jewelry manufacturers.

**Donation Center/Station.** A facility where materials and goods donated, accepted for sale on consignment or auction, or otherwise dropped off. Includes sorting and distribution of goods and materials.

**Food and Beverage Manufacturing.** Establishments engaged in the production, processing, packaging or manufacturing of food or beverage products for off-site consumption.

**Small Scale.** A small scale food and beverage products manufacturing may include wholesale or retail sales. It is characterized by local or regional products, specialty or artisanal foods, in facilities less than 5,000 square feet. Examples include small coffee roasters, micro-breweries, micro-distilleries, wine manufacturing, meat or fish processing, and wholesale bakeries.

**Large Scale.** A large scale food and beverage manufacturing is characterized by a national or international distribution network, and the production of mass-produced products in a facility over 5,000 square feet.

**General Industrial.** Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes operations, such as biomass energy conversion, commercial advertising manufacturing, electrical appliance and explosive manufacturing, film/food and beverage processing, production apparel manufacturing, photographic processing plants, leather and allied product manufacturing, wood product manufacturing, paper manufacturing, chemical manufacturing, medical/pharmaceutical manufacturing, plastics and rubber products manufacturing, nonmetallic mineral product manufacturing, primary metal manufacturing, fabricated metal product manufacturing, and automotive and heavy equipment manufacturing, and textile mill products.

**Light Industrial.** Establishments engaged in providing or offering light industrial activities that take place primarily within enclosed buildings and produce minimal impacts on nearby properties. This classification

includes manufacturing finished parts or products primarily from previously prepared materials; micro-breweries where retail sales are clearly incidental and no alcoholic beverages are consumed on site; wineries; commercial laundries and dry cleaning plants; monument works; printing, engraving and publishing; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services.

**Research and Development.** A facility for the scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. This classification includes assembly of related products from parts produced off site, where the manufacturing activity is secondary to the research and development activities, in addition to involving the production of experimental products.

**Salvage and Wrecking.** Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.

**Warehousing and Storage.** Storage and distribution facilities without sales to the public on-site or direct public access except for public storage in small individual space exclusively and directly accessible to a specific tenant.

***Chemical, Mineral, and Explosives Storage.*** Storage of hazardous materials including but not limited to: pressurized gas, chemicals, minerals and ores, petroleum or petroleum-based fuels, fireworks, and explosives.

***Indoor Warehousing and Storage.*** Storage within an enclosed building of commercial goods prior to their distribution to wholesale and retail outlets and the storage of industrial equipment, products and materials including but not limited to automobiles, feed, and lumber. Also includes cold storage, freight moving and storage, and warehouses. This classification excludes the storage of hazardous chemical, mineral, and explosive materials.

***Outdoor Storage.*** Storage of commercial goods in open lots.

***Personal Storage.*** Facilities offering enclosed storage with individual access for personal effects and household goods including mini-warehouses and mini-storage. This use excludes workshops, hobby shops, manufacturing, or commercial activity.

**Wholesaling and Distribution.** Indoor storage and sale of goods to other firms for resale; storage of goods for transfer to retail outlets of the same firm; or storage and sale of materials and supplies used in production or operation, including janitorial and restaurant supplies. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or internet orders. They normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic. This classification does not include wholesale sale of building materials (see Building Materials Sales and Services).

#### **17.45.050 Transportation, Communication, and Utility Uses**

**Airports and Heliports.** Facilities for the takeoff and landing of airplanes and helicopters, including runways, helipads, aircraft storage buildings, public terminal building and parking, air freight terminal,

baggage handling facility, aircraft hangar and public transportation and related facilities, including bus operations, servicing and storage. Also includes support activities such as fueling and maintenance, storage, airport operations and air traffic control, incidental retail sales, coffee shops and snack shops and airport administrative facilities, including airport offices, terminals, operations buildings, communications equipment, buildings and structures, control towers, lights, and other equipment and structures required by the United States Government and/or the State for the safety of aircraft operations.

**Communication Facilities.** Facilities for the provision of broadcasting and other information-relay services through the use of electronic and telephonic mechanisms.

**Facilities within Buildings.** Includes radio, television or recording studios, and telephone switching centers.

**Telecommunication.** Broadcasting and other communication services accomplished through electronic or telephonic mechanisms, as well as structures and equipment cabinets designed to support one or more reception/transmission systems. Typical uses include wireless telecommunication towers and facilities, radio towers, television towers, telephone exchange/microwave relay towers, cellular telephone transmission/personal communications systems towers, and associated equipment cabinets and enclosures.

**Freight/Trucking Terminals.** Facilities for freight, courier, and postal services. This classification does not include local messenger and local delivery services (see Light Fleet-Based Services).

**Light Fleet-Based Services.** Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three or more vehicles with rated capacities less than 10,000 lbs. This classification includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar businesses.

**Public Works and Utilities.** Generating plants, electric substations, solid waste collection, including transfer stations and materials recovery facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities.

**Recycling Facility.** A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. This use classification does not include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations and are classified as utilities.

**Reverse Vending Machine.** An automated mechanical device that accepts, sorts and processes recyclable materials and issues a cash refund or a redeemable credit slip.

**Recycling Collection Facility.** An incidental use that serves as a neighborhood drop off point for the temporary storage of recyclable or reusable materials but where the processing and sorting of such items is not conducted on-site.

**Recycling Processing Facility.** A facility that receives, sorts, stores and/or processes recyclable materials.

**Transportation Passenger Terminals.** Facilities for passenger transportation operations, including rail stations, bus terminals and pick-up areas, and scenic and sightseeing facilities, but does not include terminals serving airports or heliports.

## Chapter 17.46 Definitions

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### 17.46.010 "A"

**Abutting or Adjoining.** Having a common boundary.

**Access.** The place or way through which pedestrians and/or vehicles must have safe, adequate, and usable ingress and egress to a property.

**Accessory Building.** See Building, Accessory.

**Accessory Structure.** See Structure, Accessory.

**Accessory Use.** See Use, Accessory.

**Acre, Gross.** A measure of total land area of a lot or site, including areas to be dedicated for public rights-of-way, streets, schools, or other dedications.

**Acre, Net.** A measure of land area of a lot or site remaining after dedication of all areas for public rights-of-way, streets, schools, or other dedications.

**Adjacent.** Directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.

**Agent.** A person who has been given written authorization by the property owner to represent and act for a property owner in contacts with the City.

**Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in conjunction with a decision or action appealed or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns or who, for good cause, was unable to do either.

**Alley.** A public way permanently reserved primarily for secondary vehicular service access to the rear or side of properties otherwise abutting on a street.

**Alteration.** Any change, addition or modification that changes the exterior architectural appearance or materials of a structure or object. Alteration includes changes in exterior surfaces, changes in materials, additions, remodels, demolitions, and relocation of buildings or structures, but excludes ordinary maintenance and repairs.

**Applicant.** The person, partnership, corporation, or state or local government agency applying for a permit, certificate, zoning approval, or other entitlement.

**Area, Gross.** The horizontal area within the boundaries of a lot or site including any area for future streets, parks, and other dedications.

**Architectural Feature.** An exterior building feature, including a roof, walls, windows, doors, porches, posts, pillars, recesses or projections, and exterior articulation or walls, and other building surfaces.

**Arterial Street.** A street classified as an Arterial in the Transportation Element of the General Plan.

**Attached Building or Structure.** A building or structure having a common wall with another building or structure.

**Awning.** An architectural projection that provides weather protection, identity, or decoration, and is wholly supported by the building to which it is attached. An awning is typically constructed of non-rigid materials on a supporting framework which projects from and is supported by the exterior wall of a building.

#### **17.46.020 "B"**

**Balcony.** A platform that projects from the wall of a building 30 inches or more above grade that is accessible from the building's interior, is not accessible from the ground, and is not enclosed by walls on more than three sides.

**Basement.** A non-habitable space beneath the first or ground floor of a building the ceiling of which does not extend more than four feet above finished grade.

**Bedroom.** Any room having the potential of being a bedroom and meeting the standards of the Building Code as a sleeping room.

**Block.** Property bounded on all sides by a public right-of-way.

**Buffer.** An open area or barrier used to separate potentially incompatible activities and/or development features; for example, a required setback to separate an area of development from environmentally sensitive habitat, to reduce or eliminate the effects of the development on the habitat.

**Building.** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials.

***Building, Accessory.*** A detached subordinate building used only as incidental to the main building on the same lot.

***Building, Main.*** A building in which the primary use of the parcel on which it is located is conducted.

**Building Code.** Any ordinance or regulations of the City governing the type and method of construction of buildings and structures, including sign structures and any amendments thereto and any substitute therefor including, but not limited to, the California Building Code, other State-adopted uniform codes and the Minimum Building Security Standards Ordinance.

**Building Face.** The general outer surface of the structure or walls of a building. Where bay windows or pillars project beyond the walls, the outer surface of the windows or pillars is considered to be the face of the building.

**Building Footprint.** See “Footprint.”

**Building Frontage.** The lineal dimension, parallel to the ground, of a building abutting on a public street, or a parking lot accessory to that business, even though another business may also have entitlement to that parking lot.

**Building Height.** See “Height.”

**Building Site.** A lot or parcel of land occupied or to be occupied by a main building and accessory buildings together with such open spaces as are required by the terms of this Ordinance and having its principal frontage on a street, road, highway, or waterway.

### 17.46.030 “C”

**California Environmental Quality Act (CEQA).** Public Resources Code §§21000, et seq. or any successor statute and regulations promulgated thereto (14 California Code of Regulations §§15000, et seq.) that require public agencies to document and consider the environmental effects of a proposed action before a decision.

**Camper.** As defined in the California Vehicle Code.

**Canopy.** A roofed shelter projecting over a sidewalk, driveway, entry, window, or similar area that may be wholly supported by a building or may be wholly or partially supported by columns, poles, or braces extending from the ground.

**Carport.** An accessible and usable covered space enclosed on not more than two sides, designed, constructed, and maintained for the parking or storage of one or more motor vehicles.

**City.** The City of Newark.

**City Council.** The City Council of the City of Newark.

**Change of Use.** The replacement of an existing use on a site, or any portion of a site, by a new use, or a change in the type of an existing use; does not include a change of ownership, tenancy, or management associated with a use for which the previous type of use will remain substantially unchanged.

**Collector Street.** A street classified as a Collector in the Transportation Element of the General Plan.

**Commercial Vehicle.** Defined in the California Vehicle Code. Pickup trucks and vans not exceeding one-ton rated capacity and which are used primarily for private noncommercial purposes are not considered commercial vehicles.

**Compatible.** That which is harmonious with and will not adversely affect surrounding buildings and/or uses.

**Condition of Approval.** A performance standard, required change in a project, environmental mitigation measure, or other requirement imposed by the decision-making body to alter or modify a project in any manner from the description in the application originally submitted for City approval.



**Conditional Use.** A use that is generally compatible with other uses permitted in a zoning district, but that requires individual review of its location, design, configuration, and intensity and density of use and structures, and may require the imposition of conditions pertinent thereto to ensure the appropriateness of the use at that particular location.

**Conditionally Permitted.** Permitted subject to approval of a Use Permit.

**Construction.** Construction, erection, enlargement, alteration, conversion, or movement of any building, structures, or land, together with any scientific surveys associated therewith.

**Cottage Food Employee.** An individual, paid or volunteer, involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

**Cottage Food Operation.** An enterprise that takes place within the registered or permitted area of a private home where the cottage food operator lives, and where cottage food products are prepared or packaged for direct and/or indirect sale to consumers. A cottage food operation may be either of the following:

***“Class A” Cottage Food Operation.*** A cottage food operation which engages only in direct sales of cottage food products from the cottage food operation or other direct sales venues, such as holiday bazaars, bake sales, farm stands, County-certified farmers’ markets, or through community-supported agriculture subscriptions.

***“Class B” Cottage Food Operation.*** A cottage food operation, which engages in both direct sales as described above, and indirect sales, including from offsite events or from a third-party retailer.

**Cottage Food Operator.** An individual who operates a cottage food operation in his or her residence and is the owner of the cottage food operation.

**Cottage Food Products.** Nonpotentially hazardous foods, including but not limited to foods that are described in Section 114365.5 of the California Public Health and Safety Code, and that are prepared for sale in the kitchen of a cottage food operation.

**County.** The County of Alameda.

#### **17.46.040 “D”**

**Deck.** A platform, either freestanding or attached to a building that is supported by pillars or posts.

**Demolition.** The intentional destruction and removal of 50 percent or more of the enclosing exterior walls and 50 percent of the roof of any structure.

**Density.** The number of dwelling units per acre of land.

**Detached Building or Structure.** A building or structure which does not have a common wall with another building or structure.

**Development.** Any manmade change to improved or unimproved real estate, including but not limited to the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of land.

**Development Agreement.** An agreement between the City and any person having a legal or equitable interest in real property for the development of such property, and which complies with the applicable provisions of the Government Code for such development agreements.

**Director.** The Community Development Director of the City of Newark or his/her designee.

**District.** See "Zoning District."

**Driveway.** An accessway that provides direct vehicular access for vehicles between a street and the parking or loading facilities located on an adjacent property.

**Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household.

#### **17.46.050 "E"**

**Easement.** A portion of land created by grant or agreement for specific purpose; an easement is the right, privilege or interest which one party has in the land of another.

**Effective Date.** The date on which a permit or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.

**Electrical Code.** Any ordinance of the City regulating the alteration, repair, and the installation and use of electricity or electrical fixtures.

**Emergency.** A sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

**Environmental Impact Report (EIR).** An Environmental Impact Report as required under the California Environmental Quality Act (CEQA).

**Environmental Review.** An evaluation process pursuant to CEQA to determine whether a proposed project may have a significant impact on the environment.

**Equipment.** Non-vehicular items such as, but not limited to, boats, campers, camper shells, tents and related camping supplies, tools, machinery, aircraft, barrels, drums, large cans or containers and parts related to these items.

**Erect.** To build, construct, attach, hang, place, suspend, or affix to or upon any surface. Such term also includes the painting of wall signs.

### 17.46.060 "F"

**Façade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building. The portion of any exterior elevation of a building extending vertically from the grade to the top of a parapet wall or eave, and horizontally across the entire width of the building elevation.

**Family.** One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities, and who maintain a single mortgage, lease, or rental agreement for all members of the household.

**Feasible.** Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

**Fence.** Horizontal and vertical structures that are intended to separate properties, retain soil materials, and provide security; or as defined by the Building Official. Fences may also be walls, hedges, and screen plantings.

**Firearms.** Any device designed to be used as a weapon or modified to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or other form of combustion.

**Floor Area.** The total horizontal area of all floors below the roof and within the outer surface of the walls of a building or other enclosed structures unless otherwise stipulated. See also Section 17.02.030.F, Determining Floor Area.

**Floor Area Ratio (FAR).** The ratio of the total floor area of all buildings on a lot to the lot area or building site area. See also Section 17.02.030.F, Determining Floor Area Ratio.

**Foot-candle.** A quantitative unit of measure for luminance. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. It is equal to one lumen uniformly distributed over an area of one square foot.

**Footprint.** The horizontal area, as seen in plan view, of a building or structure, measured from the outside of exterior walls and supporting columns, and excluding eaves. See also Section 17.02.030.H, Determining Lot Coverage.

**Freeway.** A State or Interstate highway.

**Frontage, Street.** That portion of a lot or parcel of land that borders a public street. Street frontage shall be measured along the common lot line separating said lot or parcel of land from the public street, highway, or parkway.

### 17.46.070 "G"

**Garage.** An accessory structure or portion of a main structure, enclosed on three or more side and containing accessible and usable enclosed space designed, constructed, and maintained for the parking and storage of one or more motor vehicles.

**General Plan.** The City of Newark General Plan.

**Glare.** The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, such as to cause annoyance, discomfort, or loss of visual performance and ability.

**Government Code.** The Government Code of the State of California.

**Grade.** The location of the ground surface.

***Existing or Natural Grade.*** Ground elevation prior to any grading or other site preparation related to, or to be incorporated into, a proposed development or alteration of an existing development.

***Finished Grade.*** Final ground elevation after the completion of any grading or other site preparation related to, or to be incorporated into, a proposed development or alteration of an existing development.

**Ground Floor.** The first floor of a building other than a basement that is closest to finished grade.

#### **17.46.080 "H"**

**Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Heat.** Thermal energy of a radioactive, conductive, or convective nature.

**Height.** The vertical distance from a point on the ground below a structure to a point directly above. See also Section 17.02.030.C, Measuring Height.

**Home Occupation.** A commercial use conducted on residential property by the inhabitants of the subject residence, which is incidental and secondary to the residential use of the dwelling.

**Household.** See "Family."

**Household Pets.** Animals that are customarily kept within a dwelling or a yard for the personal use or enjoyment of the residents. Household pets include domestic birds, cats, dogs, fish, rabbits, rodents, or snakes, but do not include horses, mules, goats, cows, hogs or other similar size animals, or roosters or peacocks.

**Housing Costs.** The total monthly or annual recurring expenses required of a household to obtain shelter. For a rental unit, total housing costs include the monthly rent payment and utilities. For an ownership unit, total housing costs include the mortgage payment (principal and interest), homeowner's association dues, mortgage insurance, taxes, utilities, and any other related assessments.

**17.46.090 "I"**

**Illegal Use.** Any use of land or building that does not have the currently required permits, and was originally constructed and/or established without permits or approvals required for the use at the time it was brought into existence.

**Improvement.** An object affixed to the ground other than a structure.

**Incidental Use.** See Use, Incidental.

**Income Levels.** Income levels for households whose gross incomes do not exceed the qualifying extremely low, very low, low, and moderate income limits established in § 6932 of the California Code of Regulations, and amended periodically based on the U.S. Department of Housing and Urban Development (HUD) estimate based on the Alameda County median income levels by family size. These income limits are equivalent to the following:

***Extremely Low Income Household.*** Under 30 percent of area median income, adjusted for household size appropriate for the unit.

***Very Low Income Household.*** 30 to 50 percent of area median income, adjusted for household size appropriate for the unit.

***Low Income Household.*** 50 to 80 percent of area median income, adjusted for household size appropriate for the unit.

***Moderate Income Household.*** 80 to 120 percent of area median income, adjusted for household size appropriate for the unit.

**Intensity of Use.** The extent to which a particular use or the use in combination with other uses affects the natural and built environment in which it is located; the demand for services; and persons who live, work, and visit the area. Measures of intensity include, without limitation, requirements for water, gas, electricity, or public services; number of automobile trips generated by a use; parking demand; number of employees on a site; hours of operation; the amount of noise, light, or glare generated; the number of persons attracted to the site, or in eating establishments, the number of seats.

**Intersection, Street.** The area common to two or more intersecting streets.

**17.46.100 "J"**

Reserved

**17.46.110 "K"**

**Kitchen.** Any room or space within a building intended to be used for the cooking or preparation of food.

**17.46.120 "L"**

**Land Use.** The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained, including residential, commercial, industrial, etc.

### **Landscaping-Related Definitions.**

**Hedge.** Any group of shrubs planted in line or in groups so that the branches of any one plant are intermingled or form contact with the branches of any other plant in the line. Hedges are not considered trees for the purposes of this Ordinance.

**Hydrozone.** A portion of the landscaped area having plants with similar water needs.

**Landscaping.** The planting, configuration and maintenance of trees, ground cover, shrubbery, and other plant material, decorative natural and structural features (walls, fences, hedges, trellises, fountains, sculptures), earth-patterning and bedding materials, and other similar site improvements that serve an aesthetic or functional purpose.

**Mulch.** Any organic material, such as leaves, bark, straw, compost, or inorganic mineral materials, such as rocks, gravel, and decomposed granite, left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

**Pruning.** The removal of more than one-third of the crown or existing foliage of the tree or more than one-third of the root system.

**Runoff.** Water that is not absorbed by the soil or landscape to which it is applied, and flows from the landscape area.

**Shrub.** A bush, hedge, or any plant that is not a tree more than 12 inches tall.

**Tree.** Any live woody or fibrous plant, the branches of which spring from and are supported upon a trunk.

**Trim.** The cutting or removal of a portion of a tree, which removes less than one-third of the crown or existing foliage of a tree, removes less than one-third of the root system, and does not kill the tree.

**Light Fixture.** The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirrors, and a refractor or lens.

**Lot.** A parcel, tract, or area of land whose boundaries have been established by a legal instrument, such as a deed or map recorded with the County of Alameda, and which is recognized as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way. Lot types include the following:

**Abutting Lot.** A lot having a common property line or separated by a public path or lane, private street, or easement to the subject lot.

**Corner Lot.** A lot or parcel bounded by two or more adjacent street lines that have an angle of intersection of not more than 135 degrees.

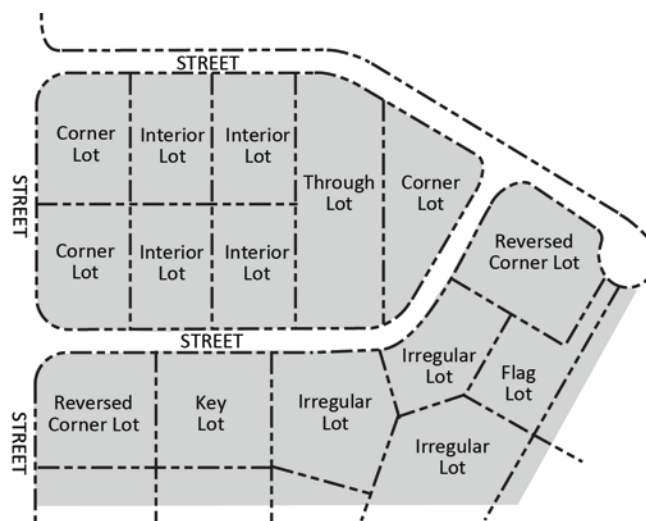
**Flag Lot.** A lot so shaped that the main portion of the lot area does not have access to a street other than by means of a corridor having less than 20 feet of width.

**Interior Lot.** A lot bounded on one side by a street line and on all other sides by lot lines between adjacent lots or that is bounded by more than one street with an intersection greater than 135 degrees; a lot other than a corner lot.

**Key Lot.** An interior lot adjoining the rear lot line of a reversed corner lot.

**Reversed Corner Lot.** A corner lot, the rear of which abuts the side of another lot, whether across a lane or not.

**Through Lot.** A lot having frontage on two parallel or approximately parallel streets.



**FIGURE 17.46.120(1): LOT TYPES**

**Lot Area.** The area of a lot measured horizontally between bounding lot lines.

**Lot Coverage.** The portion of a lot that is covered by structures, including main and accessory buildings, garages, carports, and roofed porches, but not including unenclosed and unroofed decks, landings, or balconies. See also Section 17.02.030.H, Determining Lot Coverage.

**Lot Depth.** The horizontal distance between the front and rear property lines of a site measured midway between the side property lines. See also Section 17.02.030.D, Measuring Lot Width and Depth.

**Lot Frontage.** See "Frontage, Street."

**Lot Line.** The boundary between a lot and other property or the public right-of-way.

**Lot Line Types.**

**Front Lot Line.** On an interior lot, the line separating the lot from the street or lane. On a corner lot, the shorter lot line abutting a street or lane. On a through lot, the lot line abutting the street

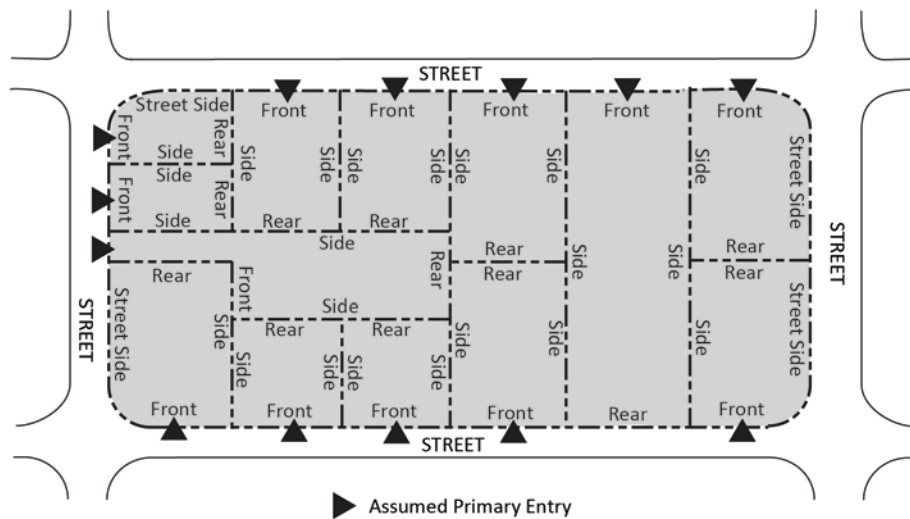
or lane providing the primary access to the lot. On a flag lot, the interior lot line most parallel to and nearest the street or lane from which access is obtained.

**Interior Lot Line.** Any lot line that is not adjacent to a street.

**Rear Lot Line.** The lot line that is opposite and most distant from the front lot line. Where no lot line is within 45 degrees of being parallel to the front lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear yard.

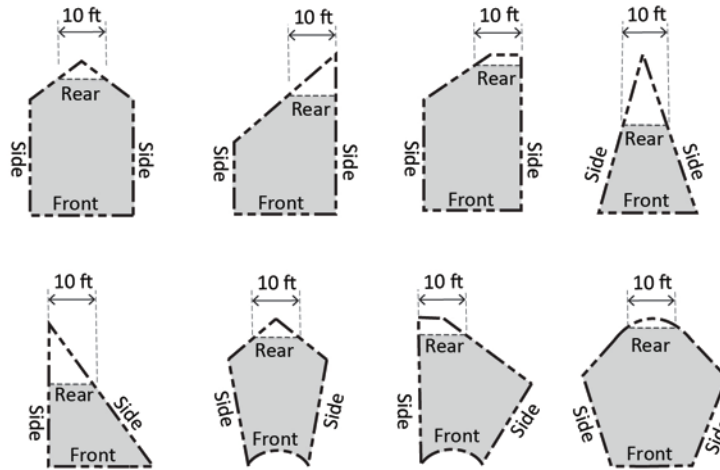
**Side Lot Line.** Any lot line that is not a front or rear lot line.

**Street Side Lot Line.** A side lot line of a corner lot that is adjacent to a street.



**FIGURE 17.46.120(2): LOT LINE TYPES**





**FIGURE 17.46.120(3): REAR LOT LINES, IRREGULAR LOTS**

**Lot Width.** The average distance between the side lot lines measured at right angles to the lot depth. See also Section 17.02.030.D, Measuring Lot Width and Depth.

#### **17.46.130 “M”**

**Maintenance and Repair.** The repair or replacement of nonbearing walls, fixtures, wiring, roof, or plumbing that restores the character, scope, size, or design of a structure to its previously existing, authorized, and undamaged condition.

**Mansard.** A wall which has a slope equal to or greater than two vertical feet for each horizontal foot and has been designed to look like a roof.

**Municipal Code.** The City of Newark Municipal Code.

#### **17.46.140 “N”**

**Noise.** Any sound that annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Nonconforming Building.** See Nonconforming Structure.

**Nonconforming Lot.** A legal parcel of land having less area, frontage, or dimensions than required in the zoning district in which it is located.

**Nonconforming Structure.** A building or structure, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this Ordinance to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located.

**Nonconforming Use.** The use of a building, structure, or site, or portion thereof, which was lawfully established and maintained, but which, because of the application of this Ordinance to it, no longer conforms to the specific regulations applicable to the zoning district in which it is located.

### **17.46.150 "O"**

**On-Site.** Located on the lot that is the subject of discussion.

**Opacity.** A measure of the relative light impenetrability of fencing, windows, and doors, typically expressed as a percentage. An opaque object with 100 percent opacity is neither transparent (allowing all light to pass through) nor translucent (allowing some light to pass through).

**Outdoor Storage.** The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 72 hours, except for the keeping of building materials reasonably required for construction work on the premises pursuant to a valid and current Building Permit issued by the City.

**Owner.** A person or persons holding single or unified beneficial title to the property, including without limitation, the settlor of a grantor trust, a general partner, firm, or corporation.

### **17.46.160 "P"**

**Parapet.** That part of a wall that extends above the roof line.

**Parking Area.** An area of a lot, structure, or any other area, including driveways, which is designed for and the primary purpose of which is to provide for the temporary storage of operable motor vehicles.

**Passenger Vehicle.** As defined in the California Vehicle Code.

**Permitted Use.** See Use, Permitted.

**Person.** Any individual, firm, association, organization, partnership, business trust, company, or corporation.

**Planning Commission.** The Planning Commission of the City of Newark.

**Planning Division.** The Planning Division of the Community Development Department of the City of Newark.

**Pre-existing.** In existence prior to the effective date of this Ordinance.

**Primary Use.** See Use, Primary.

**Project.** Any proposal for a new or changed use or for new construction, alteration, or enlargement of any structure that is subject to the provisions of this Ordinance. This term includes, but is not limited to, any action that qualifies as a "project" as defined by the California Environmental Quality Act.

**Property Line.** The recorded boundary of a lot or parcel of land.

**Public Resources Code.** The Public Resources Code of the State of California.

**Public Works Director.** The Public Works Director of the City of Newark.

**17.46.170 “Q”**

**Qualified Applicant.** The property owner, the owner’s agent, or any person, corporation, partnership, or other legal entity that has a legal or equitable title to land that is the subject of a development proposal, or is the holder of an option or contract to purchase such land, or otherwise has an enforceable proprietary interest in such land.

**17.46.180 “R”**

**Reasonable Accommodation.** Any deviation requested and/or granted from the strict application of the City’s zoning and land use laws, rules, policies, practices and/or procedures under provisions of federal or California law to make housing or other facilities readily accessible to and usable by persons with disabilities and thus enjoy equal employment or housing opportunities or other benefits guaranteed by law.

**Review Authority.** Body responsible for making decisions on applications.

**Right-of-Way.** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, or other similar use.

**17.46.190 “S”**

**Screening.** Screening refers to a wall, fence, hedge, informal planting, or berm, provided for the purpose of buffering a building or activity from neighboring areas or from the street.

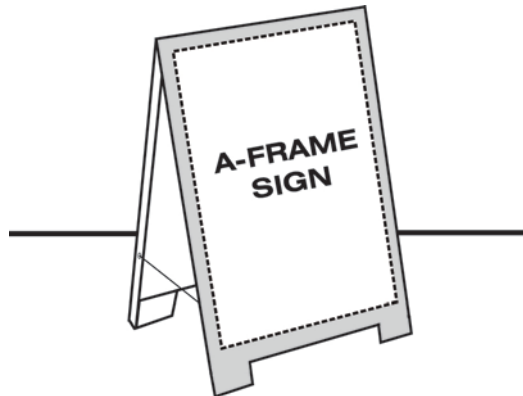
**Senior Citizen.** An individual 62 years of age or older.

**Setback.** The area between a property line and a building or structure that must be kept clear or open.

**Sidewalk.** A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

**Sign Terms.**

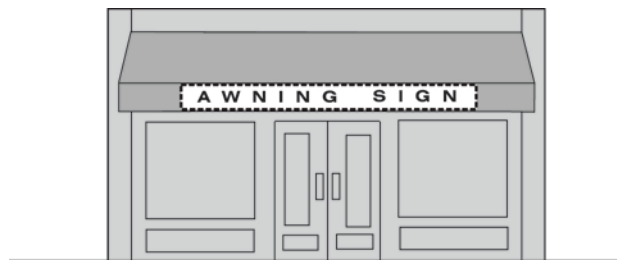
**A-Frame Sign.** A portable upright, rigid, self-supporting frame sign in the form of a triangle or letter “A”.



**FIGURE 17.46.190(1): A-FRAME SIGN**

**Animated Sign.** A sign with messages that visually change, or images that move or appear to move, flash on or off, wink or blink with varying light intensity, show motion or create the illusion of motion, or revolve to create an illusion of being on or off.

**Awning Sign.** A sign placed on an awning.

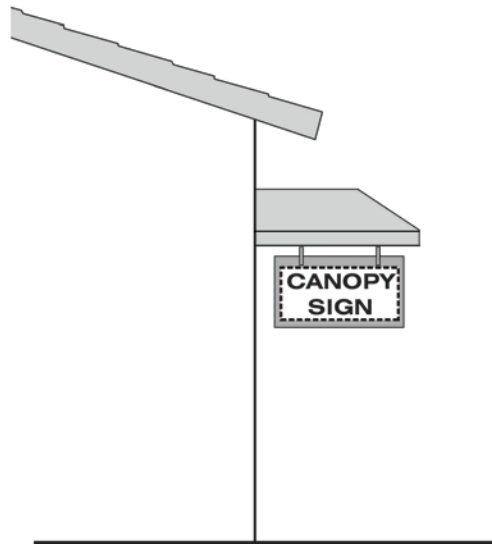


**FIGURE 17.46.190(2): AWNING SIGN**

**Banner Sign.** A sign that is painted or printed on lightweight flexible material and hung from a staff or other device by ropes, wires or similar means in a manner to minimize movement.

**Billboard.** A sign used for the purpose of general advertising for hire, that is, some or all of the display area is customarily used to display the messages of advertisers or sponsors other than the owner of the sign.

**Canopy Sign.** A sign attached to a fixed overhead shelter used as a roof, which may or may not be attached to a building.



**FIGURE 17.46.190(3): CANOPY SIGN**

**Commercial Message.** A message on a sign, or portion of a sign, that promotes, informs, or proposes an economic transaction, primarily concerns the economic interests of the sign sponsor and/or audience, or is intended to further discussion in the marketplace of goods and services.

**Copy.** Also called "sign copy." The visually communicative elements mounted on a sign.

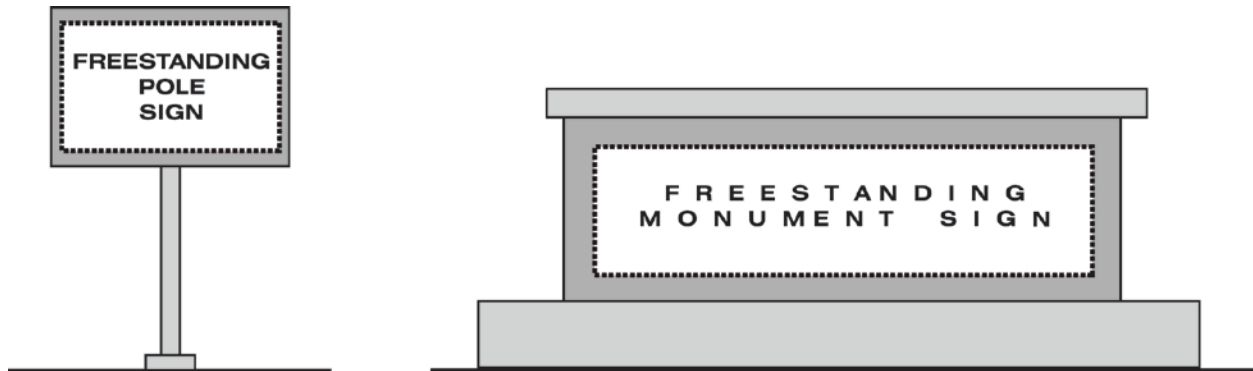
**Digital Display.** A method of displaying a communicative visual image by use of LEDs (light emitting diodes) or their functional equivalent, that allows for the message or image to be easily changed, typically by remote control or computer programming. This definition applies to signs displaying a series of still images, as well as those presenting the appearance of motion.

**Directional Sign.** A sign that directs or guides pedestrian or vehicular traffic and which is non-advertising in nature (e.g., handicapped parking, one-way, exit, and entrance).

**Electronic Copy.** A sign having the capability of presenting variable message displays by projecting an electronically controlled pattern, and which can be programmed to periodically change the message display.

**Flag.** Any fabric or banner containing distinctive colors, patterns, or design that displays the symbol(s) of a nation, state, local government, company, organization, belief system, idea, or other meaning.

**Freestanding Sign.** A sign supported by structures or supports that are placed on or anchored in the ground, and which are structurally independent from any building.



**FIGURE 17.46.190(4): FREESTANDING SIGN**

**General Advertising for Hire.** The advertising or promoting of other businesses, establishments or causes using methods of advertising, typically for a fee or other consideration, in contrast to self-promotion or on-site advertising.

**Graffiti.** Marks, such as inscriptions, drawings, or designs, which are placed, scratched, etched, painted, or sprayed on public or private property without the owner's consent.

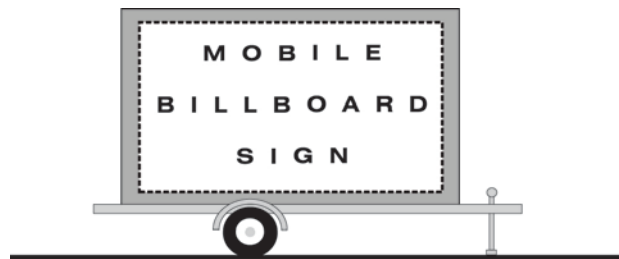
**Illuminated Sign.** A sign with an artificial source of light incorporated internally or externally for the purpose of illuminating the sign.

**Inflatable Sign.** A form of inflatable device (e.g., shaped as an animal, blimp, or other object) that is displayed, printed, or painted on the surface of an inflatable background, and is primarily installed outside a building to attract attention to or to advertise a business, a business location, a service, a product, or an event.

**Internally Illuminated Sign.** A sign that is illuminated by a light source that is contained inside the sign where the message area is luminous, including cabinet signs and channel-letter signs.

**Master Sign Program.** A coordinated sign plan which includes details of all signs (not including exempt or temporary signs) which are or will be placed on a site.

**Mobile Billboard.** Any vehicle, or wheeled conveyance which carries, conveys, pulls, displays, or transports any sign or billboard for the primary purpose of advertising a commercial or noncommercial message, or other general advertising for hire.



**FIGURE 17.46.190(5): MOBILE BILLBOARD**

***Moving Sign.*** A sign or any portion thereof that rotates, moves, or appears to move in some manner by mechanical, electrical, natural, or other means.

***Non-Commercial Message.*** A message or image on a sign that directs public attention to or advocates an idea or issue of public interest or concern that does not serve to advertise or promote any business, product, activity, service, interest, or entertainment.

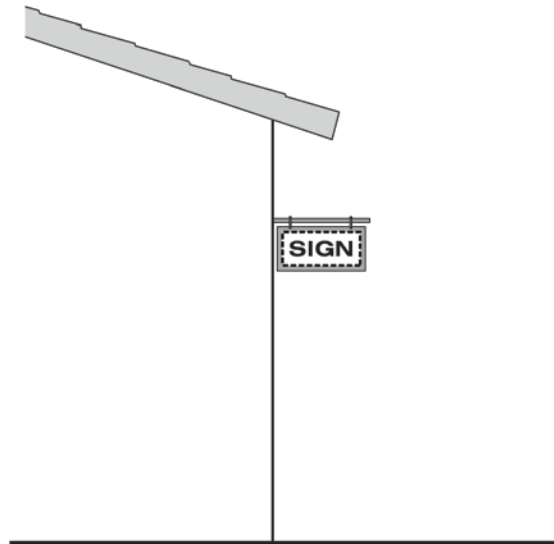
***Nonconforming Sign.*** A sign lawfully erected and legally existing on the effective date of this Ordinance, but which does not conform to the provisions of this Ordinance.

***Outdoor Advertising Structure.*** Any structure or any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, located on a site other than the site on which the advertised use is located or on which the advertised product is produced.

***Pennant.*** A device made of flexible materials, (e.g., cloth, paper, or plastic) that may or may not contain copy, and which is installed for the purpose of attracting attention.

***Permanent Sign.*** A sign that is intended to be and is so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall, or building.

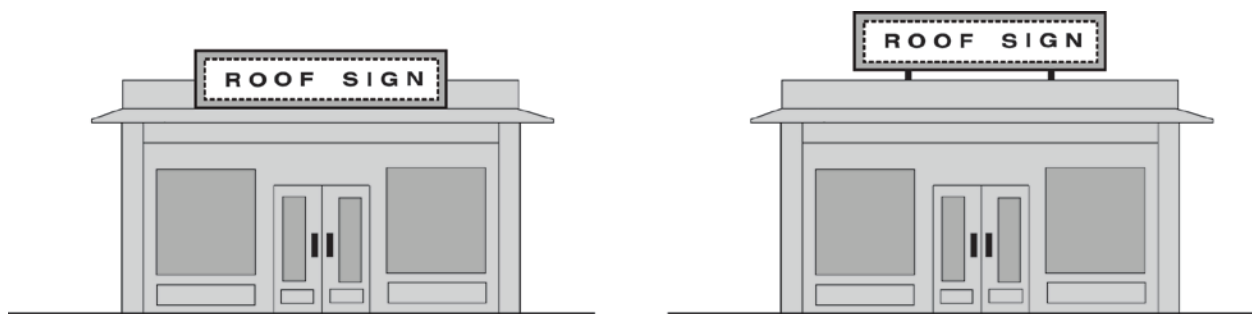
**Projecting Sign.** A single or double faced sign that is perpendicular to the face of a building and projects more than 15 inches from the face.



**FIGURE 17.46.190(6): PROJECTING SIGN**

**Roofline.** The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

**Roof Sign.** Any sign located on a roof of a building or having its major structural supports attached to a roof that extend above the roofline or parapet.



**FIGURE 17.46.190(7): ROOF SIGN**

**Sign.** Any identification, description, illustration, or device illuminated or non-illuminated, which is visible to the general public from any exterior public right-of-way, and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, or placard designed to advertise, identify, or convey information. A display, device, or thing need not contain lettering to be a sign.



**Sign Area.** The area contained within a single continuous perimeter enclosing all parts of such sign copy, excluding any structural elements outside the limits of the sign required to support the sign.

**Sign Face.** An exterior display surface of a sign, including non-structural trim, exclusive of the supporting structure. The area of a sign which is available for mounting and public display of the visually communicative image.

**Temporary Sign.** A structure or device used for the public display of visual messages or images, which is typically made of lightweight or flimsy materials which is not intended for or suitable for long term or permanent display.

**Traffic Sign.** A sign for traffic direction, warning, and roadway identification.

**Wall Sign.** A sign affixed to and wholly supported by a building in such a manner that its exposed face is approximately parallel to the plane of such building.



**FIGURE 17.46.190(8): WALL SIGN**

**Window Sign.** A temporary or permanent sign with a single face of copy that is painted or installed on a glass window or door, or located within 12 inches from inside the window, in a manner that it can be viewed from the exterior of a structure.



**FIGURE 17.46.190(9): WINDOW SIGN**

**Site.** A lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of this Ordinance and is in a single ownership or under unified control.

**Site Area.** The total horizontal area included within the property lines of a site.

**Soil.** Naturally occurring superficial deposits overlying bedrock.

**Solar Reflectance Index.** Measure of a surface's ability to reflect solar heat, combining reflectance and emittance into one number. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is zero and a standard white (reflectance 0.80, emittance 0.90) is 100.

**Specific Plan.** A plan for all or part of the area covered by the General Plan that is prepared to be consistent with and to implement the General Plan, pursuant to the provisions of Government Code, §§ 65450 et seq.

**State.** The State of California.

**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story is that portion of a building included between the upper surface of the topmost floor and the upper surface of the roof above.

**Street.** A public or private thoroughfare, which affords the principal means of access to a block and to abutting property. "Street" includes avenue, court, circle, crescent, place, way, drive, boulevard, highway, road, and any other thoroughfare, except an alley or walkway.

**Street Line.** The boundary between a street and a lot or parcel of land.

**Structural Alterations.** Any physical change to or the removal of the supporting members of a structure or building, such as bearing walls, columns, beams, or girders including the creation, enlargement, or removal of doors or windows and changes to a roofline or roof shape.

**Structure.** Anything constructed or erected which requires a location on the ground.

**Structure, Accessory.** A detached subordinate structure, used only as incidental to the main structure on the same site or lot.

**Structure, Main.** A structure housing the primary use of a site or functioning as the primary use.

**Structure, Temporary.** A structure without any foundation or footings, and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**Swimming Pool.** A pool, pond, lake, or open tank capable of containing water to a depth greater than 1.5 feet at any point.

#### **17.46.200 "T"**

**Tandem Parking.** An arrangement of parking spaces such that one or more spaces must be driven across in order to access another space or spaces.

**Telecommunication Terms.**

**Antenna.** Any system of wires, poles, rods, horizontal or vertical elements, panels, reflecting discs, or similar devices used for the transmission and/or reception of electromagnetic waves.

**Co-Location.** The location of two or more wireless communications facilities owned or used by more than one public or private entity on a single support structure, or otherwise sharing a common location. Co-location also includes the location of wireless communications facilities with other facilities, such as buildings, water tanks, light standards, and other utility facilities and structures.

**Mast.** A pole of wood or metal or a tower fabricated of metal that is used to support an antenna and maintain it at the proper elevation.

**Satellite Dish.** A device (also known as a parabolic antenna) incorporating a reflective surface that is solid, open, or mesh or bar-configured, and is in the shape of a shallow dish, cone, horn cornucopia, or flat plate that is used to receive or transmit radio or electromagnetic waves between terrestrially and/or orbitally based units. This term includes satellite earth stations, satellite receivers, satellite discs, direct broadcast systems, television-reception-only systems, and satellite microwave antennas.

**Support Equipment.** The physical, electrical, and/or electronic equipment included within a telecom facility used to house, power, transport, and/or process signals from or to the facility's antenna or antennas.

**Telecommunication Facility.** A mobile cell site that consists of a cell antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be part of a cellular network.

**Tower, Lattice.** A multiple-sided, open, metal frame support structure that supports antennas and related equipment, typically with three or four support legs.

**Tenant.** A person renting or leasing a housing unit or non-residential space.

**Trailer.** A vehicle with or without motor power, which is designed or used for hauling materials or vehicles, or for human habitation, office, or storage including camper, recreational vehicle, travel trailer, and mobile home, but not including mobile homes on a permanent foundation.

#### **17.46.210 "U"**

**Use.** The purpose for which land or the premises of a building, structure or facility is arranged, designed, or intended, or for which it is or may be occupied or maintained.

**Use, Accessory.** A use that is customarily associated with, and is incidental and subordinate to, a primary use and located on the same lot as a primary use.

**Use, Incidental.** A secondary use of a lot and/or building that is located on the same lot, but is not customarily associated with the primary use.

**Use, Permitted.** Any use or structure that is allowed in a zoning district without a requirement for approval of a Use Permit, but subject to any restrictions applicable to that zoning district.

**Use, Primary.** A primary, principal, or dominant use established, or proposed to be established, on a lot.

**Use Classification.** A system of classifying uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics. All use types are grouped into the following categories: residential, public and semi-public, commercial, industrial, and transportation, communication, and utilities. See Chapter 17.45, Use Classifications.

**Use Permit.** A discretionary permit which may be granted by the appropriate City of Newark authority to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, which are not permitted as of right, but which may be approved upon completion of a review process and, where necessary, the imposition of special conditions of approval.

**Use Type.** A category that classifies similar uses based on common functional, product, or compatibility characteristics.

**Utilities.** Equipment and associated features related to the mechanical functions of a building(s) and services such as water, electrical, telecommunications, and waste.

#### **17.46.220 "V"**

**Variance.** A discretionary grant of permission to depart from the specific requirements of this Ordinance that is warranted when, due to special circumstances regarding the physical characteristics of the property, the strict application of standards would deprive the property of privileges available to other property in the same zoning district.

**Vehicle.** Any vehicle, as defined by the California Vehicle Code, including any automobile, camper, camp trailer, trailer, trailer coach, motorcycle, house car, boat, or similar conveyance.

**Vibration.** A periodic motion of the particles of an elastic body or medium in alternately opposite directions from the position of equilibrium.

**Visible.** Capable of being seen (whether or not legible) by a person of normal height and visual acuity walking or driving on a public road or in a public place.

#### **17.46.230 "W"**

**Wall.** Any vertical exterior surface of building or any part thereof, including windows.

#### **17.46.240 "X"**

Reserved

#### **17.46.250 "Y"**

**Yard.** An open space on the same site as a structure, unoccupied and unobstructed from the ground upward, except as otherwise provided by this Ordinance.

**Front Yard.** A yard extending across the front of a lot for the full width of the lot between the side lot lines. The depth of a front yard shall be a distance specified by this Ordinance for the district in which it is located and measured inward from the front lot line.

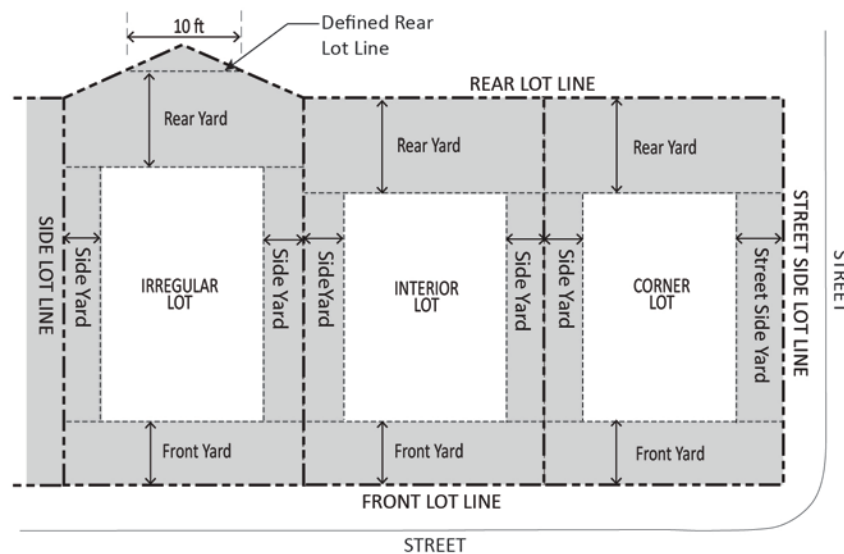
**Interior Yard.** A yard which does not abut a street.

**Rear Yard.** A yard extending across the rear of a lot for its full width between side lot lines, and to a depth specified by this Ordinance for the district in which it is located. If a lot has no rear lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear yard.

**Required Yard.** A yard which complies with the minimum yard requirements for the zoning district in which the lot is located.

**Side Yard.** A yard extending from the rear line of the required front yard, or the front property line of the site where no front yard is required, to the front line of the required rear yard, or the rear property line of the site where no rear yard is required, the depth of which is the minimum horizontal distance between the side property line and a line parallel thereto on the site.

**Street Side Yard.** A yard on a corner lot or reversed corner lot extending from the front yard to the rear lot line between the building setback line and the nearest side street lot line.



**FIGURE 17.46.250: YARDS**

**17.46.260 "Z"**

**Zoning Administrator.** The Zoning Administrator of the City of Newark.

**Zoning District.** A specifically delineated area in the City within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings. See Section 17.03.010, Districts Established.

