



**DATE:** December 14, 2023

**TO:** City Council

**CC:** City Manager, Assistant City Manager, City Attorney

**FROM:** Kathleen Slafter, Deputy City Clerk

**SUBJECT:** E.1. Public Hearing to Introduce an ordinance adding Chapter 17.15 to the Newark Municipal Code to establish the By Right Housing (-BRH) Overlay District, Amending the Newark Zoning Map by applying the -BRH Overlay District to specific parcels, and making related miscellaneous amendments to Title 17, Zoning, of the Newark Municipal Code.

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After distributing the City Council packet for the December 14, 2023 City Council meeting, it came to staff's attention that Public Hearing item E.1., the proposed ordinance amending the Newark Municipal Code to establish the By Right Housing (-BRH) Overlay District (the "Ordinance"), did not include a recommendation from the Planning Commission and requires a correction to a typographical error.

The Planning Commission, at their regular meeting on November 14, 2023, recommended that the City Council adopt the Ordinance. The Planning Commission's recommendation included the following minor amendment to the ordinance:

- In the proposed Chapter 17.15, revise "District" to "Zoning District" throughout the proposed chapter.

In addition, staff has identified one other typographical correction:

- In the proposed Chapter 17.15.020, the reference to "-AH" should be revised to "-BRH"

As a result, Staff recommends that the City Council approve the Ordinance with the additional revisions reflected in the attached Exhibit.

## Amendments to Title 17 of the City of Newark Municipal Code

Additions to Title 17 are shown in **redline**  
 Corrected text is shown in **green bold text**

### Chapter 17 ZONING ORDINANCE

#### 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 title 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>		
Zoning District Symbol	Zoning District Name	General Plan Land Use Designation Implemented by Zoning District
<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

Public and Semi-Public Districts		
PF	Public Facilities	Public-Institutional
TS	Transit Station	Public-Institutional
PK	Park	Parks and Recreation Facilities
OS	Open Space	Conservation-Open Space
Resource Production District		
RP	Resource Production	Salt Harvesting, Refining, and Production
Overlay District		
-FBC	Form Based Code	Not Applicable
-PD	Planned Development	Not Applicable
-OT	Old Town	Not Applicable
<u>-BRH</u>	<u>By-Right Housing</u>	<u>Not Applicable</u>

### Chapter 17.15 – BY-RIGHT HOUSING (-BRH) OVERLAY **ZONE** DISTRICT

#### 17.15.010 - Purpose.

This overlay **zone** district provides supplementary land use, affordable housing requirements, and review procedures for base districts located within the City of Newark. The overlay **zone** district implements requirements of state law regarding streamlined review procedures for residential projects identified in the city’s adopted General Plan Housing Element that have been “carried over” from previously adopted housing elements. This **zone** district does not modify permitted uses, nor does it restrict property owners from developing projects consistent with the requirements provided in this Title for the base or underlying zone district.

#### 17.15.020 - Applicability.

The standards and regulations of this chapter apply to the planning area designated with the -BRH 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.

#### 17.15.030 – Permitted Uses.

Any use permitted in the underlying District that is combined with an -BRH Overlay **Zone** District shall be allowed subject to the procedures of the underlying District, as modified by the ~~-AH -~~ **BRH** district.

#### 17.15.040 – Procedures.

A. Residential Uses Allowed By-Right. Residential projects that comply with all applicable objective standards and criteria of the underlying District, include a minimum of 20 dwelling units per acre, and provide 20 percent of the units in the project as affordable to lower-income households do not require discretionary review under this Title. Lower-income shall have the same meaning as in Health and Safety Code section 50079.5.

Qualifying projects are still subject to Design Review, except that such Design Review shall be ministerial, notwithstanding anything in NMC Chapter 17.35 to the contrary.

B. Requirements for Affordable Units. The developer of a residential project under this chapter shall comply with the provisions of NMC 17.18.060 for the residential units designated as affordable to lower-income households, consistent with applicable requirements in state law. Where the requirements of state law conflict with the requirements of this Title, state law shall prevail.