

# **BOROUGH OF NEW PROVIDENCE, UNION COUNTY**

## **CHAPTER 310:**

### **ZONING & LAND USE ORDINANCE**

#### **2022 CODIFICATION AND AMENDMENT**

##### **General References**

Uniform Construction codes – See Ch. 129.  
Earth terminal antennas – See Ch. 141.  
Fees and licenses – See Ch. 147.  
Sewers and sewage disposal – See Ch. 219.  
Streets and sidewalks – See Ch. 225.  
Affordable Housing – See Ch. 275.  
Flood damage prevention – See Ch. 281.  
Housing rehabilitation – See Ch. 285.  
Land use procedures – See Ch. 291.  
Soil removal – See Ch. 297.  
Stormwater control – See Ch. 301.  
Subdivision of land and site plan review – See Ch. 305.  
Swimming Pools – See Ch. 337.

##### **Schedules**

Schedule I: Permitted Uses

Schedule II: Residential Bulk Requirements

Schedule III: Commercial and Industrial Bulk Requirements

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## **Article I. General Provisions**

### **§ 310-1. Title.**

This Chapter shall be known and cited as the "Zoning Ordinance" of the Borough of New Providence.

### **§ 310-2. Intent.**

The intent of this Chapter is to establish a precise and detailed plan for the use of land in the Borough based on the Master Plan for the Borough. This Chapter is enacted in order to promote and to protect the public health, safety, morals and general welfare of the people.

### **§ 310-3. Purpose.**

Regulations are deemed necessary to achieve the following purposes:

- A. To protect the character and maintain the stability of all zoning districts within the Borough, and to promote the orderly and beneficial development of such areas.
- B. To limit congestion in the public streets and to protect the public health, safety, and the general welfare by providing for off-street parking of motor vehicles and for the loading and unloading of commercial vehicles.
- C. To provide protection against fire, flood, explosion, noxious fumes, and other hazards in the interest of the public health, safety, comfort, and the general welfare.
- D. To regulate the intensity of use of land and to determine the area of open spaces surrounding buildings, which spaces shall be necessary to provide adequate light and air, privacy and convenience of access to property and to protect the public health.
- E. To establish building lines and the location of buildings designed for residential, commercial, laboratory, light industrial or other uses within such lines.
- F. To fix reasonable standards to which buildings or structures shall conform.
- G. To prohibit uses, buildings or structures which are incompatible with the character of development, the permitted uses within specified zoning districts or the purposes of the Master Plan.
- H. To prevent such additions to and alterations or remodeling of existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
- I. To conserve the taxable value of land and buildings throughout the Borough.
- J. To encourage developments that incorporate the best features of design and relate the use, design, and layout of residential and commercial development to the particular site.
- K. To encourage senior citizen housing construction.
- L. To promote the conservation of energy resources and the utilization of renewable energy sources.

- M. To encourage the development of certain tracts to provide the realistic opportunity for affordable housing to be constructed in accordance with the guidelines set forth in the Mount Laurel Doctrine, the Fair Housing Act, and subsequent rules and regulations as approved or adopted by the State or a Court of competent jurisdiction.
- N. To promote the maximum practical recovery from solid waste through recycling of recyclable materials.

**§ 310-4. Construal of provisions; greater restrictions to prevail.**

The interpretation and the application of the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare and shall be considered liberally to affect the purposes thereof. This Chapter is not intended to interfere with, abrogate or annul other rules, regulations, or ordinances, provided that where this Chapter imposes greater restrictions upon the use of buildings or premises or upon the height or bulk of a building or requires larger open spaces, the provisions of this chapter shall apply.



## **Article II. Terminology**

### **§ 310-5. Word usage.**

Unless the context clearly indicates a different meaning, the following definitions shall be used in the interpretation and construction of this Chapter: words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased or intended to be used;" the word "shall" is mandatory and not discretionary; and the word "may" indicates a permissive action.

### **§ 310-6. Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

#### **ABANDONMENT**

Abandonment of a nonconforming use requires a discontinuance of the use of a property and an intent to abandon the property.

#### **ACCESSORY USE OR STRUCTURE**

A use or structure subordinate to the principal use or structure on the same lot and serving a purpose customarily incidental to the use of the principal building or premises. When an accessory structure is attached to a principal building, it shall be considered part of the principal building. Accessory structures in all residential zones, shall include, but not necessarily be limited to, garages (detached), garden sheds, and pool cabanas, but shall not include fences.

#### **ADMINISTRATIVE OFFICER**

The Borough Clerk or such person designated by the Borough Council.

#### **AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population where the head of household is a minimum of 62 years, or 55 and meets the provisions of the 42 U.S.C. §§3601 et seq., except that due to death, a remaining spouse of less than 55 years of age shall be permitted to continue to reside.

#### **AGENT**

Any person who can show written proof that he or she has authority to act for the property owner.

#### **ALTERATION, STRUCTURAL**

See "Structural Alteration."

### **AMBULATORY HEALTH CARE FACILITY**

An establishment where patients are admitted for examination and treatment on an outpatient basis by physicians, dentists, or other medical personnel, psychologists, or social workers and where such examination and treatment generally require a stay of less than 24 hours. Medical offices for employees that are incidental to the primary use of the facility as an ambulatory health care facility are permitted.

### **APPLICANT**

A developer applying for development.

### **APPLICATION FOR DEVELOPMENT**

The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, conditional use, zoning variance or direction of the issuance of a permit for relief from restrictions on the location of buildings as specified in this Chapter and the Subdivision and Site Plan Ordinance.

See Ch. 305, Subdivision of Land and Site Plan Review.

### **APPROVING AUTHORITY**

The Planning Board or Board of Adjustment of the Borough of New Providence as specified in Chapter 291, Land Use Procedures, §291-6.

### **ARTS CENTER**

A structure or complex of structures for the visual and or performing arts, inclusive of theaters, used to show motion pictures or for drama, dance, musical, or other live performances.

### **ATTIC**

The part of a building that is immediately below and within the roof framing, not suitable for habitation. For habitable upper floor, see definition of "Story, Half."

### **AUTOMOBILE REPAIR ESTABLISHMENT**

A building or place of business where mechanical repair of motor vehicles, not including auto body repair or metal refinishing, is performed.

### **AUTOMOBILE SERVICE STATION**

A building or place of business where gasoline, oil and greases, batteries, tires, and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, and where minor repair service may be performed, but excluding body work, painting, and major overhaul.

## **BASEMENT**

That portion of a building which is partly or completely below grade that may be considered a living space. A basement with more than 50% of its volume at or below grade is not considered a story for the purposes of building height. See definition of "Story."

## **BOARD**

The Board of Adjustment and/or the Planning Board of the Borough of New Providence, as applicable.

## **BOARD OF ADJUSTMENT**

The Zoning Board of Adjustment of the Borough of New Providence.

## **BREWERY**

An establishment licensed per the requirements of N.J.A.C. 33:1-10 as a limited brewery primarily engaged in the production and distribution of beer, ale, or other malt beverage, which may include such accessory uses as tours, retail sales, and on-site consumption i.e., "tasting room."

## **BREW PUB**

An establishment licensed per the requirements of N.J.A.C. 33:1-10 as a restricted brewery primarily engaged in the production and distribution of beer, ale, or other malt beverages and which is operated in conjunction with a restaurant.

## **BUILDING**

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

## **BUILDING, COVERAGE**

The ratio of the horizontal area measured from the exterior walls of the ground floor of the principal building on a lot to the total lot area. The calculation shall include roof overhangs that project 2 feet or greater from the structure. In one and two-family residential structures, porches, decks, and similar appurtenances without a roof are excluded.

## **BUILDING, HEIGHT OF**

- A. The vertical distance measured from grade to:
  - (1) The decline in the case of mansard roofs (which may not extend above the decline more than 10% of the building height) with no other structures thereon except chimneys; or

- (2) To the mean level of the slope of the roof in the case of gabled, hip, and gambrel roofs with no other structures thereon except chimneys; or
  - (3) The top of any and all other types of roof surfaces, including flat roofs, or any structure on the roof, including but not limited to elevators, escalator penthouses, cooling towers, or structure to house mechanical or other equipment.
- B. Unless otherwise provided in this Chapter, the maximum height of a building or structure will be thirty-five (35) feet.
  - C. Notwithstanding the above, any fill material placed within 10 feet of the perimeter of the foundation walls that increases the outside finished ground elevation shall not be considered when computing the building height.
  - D. See "Yard, Side" for additional information regarding the calculation of side yard setbacks as they relate to building height.

#### **BUILDING PERMIT**

See "construction permit."

#### **BUILDING, PRINCIPAL**

A structure which contains the principal use of the site on which it is situated. In any residential district, any dwelling shall be deemed to be a principal building on the lot on which it is located.

#### **CAPITAL IMPROVEMENT**

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

#### **CELLAR**

The portion of a building with more than 50% of its volume below grade that has a ceiling height of less than six and a half feet, and which may not be considered a living space.

#### **CERTIFICATE OF OCCUPANCY**

A certificate signed by the Construction Official provided for in N.J.S.A. 52:27D-133 indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State of New Jersey Uniform Construction Code and any other ordinance implementing said code.

See Ch. 129, Construction Codes, Uniform.

### **CHILD-CARE CENTER**

An establishment providing for the care, supervision, and protection of children that is licensed by the State of New Jersey pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.). This term shall include but not be limited to day care centers, drop-in centers, nursery and play schools, child centers, and day cares.

### **CIRCULATION**

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

### **COMMERCIAL PARKING AREA**

See "Parking Area, Commercial."

### **COMMERCIAL VEHICLE**

See "Vehicle, Commercial."

### **COMMON OPEN SPACE**

See "Open Space, Common."

### **COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED**

- A. Any community residential facility licensed pursuant to P.L. 1977, c.448 (N.J.S.A. 30:118-1 et seq.), providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, intermediate-care facilities, supervised apartment living arrangements and hostels. Such a residence shall not be considered a health-care facility within the meaning of the Health Care Facilities Planning Act, P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.).
- B. In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by the Division of Mental Health and Hospitals of the Department of Human Services.

### **COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE**

Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L. 1979,

c. 337 (N.J.S.A. 30:40-1-14), providing food, shelter, medical care, legal assistance, personal guidance and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

#### **CONCEPT PLAN**

See "Plan, Concept."

#### **CONDITIONAL USE**

A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this Chapter and upon the issuance of an authorization by the approving authority.

#### **CONSTRUCTION OFFICIAL**

The person responsible for the issuance of construction permits and certificates of occupancy.

#### **CONSTRUCTION PERMIT**

A document signed by the Construction Official or other designated authority required precedent to the commencement of the erection, construction, reconstruction, alteration, conversion or installation of a structure or building that states that the proposal is in conformance with the State of New Jersey Uniform Construction Code.

#### **CONTINUING CARE RETIREMENT COMMUNITY ("CCRC")**

A development of residential living units for residents who are sixty-two (62) years of age or older, or for couples, one of whom is at least sixty-two (62) years of age, that provides "continuing care" as defined in N.J.S.A. 52:27D-332.c.,

#### **CONTINUING CARE RETIREMENT COMMUNITY ACCESSORY USES**

Any use necessary for the operation of the CCRC facility or for the benefit or convenience of the residents, employees, and their guests, such as, but not limited to, kitchen and dining facilities, places of worship, indoor and outdoor recreational buildings and uses, retail and banking facilities, beauty salons and barber shops, gift shops, classrooms, security facilities, conference rooms, common areas, guest rooms, administrative offices, health and wellness center, medical offices, postal center, pharmacy, maintenance facilities, craft and music rooms, library and television room, and non-age restricted day care center for relatives of employees.

#### **CORNER LOT**

See "Lot, Corner."

**COUNCIL**

The Borough Council of the Borough of New Providence.

**COURT**

Any open, unoccupied area which is bounded by three or more attached building walls.

**DATA CENTER**

A facility used to house computer systems and associated components, such as telecommunications and storage systems, and is typically unstaffed with the exception of occasional maintenance. It generally includes redundant or backup power supplies, redundant data communications connections, environmental controls (e.g., air conditioning, fire suppression) and security devices.

**DAYS**

Calendar days.

**DECK**

A platform, whether freestanding or attached to a building, extending over and above the ground and supported by posts, columns or footings extending to the ground. Such "deck" shall not extend into any required yard, except where a specific deck setback is provided pursuant to Schedule II.

**DENSITY**

The number of dwelling units per gross area of land to be developed.

**DEVELOPER**

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining, excavation or landfill and any use or change in the use of any building or other structure or land or extension of use of land for which permission may be required, without limiting the foregoing.

See Ch. 305, Subdivision of Land and Site Plan Review, and N.J.S.A. 40:55D-1 et seq., respectively.

### **DEVELOPMENTALLY DISABLED PERSON**

A person who is developmentally disabled as defined in Section 2 of P.L. 1977, c. 448 (N.J.S.A. 30:11B-2).

### **DISTILLERY, MICRO**

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

### **DISTRICT**

Any portion of the territory of the Borough within which certain uniform requirements apply under the provisions of this Chapter.

### **DRAINAGE**

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

### **DRIVE-THROUGH ESTABLISHMENT**

An establishment that dispenses products or services to patrons who remain in their vehicles.

### **DWELLING**

Any building or portion thereof designed or used exclusively for human habitation.

### **DWELLING, MULTIFAMILY**

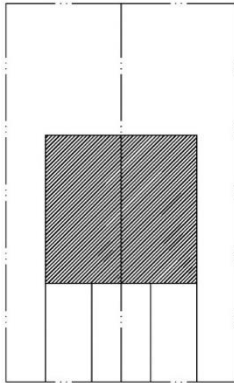
A building containing three or more dwelling units where each unit is joined to other dwelling units above, adjacent, and/or below, but not including a hotel, rooming house, dormitory, fraternity or sorority house or similar structure. Multifamily dwellings are also commonly referred to as "apartment buildings."

### **DWELLING, SINGLE-FAMILY ATTACHED**

A single-family dwelling in a row of two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any



other unit by one or more vertical common fire-resistant walls. Lot ownership is divided by dwelling unit. See the figure below.



**DWELLING, SINGLE-FAMILY DETACHED**

A detached building (i.e., not connected to another structure), designed for or occupied exclusively by one family and containing not more than one dwelling unit. Commonly referred to in this Chapter as “Single-Family Dwelling.”

**DWELLING, TOWNHOUSE**

A building designed for or occupied exclusively by one family and attached to other similar buildings or structures by party walls extending from the foundation to the roof and providing two direct means of access from the outside.

**DWELLING, TWO-FAMILY**

A building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar/basement, and which shall be located on a common lot or parcel of land.

**DWELLING UNIT**

One or more rooms, including cooking facilities and sanitary facilities, in a dwelling structure, designed as a unit for occupancy by not more than one family for living and sleeping purposes.

**EATING AND DRINKING ESTABLISHMENTS**

Establishments serving food or drink for immediate consumption on the premises, including restaurants, lunch counters, cafés, coffee shops, refreshment stands, ice cream parlors, juice bars, and luncheonettes, but excluding drive-through restaurants.

## **EDUCATIONAL USE**

See "Institutional and Public Uses."

## **EDUCATIONAL USE, SPECIALIZED OR VOCATIONAL SCHOOLS**

Any building or part thereof which is designed, constructed or used for education of students that is not part of a licensed State of New Jersey facility, or under the jurisdiction of the New Providence Board of Education. Such establishment is intended to provide groups of five or more individuals with instruction or learning in matters including but not limited to art, business, computer training, dance, driving school, vocational or technical training, language, SAT tutors, sports, self-defense, recreation, or other skills or subjects, but not offering the full curriculum of academic instruction provided by a high school, college, or university.

## **ENCROACHMENT**

Any structure that protrudes into a required setback.

## **EROSION**

The detachment and movement of soil or rock fragments by water, wind, ice and gravity.

## **ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, telephone, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

## **FAMILY**

A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

## **FENCE**

An artificially constructed barrier of wood, metal, wire, concrete, or other similar material or combination of material, erected to enclose, screen, or separate an area. Fences do not include building walls, hedges, shrubs, or other natural growth.

### **FINAL APPROVAL**

The official action of the Planning Board or Board of Adjustment taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for the completion or approval conditioned upon the posting of such guaranties.

### **FINAL PLAT**

See "Plat, Final."

### **FINANCIAL INSTITUTION**

Any structure wherein business of primarily a monetary nature is transacted, such as banks, savings and loans associations, mortgage companies and similar institutions. A financial institution can be with or without a drive-through, pursuant to the standards of this Chapter.

### **FLOOR AREA, GROSS**

The total floor area of a building computed by measuring the horizontal dimensions of the outside walls of all enclosed portions of the building, including halls, enclosed porches, and garages but not including attic or basement.

### **FLOOR AREA RATIO (FAR)**

The sum of the area of all floors of buildings or structures compared to the total area of the site. The ratio between the gross floor area of all structures on a lot and the total area of the lot.

### **FLY ASH**

Particles of gas-borne matter, not including process material, arising from the combustion of solid fuel, such as coal or wood.

### **FUNERAL HOME**

A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

### **GARAGE**

A structure or portion of a structure used or designed to be used for the parking and storage of motor vehicles.

### **GAS STATION**

Same as "Automobile Service Station"

## **GRADE**

- A. A reference plane representing the average of ground levels/elevations in a given area. In the case of grade adjoining a structure at exterior walls, the reference plane shall be established by:
- (1) The lowest points within the area between the structure and the property line as determined by perpendicular offset from the structure wall;
  - (2) Where the property line is more than 10 feet perpendicular from the structure, then the lowest points between the structure and within ten feet; or
  - (3) Where a public road exists within 50 feet of the structure, the lowest points will include the pavement level of the public road.
- B. Ground levels are to be averaged at no more than ten-foot intervals, exclude intermittent variations and include all building corners, or a perpendicular distance therefrom.
- C. Topographical site information shall be submitted with all construction plans. Property owners making modifications, alterations, or additions to existing structures may request a waiver of the requirement to provide topographical information, subject to a review by the Zoning Officer.

## **GREEN BUILDING**

Practices that consider the impacts of buildings on the local, regional, and global environment; energy and water efficiency; reduction of operation and maintenance costs; minimization of construction waste; and eliminating the use of harmful building materials.

## **GROSS FLOOR AREA**

See "Floor Area, Gross."

## **GROUP HOME**

A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care. For the purpose of zoning, group homes are considered one/two-family homes and are exempt from site plan approval.

## **HEALTH CARE TESTING SERVICE FACILITY**

An establishment where health care services such as blood tests and similar health care tests and services are administered to patients. Medical offices for employees that are incidental to the primary use of the facility as a health care service facility are permitted.

### **HEALTH CARE UNIT (“HCU”)**

- A. An assisted living unit or memory care unit, each of which is an apartment configured for those needing assisted living or memory care, and (i) designed to house 1 or 2 related or unrelated individuals, and (ii) having an entrance door opening onto an interior corridor, which is a common area; or
- B. A skilled nursing room substantially similar to a room in a nursing home, where the CCRC provides health care under medical supervision and continuous nursing care for residents who do not require the degree of care and treatment which a hospital provides, and (i) designed to house 1 or 2 related or unrelated individuals requiring nursing or rehabilitation care, and (ii) having an entrance door opening onto an interior corridor which is a common area.
- C. See “Long Term Care Facility”

### **HIGH-TECHNOLOGY INCUBATOR BUSINESS**

Such businesses are consistent with the aim of developing and nurturing start-up, high-technology businesses. The North American Industry Classification System (NAICS) descriptions, or its equivalent shall be used in determining if a particular use is in keeping with the intent of the regulation. Examples include but are not limited to the research and development of computer software, fuel cells, "green" products, solar cells, semiconductors, optical scanning devices, information technology, digital animation, computer hardware, computer facilities management, and information retrieval services.

### **HISTORIC**

Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which have been formally designated in the Historic Preservation Element of the Master Plan as being of historical, archaeological, cultural, scenic, or architectural significance.

### **HOME OFFICE / OCCUPATION**

An office use clearly incidental and secondary to the principal residential use carried on for gain by a permanent resident in a dwelling unit that also constitutes the resident's principal place of business.

### **HOTEL**

A facility offering transient lodging accommodations to the general public and that may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational activities.

### **HOTEL/ CONFERENCE FACILITIES**

A facility offering transient lodging accommodations to the general public that may include the provisions of a “Hotel” with the addition of facilities used for conference and seminars. These facilities must be developed as one facility, including convenience commercial uses and restaurants, which are related to the hotel/conference facility.

### **IMPERVIOUS COVERAGE**

See “Lot Coverage.”

### **INDEPENDENT LIVING UNIT (ILU)**

A self-contained apartment with full kitchen facilities and private bath comprising an independent self-contained dwelling unit (i) designed to house individuals not needing assisted living services, memory care, rehabilitation care, or nursing care, and (ii) having an entrance door opening onto an interior corridor.

### **INSTITUTIONAL AND PUBLIC USES**

Non-profit, public, or quasi-public institutions and uses, such as public and private schools licensed by the State of New Jersey, community centers, libraries and municipally owned or operated buildings, structures or land use for public purposes, not including places of worship.

### **INTERESTED PARTY**

Any person, whether residing within or without of the Borough of New Providence, whose right to use, acquire or enjoy property is or may be affected by any action taken under this chapter or the Municipal Land Use Law of the State of New Jersey Editor's Note: See N.J.S.A. 40:55D-1 et seq. or under any other law of this state or of the United States have been denied, violated or infringed by an action or a failure to act under this chapter or the Municipal Land Use Law.

### **LABORATORY**

A facility primarily engaged in providing analytic or diagnostic services on human specimens, including body fluid or body tissue, or performing diagnostic imaging, to government agencies, to the medical, dental, or other health service professions, or to patients; this includes the fabrication of dentures, eyeglasses and contact lenses, and prosthetic devices.

### **LAND**

Includes improvements and fixtures on, above or below the surface.

### **LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN)**

A rating system intended to encourage the design, construction, operation, and maintenance of buildings and neighborhoods so as to minimize their consumption of energy and to lessen their impact on the environment.

### **LIGHT INDUSTRIAL**

This use includes manufacturing, fabricating, processing, converting, altering, packaging, bottling or assembling of products, the operations of which are conducted solely within an enclosed building or group of buildings, which are not productive of injurious or offensive noise, fumes, smoke odor, sewage effluent or vibrations nor are detrimental to health, safety, or property.

### **LIVING AREA**

The area of a dwelling within the exterior walls, but excluding cellars, attics, garages, or porches.

### **LONG-TERM CARE FACILITY**

A licensed facility where each unit is configured for those needing long-term care and (i) designed to house 1 or 2 related or unrelated individuals, and (ii) having an entrance door opening onto an interior corridor, which is a common area.

### **LOT**

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit and having frontage on a public or private street.

### **LOT AREA**

The computed area contained within the lot lines.

### **LOT, CORNER**

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, forming an interior angle of less than 135°. The point of intersection of the projection of the street lines is the "corner."

### **LOT COVERAGE**

The area of a lot occupied by impervious surfaces, including but not limited to principal and accessory buildings and structures, driveways, parking areas, walkways and other man-made improvements on the ground surface.

### **LOT DEPTH**

The mean distance between the front and rear lot lines.

**LOT LINE, FRONT**

The line separating the lot from a street right-of-way. For corner lots, this is the side of the lot on which the principal entrance will be or is located.

**LOT LINE, FRONTAGE**

The distance for which a lot or parcel of land abuts the street right-of-way.

**LOT LINE, REAR**

The lot line or lines opposite and most distant from the front lot line or the point at which the two side lot lines meet.

**LOT LINE**

The property lines bounding the lot.

**LOT LINE, SIDE**

Any lot line other than a front or rear lot line. For corner lots, the lot line fronting on a street that is not the front lot line shall be considered "street side lot line."

**LOT LINE, STREET**

See "Lot Line, Front."

**LOT LINE, STREET SIDE**

On a corner lot, the lot line abutting a street which is not considered the front lot line as established herein, shall be considered the street side lot line.

**LOT, NONCONFORMING**

See "Nonconforming Lot."

**LOT, THROUGH**

A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

**LOT WIDTH**

The distance for which a lot or parcel of land abuts the street.



### **MAINTENANCE GUARANTY**

Any security, other than cash, which may be accepted by the Borough of New Providence for the maintenance of improvements required by the Subdivision and Site Plan Ordinance of the Borough of New Providence.

See Ch. 305, Subdivision of Land and Site Plan Review.

### **MAJOR SUBDIVISION**

See "Subdivision, Major."

### **MAP FILING LAW**

The Map Filing Law of the State of New Jersey, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.).

### **MASSAGE THERAPY**

An accessory use to "Spa / Day Spas" where non-medical massage occurs, and the area where the massage occurs, which shall cover less than 20 percent of the gross floor area of the principal use. Massage therapy does not include services offered by a physical therapist or other medical professionals.

### **MASTER PLAN**

A composite of one or more written or graphic proposals for the development of the Borough of New Providence as set forth in and adopted pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-28).

### **MEMBERSHIP/FRATERNAL ORGANIZATION**

A group of persons who have come together on a formal basis, usually with bylaws and membership requirements, with the object of promoting the interests of the group's members.

### **MINOR SITE PLAN**

See "Site Plan, Minor."

### **MINOR SUBDIVISION**

See "Subdivision, Minor."

### **MIXED-USE BUILDING**

A building containing more than one type of land use, including but not limited to residential, office, retail, public, or entertainment. When a mixed-use building is permitted within a certain zoning

district pursuant to the use standards of this Chapter, non-residential uses permitted within that zoning district shall be considered permitted within the building.

#### **MIXED-USE DEVELOPMENT**

The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact form.

#### **MOTEL**

See "Hotel."

#### **MUNICIPAL AGENCY**

The Planning Board or the Board of Adjustment of the Borough of New Providence.

#### **MUNICIPAL LAND USE LAW (MLUL)**

The Municipal Land Use Law, Chapter 291 of the Laws of 1975, compiled as N.J.S.A. 40:55D-1 et seq., with amendments.

#### **NONCONFORMING LOT**

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

#### **NONCONFORMING STRUCTURE**

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

#### **NONCONFORMING USE**

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

#### **OFFICE**

A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government. Incidental offices that are customarily accessory to another use are allowed as part of an approved principal use.

**OFFICE, CO-WORKING SPACE**

An arrangement where multiple companies share an office space in order to save costs through the utilization of common facilities, including office space, equipment, utilities, and administrative staff such as a receptionist and/or IT personnel.

**OFFICE, CORPORATE**

Any building consisting of more than 10,000 square feet, in which at least 1/2 are rented or occupied by a single corporation or firm and whose primary business is to serve as a regional or national center for other endeavors of the corporation or firm.

**OFFICE, FLEX**

A building or space that allows for a portion of the area to be finished as traditional office space for administrative duties, and a portion retained for uses such as research and development, digital and media arts, information technology, etc. Flex spaces can be easily converted and altered to meet the needs of the individual tenants. Flex spaces could also have a retail component but shall not be utilized for warehousing, distribution, manufacturing, or the like.

**OFFICE, HOME**

See "Home Office/Occupation."

**OFFICE, MEDICAL**

An office authorized through licensure issued by the NJ State Department of Health and the Board of Medical Examiners, including physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premise. Medical offices do not include facilities typically associated with hospitals for inpatient care, major surgical procedures, or emergency care.

**OFFICE, PROFESSIONAL**

An office of a member of a recognized profession, maintained for the conduct of their profession. Such professions shall be limited to those of law, architecture, engineering, art, religion, music, accounting, insurance services, real estate brokers, medical, dental, optical, and other professions which require a degree of formal training and experience.

**OFFICIAL MAP**

A map adopted by ordinance pursuant to article 5 of P.L. 1975, c.291.

**OFF-SITE**

Located outside the lot lines of the lot in question but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

**OFF-TRACT**

Not located on the property which is the subject of a development application nor on a contiguous portion or a street right-of-way.

**ON-SITE**

Located on the lot in question.

**ON-TRACT**

Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

**OPEN SPACE**

Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

**OPEN SPACE, COMMON**

An open space area within or related to a site designated as a development and designed and intended for the use or enjoyment of residents and owners of the development. "Common open space" may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

**OPEN SPACE, PUBLIC**

An open space conveyed or otherwise dedicated to or owned by the Borough, Borough agency, Board of Education, state or county agency or other public body for public recreation or conservational uses.

**OWNER**

Any individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land proposed for development to commence and maintain proceedings to develop the same.

**PARKING, SHARED**

Joint utilization of parking area for more than one use.

**PARTY IMMEDIATELY CONCERNED**

For purposes of notice, any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice pursuant to the Land Use Procedures Ordinance of the Borough of New Providence.

See Ch.291, Land Use Procedures.

**PATIO**

A flat or terraced surface located on the ground, constructed of brick, stone, concrete or other similar materials and intended as an outdoor sitting area. Such "patio" shall not be closer than six feet to any lot line.

**PERFORMANCE GUARANTY**

Any security, including cash, performance bonds, escrow agreements and other similar collateral or surety agreements, which may be accepted by the Borough.

**PERSONAL SERVICES**

Establishments primarily engaged in providing services involving the care of a person or their personal goods or apparel. Such services include but are not limited to shoe repair, tailors, dry cleaning, pet grooming, custom printing shops, watch repair, barber and beauty services, including spas/day spas that may include massage therapy as an accessory use as defined herein, but excluding massage as a principal use.

**PLACE OF WORSHIP**

A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses, including parish houses, covenants, classrooms for religious instruction, rectories, and other customary accessory uses and buildings, but not including parochial schools, day care centers, homeless shelters, or soup kitchens.

**PLAN, CONCEPT**

A preliminary presentation and attendant documentation of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

**PLANNING BOARD**

The Planning Board of the Borough of New Providence.

**PLAT**

A map or maps of a subdivision or site plan.

**PLAT, FINAL**

A final map of a subdivision that satisfies the requirements of Chapter 305, Subdivision of Land and Site Plan Review.

**PLAT, PRELIMINARY**

A preliminary map indicating the proposed layout of a subdivision or site plan and meeting the requirements of the subdivision or site plan application.

**PLAT, SKETCH**

A sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification and meeting the requirements of Chapter 305, Subdivision of Land and Site Plan Review.

**PORCH**

A covered platform that leads to the entrance of a building.

**PORTABLE HOME STORAGE UNIT (POD)**

A portable and temporary shed or storage container, storage unit, shed-like container or other portable and temporary structure that can or may be used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory structure.

**PORTICO**

A structure consisting of a roof supported by columns or piers that leads to the entrance of a building.

**PRELIMINARY APPROVAL**

The conferral of certain rights pursuant to Chapter 305, Subdivision of Land and Site Plan Review, prior to final approval after specific elements of a development plan have been agreed upon by the reviewing board and the applicant.

### **PRELIMINARY FLOOR PLANS AND ELEVATIONS**

Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale and relationship to its site and immediate environs.

### **PRELIMINARY PLAT**

See "Plat, Preliminary."

### **PRIVATE PASSENGER VEHICLE**

See "Vehicle, Private Passenger."

### **PROPERTY LINE**

The dividing line between the street and lot or the dividing line between lots. Also referred to as "street lot line" and "lot line."

### **PUBLIC DRAINAGE WAY**

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

### **PUBLIC OPEN SPACE**

See "Open Space, Public."

### **QUORUM**

The majority of the full authorized membership of the Planning Board or Board of Adjustment.

### **RECREATION/ SPORTS FACILITY**

Indoor recreational facilities including, but not limited to racquet clubs, fitness centers, sports training centers, tennis courts, badminton courts, party and play facilities, and batting cages shall be permitted uses. Pro shop and education and training facilities for indoor recreational uses shall be permitted in conjunction with the indoor use.

### **RECREATIONAL VEHICLE**

See "Vehicle, Recreational."

## **RESTAURANT**

An establishment, including diners and luncheonettes, serving food and liquid refreshment.

## **RESTAURANT, DRIVE-THROUGH**

An establishment that offers food or drink served to customers within automobiles outside of the confines of the building and where the consumption of such food or drink is intended to occur off the premises. Inside dining is also typically provided.

## **RESTAURANT, FAST SERVICE**

An establishment which is essentially designed to dispense a limited variety of food and beverages, which are so prepared and packaged in paper or in other types of disposable wrappers and containers in a form for quick or ready consumption inside the building or off the premises and which has tables inside the building for consumption of food and beverages on the premises.

## **RESUBDIVISION**

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

## **RETAIL CONVENIENCE**

A small retail establishment selling a limited line of pre-packaged food products, household items, newspapers and magazines, candy, beverages, and a limited amount of freshly prepared food such as sandwiches and salads for off-premises consumption.

## **RETAIL SALES**

A building or structure which houses a business selling goods, merchandise, or commodities directly to the public. Retail sales shall not include automobile service stations, car sales, or wholesale businesses.

## **RETAIL SALES, FOOD**

An establishment selling food and/or beverages for consumption primarily off-premises either immediately or with further preparation and may offer other home care and personal products. Such establishments may include but not be limited to supermarkets, grocery stores, and specialty food stores such as bakeries, butcher shops, delicatessens, and similar establishments.



## **RETAIL SERVICES**

Establishments engaged in providing services for individuals, businesses, government, and other organizations and include but are not limited to finance, insurance, real estate, business services, miscellaneous repair services, personal services, pharmacies, motion pictures, amusement and recreation services, museums, and art galleries.

## **RETAINING WALL**

A permanent artificial device constructed to change or preserve the finished grade of a given parcel of land, no portion of which is above finished grade on more than one side of the retaining wall.

## **REVIEWING BOARD**

See "Approving Authority."

## **SEDIMENTATION**

The deposition of soil that has been transported from its site or origin by water, ice, wind, gravity or other natural means as a product of erosion.

## **SETBACK LINE**

A line parallel to the property line established by applying the minimum yard restrictions set forth in this Chapter.

## **SIGN**

Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figure, design, symbols, fixtures, colors, illumination or projected images. Please refer to the Borough's Sign Ordinance, found at §310-49 for detailed definitions of types of signage.

## **SITE**

One or more lots.

## **SITE PLAN**

A development plan of one or more lots on which is shown:

- A. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes, and waterways.

- B. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices.
- C. Any other information that may be reasonably required in order to make an informed determination pursuant to Chapter 305, Subdivision of Land and Site Plan Review.

#### **SITE PLAN, MINOR**

A site plan that:

- A. Proposes new development that will have minimal impact on the community, surrounding neighborhood and the site.
- B. Does not involve any new street or extension of any off-tract improvement which is to be prorated pursuant to Chapter 305, Subdivision of Land and Site Plan Review.
- C. Contains the information reasonably required in order to make an informed determination as to whether the requirements established by the Subdivision and Site Plan Ordinance have been met.

#### **SOLAR ENERGY SYSTEM**

An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy through the use of a solar panel or solar panel array and associated equipment.

#### **SOLAR PANEL**

A photovoltaic panel, or solar shingle or hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

#### **SOLAR PANEL ARRAY**

A collection of multiple solar panels mounted or arranged together, providing energy to the same primary user, as part of a solar energy system.

#### **SPA / DAY SPA**

A personal service establishment that offers a combination of non-medical personal services that may include hair, nail and skin treatments or other services typically found in a beauty shop, and may offer patrons multiple services, such as hygiene, grooming, relaxation therapy, hydrotherapy, and licensed massage therapy as defined by New Jersey General Statutes. Massage therapy shall be an accessory use (see definition of "Massage Therapy") and shall cover less than 20 percent of the floor of the principal use.

## **STANDARDS OF PERFORMANCE**

Standards as established by this chapter and the Subdivision and Site Plan Ordinance regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and flammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the Borough or required by applicable federal or state laws or borough ordinances.

See Ch. 305, Subdivision of Land and Site Plan Review.

## **STOOP**

A small staircase ending in a platform that leads to the entrance of a building.

## **STORY**

Any living area having a finished floor area above grade shall be considered a "story" when the distance from the finished floor to the finished surface of the floor above is more than four (4) feet for more than 60% of the total perimeter of the building or more than ten (10) feet at any point. A basement shall be considered a story when at least 50% of its volume is above grade or when it has direct, at grade access to any exterior yard area.

## **STORY, HALF**

A habitable partial story under a gable, hip or gambrel roof, where the floor area consists of 1/3 or less of the square-footage of the floor directly below.

## **STORY, MEZZANINE**

An intermediate level or levels between the floor and ceiling of any story with aggregate floor area of not more than 33% of the floor area of the story in which the level or levels are located and which is open to the level below.

## **STREET**

Any street, avenue, boulevard, road, parkway, viaduct, drive or any other way which is an existing state, county or borough roadway; which is shown upon a plat heretofore approved pursuant to law; which is approved by official action as provided by borough ordinance; or which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such Board of the power to review plats. It shall include the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

**STREET, ARTERIAL**

A state or county street designated by number, or which connects New Providence and adjacent municipalities.

**STREET, COLLECTOR**

See "Street, Secondary."

**STREET, DEAD-END**

A street with a single common ingress and egress.

**STREET, LOCAL**

A street that provides frontage for access to abutting lots and carries slow-speed traffic primarily having a destination or origin on the street itself.

**STREET, MINOR**

See "Street, Local."

**STREET, PRIMARY**

See "Street, Arterial."

**STREET, RESIDENTIAL**

A street upon which a residential district abuts or where 50% or more of the abutting street frontage is in predominantly residential use.

**STREET, SECONDARY**

A street which collects traffic moving between primary and local streets.

**STRUCTURAL ALTERATION**

Any changes in the supporting members of a building or structure, such as walls, columns, beams or girders.

**STRUCTURE**

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

## **SUBDIVIDER**

Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing or maintaining proceedings under this Chapter or any other ordinance of the Borough of New Providence to affect a subdivision of land hereunder for himself or for another.

## **SUBDIVISION**

A. The division of a lot, tract or parcel of land into two or more lots, tracts or parcels or other divisions of land for sale or development. The following shall not be considered subdivision within the meaning of this Chapter, if no new streets are created:

- (1) Divisions of property by testamentary or interstate provisions.
- (2) Divisions of property upon court order, including but not limited to judgments of foreclosure.
- (3) Consolidation of existing lots by deed or other recorded instrument.
- (4) The conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Zoning Officer to conform to the requirements of this and the Subdivision and Site Plan Ordinance and are shown and designated as separate lots, tracts or parcels on the Tax Map of the Borough.

See Ch. 305, Subdivision of Land and Site Plan Review

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

## **SUBDIVISION, MAJOR**

Any subdivision not classified as a minor subdivision.

## **SUBDIVISION, MINOR**

A subdivision of land for the creation of no more than three lots, provided that such subdivision does not involve any new street or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to Chapter 305, Subdivision of Land and Site Plan Review.

## **TELECOM HOTEL**

A building that is constructed or rebuilt for datacenters. Also known as a carrier hotel, co-location center or internet datacenter, telecom hotels typically house hundreds and thousands of web servers for web hosting organizations, large enterprises and other service organizations.

**TRAILER**

A vehicle designed to be towed or hauled by another vehicle, used for either short-term human habitation (see "Vehicle, Recreational"), or for carrying goods, materials, or objects, or as a temporary office in association with an active construction site.

**THEATER**

See "Arts Center."

**TOWNHOUSE**

See "Dwelling, Townhouse."

**TRANSCRIPT**

A typed or printed verbatim record of the proceedings or reproduction thereof.

**USE**

The purpose for which land, a building or a structure is designed, arranged or intended or for which it is or may be occupied or maintained.

**USE, NONCONFORMING**

See "Nonconforming Use."

**VARIANCE**

Permission to depart from the literal requirements of this Chapter or the Subdivision and Site Plan Ordinance pursuant to Sections 47, 29.2b, 57c and 57d of the Municipal Land Use Law (N.J.S.A. 40:55D-60, N.J.S.A. 40:55D-40b, N.J.S.A. 40:55D-70c and N.J.S.A. 40:55D-70d).

See Ch. 30 5, Subdivision of Land and Site Plan Review.

**VEHICLE, COMMERCIAL**

Any vehicle registered with the state either as a commercial or livery vehicle and displaying commercial or livery license plates and/or having a gross vehicle weight of 7,000 pounds or more. Passenger cars, recreational vehicles or station wagons, excluding taxis displaying commercial plates, are not considered "commercial vehicles" under the terms of this Chapter.

**VEHICLE, PRIVATE PASSENGER**

A vehicle used for providing transportation for the owner or members of his family and so registered by the New Jersey Division of Motor Vehicles.

### **VEHICLE, RECREATIONAL**

A motor vehicle or trailer primarily designed for recreational, camping or travel use, such as a trailer, truck camper, van, or boat trailer. See "Trailer."

### **VETERINARY CLINIC**

A place where animals are given medical care, such as checkups, shots, grooming, but no boarding or surgical procedures take place on site.

### **VETERINARY HOSPITAL**

A place where animals are given medical care, including surgical procedures and where the boarding of animals is permitted in associated with short-term care incidental to the hospital use.

### **WELLNESS AND LIFESTYLE CENTERS**

A building or facility that is devoted towards the promotion of healthy living as well as the prevention of illness and disease run by any number of physicians who can practice a wide variety of medicine. These facilities promote health care through fitness, dietary needs, psychological aid, and other more direct medical practices, where a patron can sometimes talk to a physician directly for a diagnosis of a specific problem or can arrange for a treatment such as massage from a qualified and trained therapist.

### **WHOLESALE BUSINESS**

Any building, premises, or land in which or upon which, the principal business, operation, or industry involves any handling and resale of goods in comparatively large quantities to others, but not usually to the ultimate consumer of an individual unit.

### **YARD**

An open space, which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

### **YARD, FRONT**

An open space extending the full width of the lot between a principal building and the front lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this Chapter.

### **YARD, FRONT SECONDARY**

For a corner lot, the open space extending the full width of the lot between the principal building and the street side lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this Chapter.

### **YARD, REAR**

An open space extending the full width of the lot between a principal building and the rear lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this Chapter.

### **YARD, SIDE**

An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as may be specified elsewhere in this Chapter.

Where a required side yard shall be at least 60% of a new building or new addition's height, the required side yard shall be calculated by measuring from finished grade to the top of the siding. Measurements shall be taken from the front corner, midpoint, and rear corner of the new building or addition. The applicant shall then calculate the 60% requirement for each measured point to determine the required setback dimension. The new building or addition shall be required to meet the measured dimension at each of the three points.

### **ZONING MAP**

The location and boundaries of districts are hereby established as shown on the Zoning Map of the Borough of New Providence, dated October 2022, which map is hereby made a part of this chapter and incorporated herein by reference. Such map and all notations, references and designations shown thereon shall be a part of this chapter as if the same were all fully described and set forth herein, and copies thereof are maintained on file in the Borough Clerk's office.

### **ZONING OFFICER**

The Construction Official or other designated authority charged with the administration and enforcement of this chapter.

### **ZONING PERMIT**

A document signed by the Zoning Officer which is required precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion, or installation of a structure or building and which acknowledges that such use, structure or building complies with the



provisions of this Chapter, or a variance therefrom duly authorized by a Borough board pursuant to Ch. 291, Land Use Procedures.

## Article III. Districts and Zoning Map

### § 310-7. Districts established.

For the purposes of this Chapter, the Borough is hereby divided into the following districts, differentiated according to use and building regulations and designated as follows:

R1	Single-Family District
R2	Single-Family District
R2A	Single-Family District
R3	Two-Family District
R3A	Single-Family and Two-Family District
R4	Multifamily District
A1	Affordable Housing District
A2	Affordable Housing District
A3	Affordable Housing District
A4	Affordable Housing District
OR	Office and Residential District
C1	Specialty Commercial District
C2	Neighborhood Commercial District
CCD	Central Commercial District
CCD-TH	Central Commercial Townhouse District
TBI-1	Technology and Innovation Zone I
TBI-2	Technology and Innovation Zone II
AH-ARO	Affordable Housing Age-Restricted Overlay District
AHO	Affordable Housing Overlay District
PACO	Planned Adult Community Overlay District
CCRCO	Continuing Care Retirement Community Overlay District

### § 310-8. Zone Classifications.

Application of certain standards is based on a classification of zone districts. The zone districts established above shall be classified as follows for purposes of applying these standards:

#### A. Residential

- (1) R1, R2, R2A, R3, R3A, R4, A1, A2, A3, A4, AH-ARO, AHO, PACO, CCRCO

**B. Commercial**

- (1) OR, C1, C2, CCD, CCD-TH
- (2) Any reference or standards pertaining to commercial buildings and development shall apply to any development with a commercial component, including mixed-use structures with residential dwellings.

**C. Industrial**

- (1) TBI-1, TBI-2

**§ 310-9. Zoning Map.**

- A. The location and boundaries of districts are hereby established as shown on the Zoning Map of the Borough of New Providence, dated October 2022, which map is hereby made a part of this Chapter and incorporated herein by reference. Such map and all notations, references, and designations shown thereon shall be a part of this Chapter as if the same were all fully described and set forth herein, and copies thereof are maintained on file in the Borough Clerk's office.
- B. The Zoning Map shall be deemed conclusive with respect to the location of streets and public drainage ways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence.
- C. The approval by the Borough by ordinance under the provisions of any law other than Article 5 of the Municipal Land Use Law of the layout, widening, changing the course of or closing any street or the widening or changing the course of any public drainage way or changing the boundaries of a flood control basin or public area, shall be subject to relevant provisions of this Chapter, the Subdivision and Site Plan Ordinance and the Land Use Procedures Ordinance. See Ch. 305, Subdivision of Land and Site Plan Review, and Ch. 291, Land Use Procedures, respectively.

**§ 310-10. District Boundaries.**

- A. The district boundary lines are intended generally to follow the boundary lines of streets, the center lines of the main trackage of the railroad rights-of-way, existing lot lines, the mean waterline of rivers, streams and other waterways or Borough boundary lines, all as shown on the Zoning Map; but where a district boundary line does not follow such a line, its position is shown on such Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.
- B. In the event that a district boundary is unclear, the Board of Adjustment shall determine its exact location.

## **Article IV. Zoning.**

### **§ 310-11. Schedules.**

The Schedules of Area, Yard, and Building Requirements are contained in subchapters associated with each zone as well as in the corresponding schedules (Schedules II and III) at the end of this Chapter. Should inconsistencies exist between the subchapters and the corresponding schedules, the section with the most recent revision date shall govern.

### **§ 310-12. Applicability of Regulations.**

Except as otherwise provided in this Chapter:

- A. No structure shall be erected, and no existing structure shall be moved, altered, added to or enlarged, nor shall any land or structure be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses listed as permitted in the district in which such structure or land is located.
- B. No structure shall be erected, reconstructed, or structurally altered to exceed in height the limit designated for the district in which such structure is located.
- C. No structure shall be erected, altered, enlarged, or rebuilt, nor shall any open space surrounding any structure, including areas above existing roofs, be encroached upon, or reduced in any manner, except in conformity to the yard, lot area, and structure location regulations designated for the district in which such structure or open space is located.
- D. No land in a residential zone shall be used to fulfill open space, minimum area, minimum yard and/or setback requirements, parking or other similar requirements for any non-residential use in a non-residential zone.
- E. All physical improvements, including but not limited to off-street parking and loading areas, marginal access roads and roadways, other circulation facilities and water, sewerage and drainage facilities, shall be provided in accordance with Chapter 305, Subdivision of Land and Site Plan Review.
- F. Special standards applicable to development of the A1, A2, A3, A4 Districts and the AHO, AH-ARO, and PACO Overlay Zones are only set forth in the Chapter 305, Subdivision of Land and Site Plan Review, to expedite the production of lower-income housing. These standards are deemed to be the minimum necessary for public health, safety and welfare and remove standards which may be desirable to achieve but which may also be cost-generating to a developer of lower-income housing and thereby inhibit its production. Any provision of this Chapter or any other ordinance which is in conflict with the affordable housing standards of the Subdivision and Site Plan Ordinance, and which imposes restrictions or limitations not required for health and safety, shall be inapplicable to the A1, A2, A3, A4 Districts and the AHO, AH-ARO, and PACO Overlay Zones.

### **§ 310-13. Permitted, Conditional, and Accessory Uses.**

- A. Any use not designated as a permitted principal use, accessory use or conditional use is specifically prohibited from any district in the Borough. Permitted uses are as indicated in Schedule I: Permitted Uses.
- B. All principal permitted uses, permitted accessory uses, and conditional uses permitted herein shall be in conformance with the performance controls set forth in applicable State and Borough ordinances, statutes, rules, and regulations.
- C. Only in mixed-use buildings, or commercial developments that consist of multiple related buildings pursuant to §310-14B, may more than one principal use be permitted on a single lot.
- D. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in Section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service, are prohibited uses in all zoning districts.

### **§ 310-14. Buildings and Structures.**

#### **A. Location of Structures**

- (1) No building or structure shall be erected in the bed of any approved street or public drainage way, flood control basin or public area reserved on the Zoning Map.
- (2) No building or structure shall be erected unless the lot abuts an approved street giving access to such proposed building or structure.

#### **B. Number of Buildings/Structures on a Lot**

There shall be a maximum of one (1) principal structure and two (2) accessory structures, including a detached private garage. In any zoning district that permits multifamily or commercial development, related compatible buildings under one (1) management may be erected, used, or occupied in accordance with all pertinent standards of this Chapter.

#### **C. Enhanced Setbacks**

All structures (exclusive of single- and two-family dwellings, driveways, parking lots and detention basins), shall have the following enhanced setback requirements when abutting an R1, R2, R2A, R3, or R3A Zone:

- (1) R4, OR, C-1, C-2, CCD, CCD-TH, A1, A2 and A3 Districts: 25 feet
- (2) TBI-1 and TBI-2: 75 feet, plus four feet for each foot of building height in excess of 25 feet. This enhanced setback shall be inclusive of any buffer requirements as determined by this Chapter.

## **§ 310-15. Accessory Structures and Uses.**

### **A. General Requirements**

- (1) No accessory structure may be built upon any lot on which there is no principal building or structure.
- (2) No accessory structure(s) shall be located in a required front yard or in any area, such as the secondary front yard of a corner lot, where front yard setbacks apply.
- (3) On through lots, no accessory structure erected in the rear yard shall be nearer to the "rear" street line than the minimum front yard setback for the zone in which such lot is located.
- (4) Any accessory structure attached to the principal building shall be considered part of the principal building.
- (5) No accessory structure shall be constructed closer than 12 feet to any other structure on the same lot, excluding patios.
- (6) Accessory structures in residential zones shall not be located closer than six (6) feet to any rear or side lot line.

### **B. Requirements for Specific Accessory Structures and Uses**

- (1) Private swimming pools.
  - (a) Private swimming pools shall be located only in the rear yard of a residential structure.
  - (b) Private swimming pools shall comply with the provisions set forth in Chapter 229. Where there are discrepancies between Chapter 229 and this Chapter, Chapter 229 shall govern.
- (2) Family Day Care Homes.
  - (a) Family day care homes are permitted accessory uses in all residential zones pursuant to N.J.S.A. 40:55D-66.5b, in accordance with the following requirements:
    1. The facility is registered as a family day-care home pursuant to the Family Day Care Provider Registration Act if child-care services are provided for between three (3) and five (5) children for no less than fifteen (15) hours per week.
    2. Such uses shall meet the area and bulk requirements of the zone where located.
    3. The Board may impose reasonable requirements on the use, including but not limited to, off-street parking, landscaping, screening, and buffering.
  - (b) The requirements for family day care homes shall be the same as for single-family dwelling units located within such residential districts.

- (3) Solar Energy Systems are permitted accessory uses in all zones, pursuant to the standards of the Solar Energy Systems regulations section of this Chapter (§310-45).
- (4) Electric Vehicle Charging Stations shall be permitted in all zones in accordance with the standards set forth in this Chapter (§310-48).
- (5) ADA Accessible Ramps and Lifts
  - (a) ADA accessible ramps and/or lifts are permitted accessory structures in all zoning districts and shall be permitted to encroach into the yard setback areas.
  - (b) A zoning permit shall be obtained for any ADA accessible ramp or lift. The New Providence Building Department shall have the authority to administratively authorize the installation of a handicap ramp/lift as long as it meets all of the following criteria:
    1. Ramps/lifts shall be designed so that the encroachment is minimized.
    2. Ramps/lifts may not encroach into any recorded easements or into the public right-of-way.
    3. Ramps/lifts shall be designed in accordance with applicable provisions of the Americans with Disability Act (ADA).
  - (c) Ramps/lifts shall run with the individual, not the land, and shall be removed if no longer necessary, and shall be removed within 90 days of the person with disabilities no longer residing at the premises.
  - (d) Proof of the property owner's consent shall be required if the person applying for the ramp/lift is not the owner.
  - (e) Ramp/lifts shall be exempt from impervious coverage calculations and stormwater management calculations.
- (6) Earth terminal antennas are permitted accessory uses in all zones and shall conform to the standards and conditions of Chapter 141.
- (7) Outdoor Dining.
  - (a) Outdoor dining shall be a permitted accessory use in any zone that permits eating and drinking establishments, including restaurants. Such accessory use shall be subject to the following section.
  - (b) Purpose. The purpose of these standards is to permit daytime and early evening outdoor dining on private property and sidewalks adjacent to local eating and drinking establishments for the enjoyment of restaurant patrons without disturbing the immediate neighborhood or pedestrian traffic. It is intended to permit the tasteful, aesthetic use of tables and chairs on adjacent property and sidewalks of local food

and eating establishments under the direction and approval of the New Providence Code Enforcement/Engineering Department. It is the intention of the Borough of New Providence to monitor and review the use of these facilities to determine their full impact upon the Borough and the enjoyment of its citizens.

(c) Permitted Installations

1. Temporary outdoor seating as an accessory use to eating or drinking establishments shall be permitted and shall not be included in a restaurant's seating or floor area when calculating on-site parking requirements. Outdoor furnishings are limited to tables, chairs, umbrellas, a menu pedestal, a reservation podium, and other such furnishings as required to conduct the operation as is conducted in the indoor establishment and shall be stored inside the restaurant after normal operating hours. Advertising or promotional features shall be limited to the name of the restaurant on the permitted outdoor furnishings.

(d) Outdoor dining shall be subject to the following:

1. Outdoor seating shall not impede pedestrian flow by maintaining a minimum pathway of at least five (5) feet that is free of obstacles at all times. A zoning permit and site meeting with the Borough's Code Enforcement Official is required prior to location within the right-of-way walkways to ensure that the required five (5) foot pedestrian path can be established. Once issued, the zoning permit may be retracted for up to one year by the Code Enforcement Official for failure to maintain the minimum five (5) foot pedestrian pathway.
2. It shall be assumed that an outdoor dining area is a privilege and not a right. The Borough Council or designee shall have the right to prohibit the operation of an outdoor dining area wholly or partially with the public right-of-way at any time because of anticipated or unanticipated problems or conflicts with the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, marches, or repairs to the street or sidewalk. To the extent that is possible, the permittee shall be given prior notice of any time period during which the operation of the outdoor dining area be prohibited.
3. Outside seating areas shall be defined by an enclosure of at least three (3) feet in height measured from the ground or sidewalk level, where feasible. Waivers from this requirement based on limited width can be made during the permit phase. Enclosures shall be designed in compliance with ADA accessibility



guidelines and shall provide safe pedestrian access to the public right of way and designated parking spaces. Such enclosure may consist of screens, planters, fencing or other similar materials. The barrier should denote separation of the pedestrian walkway as denoted above.

4. The outdoor dining area shall be designed to preserve circulation on the site and any affected Borough right-of-way while also protecting the safety of patrons and pedestrians.
5. The owner shall police the area to ensure that it is clean and free of litter and complies with applicable noise standards.
6. Outdoor lighting shall be permitted in order to provide safe pedestrian flow and passage. Small individual table lighting is encouraged. Where additional lighting is required, it shall conform to the lighting standards of the Borough of New Providence.
7. The hours for outdoor service shall be between 7:00 a.m. and 10:00 p.m. All tables, chairs and equipment shall be removed and placed securely indoors no later than 10:30 p.m.
8. No heating or cooking of food or open flames shall be allowed in outside seating areas.
9. The owner of an approved outdoor dining area which is located wholly or in partially within the Borough right-of-way shall indemnify and hold harmless the Borough of New Providence and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of the operation of the outdoor dining area. No such dining area shall be approved, or once approved, permitted to operate, unless the owner has on file with the Borough Clerk a current Certificate of Insurance which certifies that:
  - i. The owner's obligation to indemnify and hold harmless the Borough as provided herein is insured by an insurance carrier authorized to do business in the State of New Jersey.
  - ii. The Borough of New Providence is named as an additional insured under this insurance with respect to claims, damages, losses, and expenses arising out of operation of the outdoor dining area.
10. Music for outdoor seating areas is not permitted.

### § 310-16. Lot Regulations.

- A. Every lot shall include front, side, and rear yards having the areas and dimensions required within the zone in which such lot is located.
- B. No building or structure shall be erected unless the lot abuts an approved street giving access to such proposed building or structure.
- C. In the case of a through lot, the front lot line of such lot, for the purposes of this article, shall be considered that line upon which the majority of the buildings in the same block front, but in case there has been no clearly defined frontage established, the front lot line shall be the line upon which the primary entrance of the principal building faces, or will face when constructed.
- D. Corner Lots:
  - (1) On corner lots, the secondary front yard requirement shall be the same as the front yard requirement for buildings fronting on this side street. In the event that no buildings front on the side street, then the side yard shall be the same as the front yard requirement.
  - (2) At all street intersections, no obstruction to vision, including fences and plant growth, exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines and 30 feet distant from their point of intersection.

### § 310-17. Yard Regulations.

- A. No yard or other open space provided for any building for the purpose of complying with the provisions of this Chapter shall be considered as providing a yard or other open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a structure on any other lot.
- B. Projections into Required Yards.

Minimum required yards shall be entirely free of buildings, structures (excluding parking) or parts thereof. Subject to the conditions hereinafter set forth, the following additions may be permitted to extend into required yards in residential districts:

- (1) Fireplaces.
- (2) Bay windows.
- (3) Replacement of existing front, side or back stoops.
- (4) Overhanging second floors under two (2) feet in depth.
- (5) Window wells affording light and air to basement and cellar areas.

- (6) Expansion of an existing structure which is nonconforming as a result of the establishment of this Chapter, and which did not result from a granting of a variance to this Chapter. The proposed expansion may not extend further into required yards than the existing structure.
  - (7) A roof with unenclosed sides over an entrance platform of a dwelling or portico may project up to five (5) feet into the required front yard, provided that the roof over an entrance platform shall not extend beyond the platform and steps, nor shall the total area of the extension into the front yard exceed 25 square feet. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be such that the minimum front yard setback may be the average of the front yard setbacks of the dwellings located on the lots within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, but in no event shall the minimum front yard setback be less than 10 feet.
  - (8) Freestanding flagpoles, children's playground equipment, sandboxes, outdoor fireplaces, and yard clotheslines and posts, but they must be set back at least five (5) feet from any property line. Except for freestanding flagpoles, such structures shall not be located in the front yard.
  - (9) Residential heating and cooling units.
  - (10) ADA accessible ramps and lifts, pursuant to the standards of this Chapter.
- C. Said expansions pursuant to B(6) above must meet the following conditions:
- (1) The existing building conforms to the bulk requirements for the yard in question or, if the yard requirement is not met, meets all conditions below:
    - (a) The maximum dimension of the proposed addition to the building extending into the yard, as measured parallel to the setback line of the yard in question, does not exceed 20% of the maximum dimension of the existing building as measured parallel to said setback line.
    - (b) Except as provided in §310-17B.4 and 7, extension of the building or structure shall in no case exceed four (4) feet into the front or side yard or ten (10) feet into the rear yard.
    - (c) Alteration of the building does not cause the violation of any other regulation contained in this Chapter.

## **§ 310-18. Exceptions to Height Limits.**

### **A. Appurtenances Attached to Principal Structures.**

Church spires, belfries, domes or antennas attached to buildings, penthouses (not for human occupancy), chimneys, ventilators, skylights, water tanks, bulkheads and necessary mechanical appurtenances usually carried above roof level shall not be considered when determining the height of the building, and are not subject to height limitations, except that such features shall not exceed twenty (20%) percent of total roof area and shall not exceed a height such as is necessary to accomplish the purpose for which it is intended to serve.

### **B. Freestanding Non-Commercial Accessory Structures.**

Water towers, radio and television antennas and flagpoles which are erected as freestanding structures may be erected to a height which can be demonstrated to the approving authority is necessary to accomplish their intended function. Federally licensed amateur radio facilities shall be subject to Federal Communications Commission rules (47 CFR, Part 97), which govern the height of licensed amateur operator radio antennas. The height of the tower or antennae shall conform with U.S. Federal Communications Commission Regulations governing licensed amateur radio operators and, if required, Federal Aviation Administration (F.A.A.) notification and F.C.C. approval. All freestanding non-commercial accessory structures shall not be located within any required front, side or rear yard setback areas and shall be subject to the structural provisions of the New Jersey Uniform Construction Code.

## **§ 310-19. Fences and Walls.**

### **A. Purpose:**

The purpose of this subsection is to establish requirements governing the construction, erection or installation of any fence or retaining wall located on or within any lot or parcel of land within the Borough of New Providence. The requirements set forth herein are designed to prevent the construction of such fences in such a manner as to constitute a nuisance, create a hazard for fire or rescue personnel, or restrict visibility through or across such lands at locations where such visibility is necessary for the safe operation of vehicles passing, entering or leaving the driveway, lot or parcel of land located on a public thoroughfare; and to otherwise provide for the health, safety and welfare of the residents of the Borough.

### **B. Permits**

A zoning permit shall be obtained for all fences, prior to the construction, erection, or installation of any fence. In considering applications for the erection of a fence, the Zoning Official shall require a copy of a survey showing the proposed location of the fence with respect to the existing property lines.

**C. Site Plan Reviews.**

Fences and retaining walls shall be permitted in all residential districts without the need for site plan review provided that the lot in question already has an existing principal structure. Fences in commercial and industrial districts shall require site plan review. Fences and retaining walls shall be considered as accessory to a principal permitted use and shall be permitted in accordance with the standards set forth below.

**D. General Regulations for Fences and Walls.**

- (1) No fence or retaining wall shall be constructed, erected, or placed within a required sight triangle.
- (2) No fence or retaining wall shall be so constructed or installed so as to constitute a hazard to traffic or safety.
- (3) Fences shall be constructed in such a manner that the dressed or finished side of such fence, where applicable, shall face the adjacent property or the public right-of-way excluding railroad property, and all supports for said fence shall be on the interior of said fence and property. This provision shall not preclude the construction and maintenance of a shadowbox type fence, provided that the dressed side of the fence material shall face the adjacent property or public right-of-way and shall be of the same texture, material, and color.
- (4) All fences shall be maintained from the property on which they are located.
- (5) No fence or retaining wall shall be constructed with barbed wire, metal spikes, electrified conductors or other such dangerous material or constructed in such manner as to be dangerous to animals or humans.
- (6) Translucent, transparent or clear plastic or similar materials shall not be permitted.
- (7) Fences constructed of chain link, welded wire, or any flexible material, shall not be permitted in any front yard.
- (8) Chain link fences shall not have privacy strips installed with the exception of fencing surrounding wireless telecommunication tower equipment.

**E. Maximum Height and Location**

- (1) In determining fence height, the following shall apply:
  - (a) For fences that are not uniform in height along the top of the fence, the height shall be measured to the highest point of the fence, except as provided otherwise below.
  - (b) Notwithstanding the maximum height limitations applicable to fences, fence posts may exceed the maximum permitted fence height by up to one (1) foot.

- (c) Fence height shall be measured from normal grade. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, excavating, or curbing which alters the grade at the base of the fence from the grade in the general vicinity of the fence.
- (d) For fences located on sloping ground, the height shall be measured from the grade directly below the point of measurement.
- (2) On corner lots, fences within the secondary front yard shall not exceed four (4) feet in height and shall be at least 50% open.
- (3) In any front yard, no fence or wall shall be permitted above the height of three (3) feet and shall be 50% open.
- (4) Fences located in side or rear yards shall not exceed six (6) feet in height.
- (5) In no case shall a fence be located closer than 10 feet to a curblineline or to the edge of a paved roadway and not in the public right-of-way.
- (6) In rear or side yards, the only fences permitted are:

A fence of durable material and of workmanlike construction, not more than six feet in height. Materials subject to sagging, warping or other distortion under normal usage shall not be considered as durable for the purposes of this subsection.
- (7) Nothing contained in this ordinance shall prevent the erection of an open wire fence not exceeding eight feet above ground level, on any public property or public school property.

#### **F. Swimming Pool Fences**

Every private swimming pool shall have a fence enclosure which complies with the requirements of §229-18.

#### **G. Retaining Walls**

The provisions of this chapter shall not be deemed to prohibit any necessary retaining wall.

#### **H. Maintenance:**

Whenever the owner, tenant or person responsible for a particular parcel of land erects a fence in accordance with the terms of this chapter, (s)he shall be responsible for continually maintaining such fence. Fences which are painted shall be painted in only one color. Multicolored fences are prohibited. Fences shall be erected in a manner so as to permit the flow of natural drainage and shall not cause surface water to be blocked or dammed to create ponding.

### **§ 310-20. Outside Storage.**

- A. Outside storage of any kind is prohibited within the front yard or secondary front yard in the case of corner lots in any district.
- B. The outdoor storage of any items, materials and equipment, other than those customarily placed in yards incidental to authorized residential use and occupancy, is prohibited in all residential zones.
- C. No open or outside storage of manufacturing or other materials, scrap, junk, or waste products of any kind shall be permitted in any district, except that refuse for collection may be stored in suitably covered containers in rear yards and adjacent to the principal structure. Such containers, on other than single- or two-family lots, shall be completely screened on all sides.

### **§ 310-21. R1 Single-Family Residential District**

#### **A. Purpose**

The R1 Single-Family District is a single-family residential district that is designed for single-family development in detached structures that reflect the existing patterns of development.

#### **B. Permitted Principal Uses**

- (1) Single-family detached dwellings
- (2) Essential services
- (3) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

#### **C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Other uses customary and incidental to the principal use

#### **D. Conditional Uses**

- (1) Institutional and Public Uses
- (2) Places of Worship
- (3) Small Wind Energy Systems

**E. Bulk Standards.**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R1 Zoning District:

<b>R1 Single-Family Residential Bulk Standards</b>	
Minimum Lot Area	18,000 square feet
Minimum Lot Width for Interior Lots	
at Setback Line	120 feet
at Right-of-Way Line	75 feet
Minimum Lot Width for Corner Lots	
at Setback Line	130 feet
at Right-of-Way Line	85 feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback	
One	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
Both	30% of the lot width
Minimum Rear Yard Setback	
Principal Structure	40 feet or 35% of lot depth; whichever is greater
Decks	40 feet
Maximum Building Coverage	
Principal One-Story Building (Ranch)	25%
Principal Building More than One Story	20% of the first 7,500 square feet of lot area and 10% of each additional square foot of lot area in excess of 7,500 square feet.
Accessory Building	5%
Maximum Lot Coverage	40%
Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet



\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## **§ 310-22. R2 Single-Family Residential District**

### **A. Purpose**

The R2 Single-Family District is a single-family residential district that is designed for single-family development in detached structures that reflect the existing patterns of development. The district comprises the majority of the land area within the Borough and much the original development dates to the post-war period. Because many of these residential neighborhoods were created far before the Borough's modern zoning ordinance, flexible mechanisms have been put in place to streamline the process for homeowners attempting to renovate or expand their homes.

### **B. Permitted Principal Uses**

- (1) Single-family detached dwellings
- (2) Essential services
- (3) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### **C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Other uses customary and incidental to the principal use

### **D. Conditional Uses**

- (1) Institutional and Public Uses
- (2) Places of Worship
- (3) Small Wind Energy Systems

### **E. Bulk Standards**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R2 Zoning District:

<b>R2 Single-Family Residential District Bulk Standards</b>	
Minimum Lot Area	15,000 square feet
Minimum Lot Width for Interior Lots at Setback Line at Right-of-Way Line	110 feet 60 feet
Minimum Lot Width for Corner Lots at Setback Line at Right-of-Way Line	110 feet 70 feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback One Both	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side." 30% of the lot width
Minimum Rear Yard Setback Principal Structure Decks	40 feet or 35% of lot depth; whichever is greater 40 feet
Maximum Building Coverage Principal One-Story Building (Ranch) Principal Building More than One Story Accessory Building	25% 20% of the first 7,500 square feet of lot area and 10% of each additional square foot of lot area in excess of 7,500 square feet. 5%
Maximum Lot Coverage	40%
Maximum Height Principal Building Accessory Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak 14 feet

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## **§ 310-23. R2A Single-Family Residential District**

### **A. Purpose**

The R2 Single-Family District is a single-family residential district that is designed for single-family development in detached structures. The defining characteristic of the district is the considerable depth associated with the lots compared to the other single-family residential districts of the Borough. R2A Zones are found in several clusters throughout the Borough, creating pockets in the broader R2 Zone.

### **B. Permitted Principal Uses**

- (1) Single-family detached dwellings
- (2) Essential services
- (3) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### **C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Other uses customary and incidental to the principal use

### **D. Conditional Uses**

- (1) Institutional and Public Uses
- (2) Places of Worship
- (3) Small Wind Energy Systems

### **E. Bulk Standards.**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R2A Zoning District:

<b>R2A Single-Family District Bulk Standards</b>	
Minimum Lot Area	18,000 square feet
Minimum Lot Width for Interior Lots at Setback Line at Right-of-Way Line	80 feet 60 feet
Minimum Lot Width for Corner Lots at Setback Line at Right-of-Way Line	110 feet 70 feet
Minimum Lot Depth	200 feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback One Both	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side." 30% of the lot width
Minimum Rear Yard Setback Principal Structure Decks	40 feet or 35% of lot depth; whichever is greater 40 feet
Maximum Building Coverage Principal Building Accessory Building	20% of the first 7,500 square feet of lot area and 10% of each additional square foot of lot area in excess of 7,500 square feet. 5%
Maximum Lot Coverage	40%
Maximum Height Principal Building Accessory Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak 14 feet

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## § 310-24. R3 Two-Family Residential District

### A. Purpose.

The R3 Two-Family Residential District permits the established pattern of development, which consists of a combination of single- and two-family homes surrounding the Borough's South Street corridor. The district acts as a transition area between the single-family districts and the commercial and mixed-use zones.

### B. Permitted Principal Uses

- (1) Single-family detached dwellings
- (2) Two-family dwellings
- (3) Essential services
- (4) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### C. Permitted Accessory Uses

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Other uses customary and incidental to the principal use

### D. Conditional Uses

- (1) Institutional and Public Uses
- (2) Places of Worship
- (3) Small Wind Energy Systems

### E. Bulk Standards.

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R3 Zoning District:

<b>R3 Two-Family Residential District Bulk Standards</b>	
<b>Two-Family Dwellings:</b>	
Minimum Lot Area	10,000 square feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	8 feet; in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
One	
Both	20 feet
Minimum Rear Yard Setback	40 feet
Principal Structure	
Decks	40 feet
<b>Uses Other than Two-Family Dwellings:</b>	
Minimum Lot Area	8,000 square feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
One	
Both	30% of the lot width
Minimum Rear Yard Setback	40 or 35% of lot depth; whichever is greater
Principal Structure	
Decks	40 feet
<b>Standards Applicable to All Uses</b>	
Minimum Lot Width for Interior Lots	75 feet
at Setback Line	
at Right-of-Way Line	50 feet
Minimum Lot Width for Corner Lots	85 feet
at Setback Line	
at Right-of-Way Line	60 feet

Maximum Building Coverage	
Principal Building	25%
Accessory Building	5%
Maximum Lot Coverage	50%
Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## § 310-25. R3A Single- and Two-Family Residential District

### A. Purpose.

The R3A Two-Family Residential District is intended to permit the established pattern of development, which consists of single- and two-family homes similar to that of the R3 Zone, but with significantly increased depths. The district is located in one cluster at the corner of South Street and Central Avenue.

### B. Permitted Principal Uses

- (1) Single-family detached dwellings
- (2) Two-family dwellings
- (3) Essential services
- (4) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### C. Permitted Accessory Uses

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Other uses customary and incidental to the principal use

### D. Conditional Uses

- (1) Institutional and Public Uses

- (2) Places of Worship
- (3) Small Wind Energy Systems

**E. Bulk Standards.**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R3A Zoning District:

<b>R3A Single- and Two-Family Residential District Bulk Standards</b>	
<b>Two-Family Dwellings:</b>	
Minimum Lot Area	15,000 square feet
Minimum Lot Width	
at Setback Line	100 feet
at Right-of-Way Line	100 feet
Minimum Lot Depth	150 feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	
One	12 feet; in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
Both	30 feet
Minimum Rear Yard Setback	
Principal Structure	40 feet
Decks	40 feet
<b>Uses Other than Two-Family Dwellings:</b>	
Minimum Lot Area	10,000 square feet
Minimum Lot Width for All Lots	
at Setback Line	80 feet
at Right-of-Way Line	80 feet
Minimum Lot Depth	125 feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.



Minimum Side Yard Setback	
One	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
Both	30% of the lot width
Minimum Rear Yard Setback	
Principal Structure	40 or 35% of lot depth; whichever is greater
Decks	40 feet
<b>Standards Applicable to All Uses:</b>	
Maximum Building Coverage	
Principal Building	25%
Accessory Building	5%
Maximum Lot Coverage	50%
Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## § 310-26. R4 Multifamily Residential District

### A. Purpose.

The R4 Multifamily Residential District allows for multifamily developments in addition to single- and two-family and townhouse development. The district is located in three clusters throughout the Borough, and is predominantly built-out with post-war, low-rise multifamily developments. Newer multifamily development occurred in the district in the 2010s along the western side of South Street.

### B. Permitted Principal Uses

- (1) Single-family detached dwellings
- (2) Two-family dwellings
- (3) Townhouses
- (4) Multifamily
- (5) Essential services

- (6) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

**C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Family day care homes
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Private recreational buildings and facilities associated with multifamily development
- (6) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Institutional and Public Uses
- (2) Places of Worship
- (3) Membership/Fraternal Organizations
- (4) Small Wind Energy Systems
- (5) Long-Term Care Facility

**E. Bulk Standards.**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the R4 Zoning District.

Development in the R4 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>R4 Multifamily District Bulk Standards</b>	
<b>Single-Family Dwelling:</b>	
Minimum Lot Area	8,000 square feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
One	
Both	30% of the lot width
Minimum Rear Yard Setback	40 feet or 35% of lot depth; whichever is greater
Principal Structure	
Decks	40 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	50%
<b>Uses Other than Single-Family Dwellings:</b>	
Minimum Lot Area	25,000 square feet
Minimum Front Yard Setback	30 feet
Minimum Side Yard Setback	15 feet; in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
One	
Both	35 feet
Minimum Rear Yard Setback	40 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	70%
<b>Standards Applicable to All Uses:</b>	
Minimum Lot Width for All Lots	-
at Setback Line	
at Right-of-Way Line	100 feet
Maximum Height	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Principal Building	
Accessory Building	14 feet

Maximum Residential Density	14 units per acre
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\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

## § 310-27. A1 Affordable Housing District

### A. Purpose.

The A1 Affordable Housing District is intended to provide opportunities for affordable housing within the Borough. The district consists of an inclusionary multifamily development as well as market-rate single-family homes.

### B. Permitted Principal Uses

- (1) Single-family detached dwellings
- (2) Two-family dwellings
- (3) Townhouses
- (4) Multifamily
- (5) Essential services
- (6) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### C. Permitted Accessory Uses

- (1) Home Offices/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Family day care homes
- (5) Private recreational buildings and facilities associated with multifamily development
- (6) Other uses customary and incidental to the principal use

### D. Conditional Uses

- (1) Small Wind Energy Systems

### E. Bulk Standards.

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table applies to the A1 Zoning District.

Development in the A1 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>A1 Affordable Housing District Bulk Standards</b>	
Minimum Lot Area	10,000 square feet
Minimum Front Yard Setback	30 feet*
Minimum Side Yard Setback	
One	15 feet
Both	35 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	50%
Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet, except that recreational buildings and facilities associated with multifamily development shall be governed by the height limitations for principal structures.
Maximum Gross Residential Density	6 units per acre

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

**F. Supplemental Standards.**

- (1) A minimum of 15% of the land in the A1 District shall be designated as conservation area, open spaces, recreation space and/or common open space.
- (2) Up to 25% of the designated common open space may consist of natural or man-made water bodies.
- (3) The common open space shall exclude private patios and any area located between the front of a building and street, front yard or common parking area.

## § 310-28. A2 Affordable Housing District

### A. Purpose

The A2 Affordable Housing District is intended to provide opportunities for affordable housing within the Borough. The district consists of inclusionary and multifamily developments in three sections of the Borough.

### B. Permitted Principal Uses

- (1) Two-family dwellings
- (2) Townhouses
- (3) Multifamily
- (4) Essential services
- (5) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

### C. Permitted Accessory Uses

- (1) Home Offices/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Family day care homes
- (5) Private recreational buildings and facilities associated with multifamily development
- (6) Other uses customary and incidental to the principal use

### D. Conditional Uses

- (1) Small Wind Energy Systems

### E. Bulk Standards.

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the A2 Zoning District.

Development in the A2 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>A2 Affordable Housing District Bulk Standards</b>	
Minimum Lot Area	10,000 square feet
Minimum Front Yard Setback	30 feet*
Minimum Side Yard Setback	
One	15 feet
Both	35 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	50%
Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet, except that recreational buildings and facilities shall be governed by the height limitations for principal structures.
Maximum Gross Residential Density	10 units per acre

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the "Yard Regulations" (§310-17) standards of this Chapter.

**F. Supplemental Standards.**

- (1) A minimum of 20% of the land in the A-2 District shall be designated as conservation area, open spaces, recreation space and/or common open space.
- (2) Up to 25% of the designated common open space may consist of natural or man-made water bodies.
- (3) The common open space shall exclude private patios and any area located between the front of a building and street, front yard, or common parking area.

**§ 310-29. A3 Affordable Housing District**

**A. Purpose**

The A3 Affordable Housing District is intended to provide opportunities for affordable housing within the Borough. The district consists of an inclusionary multifamily development in the northeast section of the Borough.

**B. Permitted Principal Uses**

- (1) Townhouses
- (2) Multifamily

- (3) Essential services
- (4) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

**C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Family day care homes
- (5) Private recreational buildings and facilities associated with multifamily development
- (6) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Small Wind Energy Systems

**E. Bulk Standards.**

All restrictions as set forth in Schedule II of this Chapter and as specifically detailed in the following table apply to the A3 Zoning District.

Development in the A3 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>A3 Affordable Housing District Bulk Standards</b>	
Minimum Lot Area	10,000 square feet
Minimum Front Yard Setback	30 feet*
Minimum Side Yard Setback	
One	15 feet
Both	35 feet
Minimum Rear Yard Setback	20 feet
Maximum Building Coverage	30%
Maximum Lot Coverage	50%



Maximum Height	
Principal Building	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Building	14 feet, except that recreational buildings and facilities associated with multifamily development shall be governed by the height limitations for principal structures.
Maximum Gross Residential Density	14 units per acre

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops, and similar structures exist, said encroachments shall be subject to the “Yard Regulations” (§310-17) standards of this Chapter.

**F. Supplemental Standards.**

- (1) A minimum of 20% of the land in the A3 District shall be designated as conservation area, open spaces, recreation space and/or common open space.
- (2) Up to 25% of the designated common open space may consist of natural or man-made water bodies.
- (3) The common open space shall exclude private patios and any area located between the front of a building and street, front yard or common parking area.

**§ 310-30. A4 Affordable Housing District**

**A. Purpose**

The purpose of the A4 Affordable Housing Zone, which applies only to Block 210 Lots 20 and 32, is to provide areas within the Borough designated for multifamily housing, townhouses, and affordable housing opportunities. The intent of this zone is to be developed as a single entity. Should any other section of this Chapter conflict with the standards found herein, the standards of this section shall govern.

**B. Principal permitted uses:**

- (1) Multifamily
- (2) Townhouses, subject to the Borough’s definition of “Townhouse” found in Ordinance Section 310-6 with the exception of height, which shall be governed by the standards within this section.
- (3) Existing wireless communication tower
- (4) Public parks, recreation building/facilities, and playgrounds

**C. Permitted accessory uses:**

- (1) Home Offices/Occupations

- (2) Private parks and playgrounds
- (3) Private recreational buildings and facilities
- (4) Garages and off-street parking facilities
- (5) Solar Installations
- (6) Electric Vehicle Charging Stations
- (7) Building/roof-mounted wireless communication facility subject to the submission requirements found in this Chapter
- (8) Uses customary and incidental to the principal use

**D. Bulk Standards**

The following bulk standards shall apply:

<b>A4 Affordable Housing District Bulk Standards</b>	
Minimum Lot Area	20 acres
Minimum Setbacks	
From Commerce Street	40 feet
From Spring Street	40 feet
From B. 210 L. 21	30 feet
From the R2 Zone	40 feet
From internal streets	12 feet
Maximum Lot Coverage	50%
Maximum Building Coverage	25%
Maximum Building Height	
Townhouses	3 stories / 38 feet; If the residential structure contains a ground-level enclosed parking area, then the calculation of the height and number of stories shall exclude the ground-level parking area. The height of the structure shall be measured from the finished floor of the first floor above the ground level parking area.
Multifamily	3 stories / 38 feet. If the residential structure contains a ground-level enclosed parking area, then the calculation of the height and number of stories shall exclude the ground-level parking area. The height of the structure shall be measured from the finished floor of the first floor above the ground level parking area.
Clubhouse	30 feet
All other accessory structures	15 feet

Minimum Distance Between Buildings	No portion of a building shall be closer to another building than 50% of its height. In the event the adjacent buildings are different heights, the higher height shall govern.
Minimum Parking Setback for Multifamily	Surface parking areas shall be set back a minimum of 15 feet from the principal building.
Townhouse Driveways	Driveways shall be a minimum of 20 feet between the sidewalk and garage.

**E. Minimum Off-Street Parking:**

- (1) Townhouses: 2 spaces per dwelling unit, 1 of which shall be in a garage.
- (2) Multifamily: RSIS
- (3) A garage and driveway space shall count as two spaces, as well as a dedicated tandem space in a covered garage.
- (4) To the extent feasible, all off-street parking shall be located interior to the property and have limited visibility from the public rights-of-way.

**F. Maximum Number of Units:**

- (1) 192 total dwelling units.
- (2) Development of the site shall provide for a 20% set-aside for family rental affordable units.

**G. Affordable Housing**

- (1) Very low-, low- and moderate-income housing shall be constructed in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low-, low- and moderate-income housing, provided a minimum of 13% of the affordable units are very low-income units at 30% of the median-income and 37% of the affordable units are low-income units with the (up to) 50% balance of units allowed at moderate income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.

**H. Buffers**

- (1) A 20-foot buffer shall be maintained along the property boundary abutting the R2 residential zone. No buildings, signs, structures (including stormwater management facilities), parking, or roadways shall be permitted within the buffer area.

### **I. Signage**

- (1) The provisions of §310-49, entitled "Signs" a, shall govern any provisions regarding signage not addressed herein. Where there is conflict between §310-49 and this section, this section shall take precedence.
- (2) One freestanding sign is permitted at each entrance to the development. Each sign shall not exceed 50 square feet per side.
- (3) Freestanding signs may be internally illuminated and may also be illuminated by an exterior light source, facing down, not upwards toward the sky.
- (4) Freestanding signs shall be setback a minimum of 15 feet from the lot line.
- (5) Freestanding signs shall be setback a minimum of 12 feet from internal roadways.
- (6) Directional signs are permitted on all internal roadways. Directional signs shall be consistent with each other and the tract's other signage.
- (7) Numbers indicating the addresses of the multifamily residential buildings are permitted to be hung on the exterior walls, not to exceed 6 square feet and not to protrude more than 6 inches from the building's surface.

### **J. Additional Standards**

- (1) Two or more principal uses are permitted on a single tract.
- (2) The development may include a recreational amenity, such as but not limited to a clubhouse, for use by the residents of the entire development.
- (3) To the extent feasible, the existing forested areas of the tract shall be maintained.
- (4) Access roads to the tract shall be permitted from Central Avenue, Spring Street and Commerce Drive.
- (5) To the extent feasible, all resident parking associated with multifamily structures shall be located under the building.
- (6) For surface parking areas associated with multifamily structures, a minimum of 10% of the surface area shall be landscaped and shall include one shade tree for every 20 parking spaces.
- (7) Each multifamily building shall not contain more than 48 units.
- (8) No building shall be in excess of 200 feet in length.
- (9) No dwelling unit and/or room intended for human habitation shall be located in a basement, cellar or attic, with the exception that a townhouse structure and multifamily buildings may

have a basement/cellar that contains a general-purpose room such as a family room or recreation room.

- (10) Generators are required for all common areas in multifamily buildings.
- (11) Design standards can be found in Article V.
- (12) Open Space. The development of an inclusionary development in the A4 Zone shall include a donation to the Borough of New Providence the portion of the site that is currently used as a soccer field along with a portion of the adjacent existing driveway.

### **§310-31. RS Residential Senior Affordable Housing District**

#### **A. Purpose.**

The RS Residential Senior Affordable Housing District is intended to provide opportunities for age-restricted affordable housing within the Borough. The district consists of a 100% affordable age-restricted multifamily development in the northern section of the Borough.

#### **B. Permitted Principal Uses**

- (1) Multifamily age-restricted affordable units

#### **C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Family day care homes associated with single- and two-family dwellings
- (3) Solar Installations
- (4) Electric Vehicle Charging Infrastructure
- (5) Private recreational buildings associated with multifamily development only
- (6) Other uses customary and incidental to the principal use

#### **D. Conditional Uses**

- (1) Small Wind Energy Systems

#### **E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the RS Zoning District.

Development in the RS District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>RS Residential Senior Affordable Housing District Bulk Standards</b>	
Minimum Lot Area	-
Minimum Lot Frontage	100 feet
Minimum Setbacks	As determined appropriate by the reviewing Board
Maximum Building Coverage	50%
Maximum Lot Coverage	80%
Maximum Height Principal Building	3 stories not to exceed 35 feet
Maximum Gross Residential Density	16 units per acre
Minimum Square Feet of Common Space	900 sf

**§ 310-32. OR Office and Residential District**

**A. Purpose.**

The OR Office and Residential District is intended to support the existing neighborhood while encouraging new development along the South Street corridor, which leads into the Borough’s downtown. This mixed-use district fronts on South Street and is characterized by office complexes, small-scale retail, and single- and two-family residential development, all of which are mixed-in amongst each other. It is the goal of this district to promote more small-scale mixed-use and office development. The district acts as a prime transition area from the Borough’s TBI-2 Zone, as well as several residential districts, into the central downtown corridor.

**B. Permitted Principal Uses**

- (1) Single-family detached dwellings existing at the time of adoption of this ordinance
- (2) Two-family dwellings existing at the time of adoption of this ordinance
- (3) Townhouses
- (4) Multifamily
- (5) Mixed-use buildings (residential permitted on upper floors)
- (6) Child care centers
- (7) Eating and drinking establishments
- (8) Educational Use: Specialized or Vocational Schools
- (9) Essential services

- (10) Financial Institutions (with or without drive-throughs)
- (11) Funeral homes
- (12) Co-working office space
- (13) Flex office space
- (14) Professional office space
- (15) Personal services
- (16) Restaurants (no drive-throughs)
- (17) Retail convenience
- (18) Retail sales
- (19) Retail sales, food
- (20) Retail services
- (21) Community Residences / Shelters housing the developmentally disabled, victims of domestic violence, the terminally ill, persons with head injuries, consistent with N.J.S.A. 40:55D-66.1

**C. Permitted Accessory Uses**

- (2) Home Offices/Occupations
- (3) Family day care homes associated with single- and two-family dwellings
- (4) Solar Installations
- (5) Electric Vehicle Charging Infrastructure
- (6) Private recreational buildings associated with multifamily development only
- (7) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Small Wind Energy Systems

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the OR Zoning District.

Development in the OR District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>OR Office and Residential District Bulk Standards</b>	
<b>Single- and Two-Family Dwellings:</b>	
Minimum Lot Area Single-Family	8,000 square feet
Minimum Lot Area Two-Family	10,000 square feet
Minimum Front Yard Setback	40 feet or the prevailing front yard setback line* of existing dwellings located within 200 feet of the perimeter of the subject lot and located on the same side of the street as the subject lot, whichever is less, but in no event less than 10 feet.
Minimum Side Yard Setback	
One	For lots wider than 75 feet, the setback shall be 12 feet and for lots 75 feet wide or less, the setback shall be 8 feet; further, in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
Both	30% of the lot width
Minimum Rear Yard Setback	
Principal Structure	40 feet or 35% of lot depth; whichever is greater
Decks	40 feet
Maximum Lot Coverage	45%
Maximum Height	
Principal Structure	2.5 stories / 30 feet average grade to mean level of slope of roof; max 35 feet to peak
Accessory Structure	16 feet
<b>All Other Uses, including Mixed-Use Buildings:</b>	
Minimum Lot Area Multifamily and Townhouses	25,000 square feet
Minimum Lot Area All Other Uses	10,000 square feet
Minimum Front Yard Setback	15 feet
Minimum Side Yard Setback	
One	15 feet in no event shall any new building or addition be permitted to be closer to any side lot line than 60% of the building's or addition's height, measured pursuant to the definition of "Yard, Side."
Both	35 feet
Minimum Rear Yard Setback	40 feet
Maximum Height	30 feet
Maximum FAR (not applicable to townhomes)	0.35



<b>Maximum Lot Coverage</b>	
Townhome	70%
Other	90%
<b>Standards Applicable to All Uses:</b>	
<b>Minimum Lot Width for All Lots</b>	
at Setback Line	100 feet
at Right-of-Way Line	-

\*Setback line shall be measured to the front principal building wall. If front yard encroachments of porches, porticos, stoops and similar structures exist, said encroachments shall be permitted pursuant to the "yard encroachments" (§310-17) standards of this Chapter.

### § 310-33. C1 Specialty Commercial District

#### A. Purpose

The C1 Specialty Commercial District is intended to support transit-oriented development in a mix of development types and uses in the area immediately to the north of the Murray Hill Train Station. Offices, residential development, and retail uses are permitted within the district, and the architecture is designed to invoke the styles of historic local vernacular.

#### B. Permitted Principal Uses

- (1) Townhouses
- (2) Multifamily
- (3) Mixed-use buildings (residential permitted on upper floors)
- (4) Arts centers
- (5) Child care centers
- (6) Eating and drinking establishments
- (7) Educational Use: Specialized or Vocational Schools
- (8) Essential services
- (9) Financial Institutions (with or without drive-throughs)
- (10) Funeral homes
- (11) Institutional and public uses
- (12) Co-working office space
- (13) Flex office space

- (14) Professional office space
- (15) Personal services
- (16) Restaurants (no drive-throughs)
- (17) Restaurant fast service
- (18) Retail convenience
- (19) Retail sales
- (20) Retail sales, food
- (21) Retail services

**C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Private recreational buildings associated with multifamily development only
- (5) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Membership/fraternal organizations
- (2) Small Wind Energy Systems

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the C1 Zoning District.

Development in the C1 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>C1 Specialty Commercial District Bulk Standards</b>	
Minimum Lot Area	2 acres
Minimum Front Yard Setback	15 feet from right-of-way line, except where there is an existing established setback, then the setback shall be the same as the setback of the structures on either side. If one setback is deeper than the other, the deeper setback shall be continued.
Minimum Side Yard Setback	-
Minimum Rear Yard Setback	-
Maximum FAR (not applicable to townhouses)	0.30
Maximum Lot Coverage	80%
Maximum Height	
Principal Building	2.5 stories / 35 feet
Accessory Building	14 feet

## § 310-34 C2 Commercial District

### A. Purpose

The C2 Commercial District is intended to provide for small-scale neighborhood commercial uses along central thoroughfares within the Borough.

### B. Permitted Principal Uses

- (1) Mixed-use buildings (residential permitted on upper floors)
- (2) Brewery
- (3) Child care centers
- (4) Eating and drinking establishments
- (5) Educational Use: Specialized or Vocational Schools
- (6) Essential services
- (7) Financial Institutions (with or without drive-throughs)
- (8) Funeral homes
- (9) Co-working office space
- (10) Flex office space
- (11) Professional office space
- (12) Personal services

- (13) Restaurants (with or without drive-throughs)
- (14) Restaurant fast service
- (15) Retail convenience
- (16) Retail sales
- (17) Retail sales, food
- (18) Retail services

**C. Permitted Accessory Uses**

- (1) Home Offices/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Automobile repair establishments
- (2) Automobile service stations
- (3) Membership / Fraternal Organizations
- (4) Small Wind Energy Systems
- (5) Roof/building-mounted wireless telecommunication equipment

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the C2 Zoning District.

Development in the C2 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>C2 Commercial District Bulk Standards</b>	
Minimum Lot Area	None
Minimum Front Yard Setback	15 feet from right-of-way line except where there is an existing established setback, then the setback shall be the same as the setback of the structures on either side. If one setback is deeper than the other, the deeper setback shall be continued.
Minimum Side Yard Setback	-
Minimum Rear Yard Setback	-
Maximum FAR	0.35
Maximum Lot Coverage	80%
Maximum Height	
Principal Building	2 stories / 30 feet
Accessory Building	14 feet

**§ 310-35. CCD Central Commercial District**

**A. Purpose.**

The CCD Central Commercial District is intended to allow for mixed-use development that will cultivate a traditional “Main Street” downtown area, with uses that are typically found in a vibrant downtown commercial district. The standards envision a walkable, pedestrian-friendly downtown, and consequently employ parking and other streetscape standards that are meant to increase connectivity, provide for comfortable public spaces, increase residential uses, and limit the impact of vehicular traffic. The architecture of the downtown is intended to create a desirable and harmonious visual environment that compliments the established pattern of design within the Borough.

**B. Permitted Principal Uses**

- (1) Mixed-use buildings (residential permitted on upper floors)
- (2) Brewery
- (3) Brewpub
- (4) Child care centers
- (5) Micro Distillery
- (6) Eating and drinking establishments
- (7) Educational Use: Specialized or Vocational Schools
- (8) Essential services

- (9) Financial Institutions (without drive-throughs)
- (10) Institutional and public uses
- (11) Co-working office space
- (12) Flex office space
- (13) Professional office space
- (14) Personal services
- (15) Restaurants (without drive-throughs)
- (16) Restaurant fast service
- (17) Retail convenience
- (18) Retail sales
- (19) Retail sales, food
- (20) Retail services

**C. Permitted Accessory Uses**

- (1) Home Office/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Places of Worship
- (2) Roof/building-mounted wireless telecommunication equipment
- (3) Small Wind Energy Systems

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed below apply to the CCD Zoning District:

Development in the CCD District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>CCD Central Commercial District Bulk Standards</b>	
Minimum Lot Area	-
Maximum Front Yard Setback	10 feet <u>maximum</u> setback from right-of-way line. Eating and drinking establishments and restaurants are permitted an additional front yard setback to accommodate outdoor dining at a depth reviewed and approved by the reviewing board. A minimum of 5 feet of free and unobstructed pedestrian right-of-way must be obtained.
Minimum Side Yard Setback	-
Minimum Rear Yard Setback	-
Maximum Lot Coverage	100%
Maximum Ratio of Lot Coverage to Building Coverage	Total improved lot coverage shall amount to no more than double the area of the building coverage
Maximum Building Height	3 stories / 38 feet
Minimum Building Height	2 stories / 30 feet
Minimum Ground Floor Height	12 feet floor to ceiling
Minimum Building Façade Length	70% of lot width at setback line

## § 310-36. CCD-TH Central Commercial Townhouse District

### A. Purpose

The CCD-TH Central Commercial Townhouse District is intended to attract higher density residential uses to the CCD District, providing a nearby customer base for businesses within easy walking distance. The district will also function as a transition between the more intense Central Commercial District and the R2 Single-Family Residential District.

### B. Permitted Principal Uses

- (1) Townhouse
- (2) Essential services

### C. Permitted Accessory Uses

- (1) Home Office/Occupations
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Small Wind Energy Systems

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed below apply to the CCD-TH Zoning District.

Development in the CCD-TH District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>CCD-TH Central Commercial Townhouse District Bulk Standards</b>	
<b>Townhouses:</b>	
Minimum Lot Area	25,000 square feet
Minimum Lot Width for All Lots	
at Setback Line	100 feet
at Right-of-Way Line	100 feet
Maximum Front Yard Setback	10 feet from the right-of-way line
Minimum Side Yard Setback	
One	15 feet
Both	30 feet
Minimum Rear Yard Setback	15 feet
Maximum Lot Coverage	75%
Maximum Building Height	2.5 stories / 35 feet
Minimum Building Height	2 stories / 30 feet

**§ 310-37. TBI-1 Technology and Business Innovation Zone 1**

**A. Purpose**

The TBI-1 Technology and Innovation Zone 1 is intended to encourage low- to medium-density commercial development for the purpose of high-technology facilities, medical, educational, office, and related facilities in a campus-like setting. This district shall be developed with high-quality design to establish a pleasing aesthetic environment. The land use mix is intended to be developed on lots larger than three (3) acres.

**B. Permitted Principal Uses**

- (1) Mixed-use buildings (residential is not permitted)
- (2) Ambulatory health care facility



- (3) Arts center
- (4) Brewery
- (5) Brewpub
- (6) Child care center
- (7) Data center
- (8) Micro distillery
- (9) Educational Use: Specialized or Vocational Schools
- (10) Essential services
- (11) Health care testing service facility
- (12) High-technology incubator business
- (13) Hotel
- (14) Hotel / conference facility
- (15) Institutional and public uses
- (16) Laboratory
- (17) Office co-working space
- (18) Office corporate
- (19) Office flex
- (20) Office professional
- (21) Recreation / sports facility
- (22) Small Wind Energy Systems
- (23) Telecom hotel
- (24) Veterinary clinic
- (25) Veterinary hospital
- (26) Wellness and Lifestyle center

**C. Permitted Accessory Uses**

- (1) Solar Installations
- (2) Electric Vehicle Charging Infrastructure
- (3) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Wireless telecommunication facilities – tower or roof/building mounted antennas

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the TBI-1 Zoning District:

Development in the TBI-1 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>TBI-1 Technology and Business Innovation Zone 1 Bulk Standards</b>	
Minimum Lot Area	150,000
Minimum Lot Width for All Lots	
at Setback Line	300 feet
at Right-of-Way Line	300 feet
Minimum Front Yard Setback	100 feet
Minimum Side Yard Setback	
One	50 feet
Both	100 feet
Minimum Rear Yard Setback	-
Maximum Lot Coverage	80%
Maximum FAR	0.35
Maximum Building Height	
Principal Structure	3 stories / 45 feet
Accessory Structure	45 feet for parking garages / 14 feet for all other accessory structures

**§ 310-38. TBI-2 Technology and Business Innovation Zone 2**

**A. Purpose**

The TBI-2 Technology and Innovation Zone 2 is intended to encourage low-density light industrial and commercial development for the location of high-technology, educational and related facilities. This zone shall be developed with high-quality design to establish a pleasing aesthetic environment.

**B. Permitted Principal Uses**

- (1) Mixed-use buildings (residential not permitted)
- (2) Ambulatory health care facility

- (3) Arts Center
- (4) Brewery
- (5) Brewpub
- (6) Child care center
- (7) Data center
- (8) Micro distillery
- (9) Educational Use: Specialized or Vocational Schools
- (10) Essential services
- (11) Health care testing service facility
- (12) High-technology incubator business
- (13) Hotel
- (14) Institutional and public uses
- (15) Laboratory
- (16) Light industrial use
- (17) Office co-working space
- (18) Office corporate
- (19) Office flex
- (20) Office professional
- (21) Recreation / sports facility
- (22) Small Wind Energy Systems
- (23) Telecom hotel
- (24) Veterinary clinic
- (25) Wholesale business

**C. Permitted Accessory Uses**

- (1) Retail sales pursuant to the supplementary standards below
- (2) Solar Installations
- (3) Electric Vehicle Charging Infrastructure
- (4) Other uses customary and incidental to the principal use

**D. Conditional Uses**

- (1) Wireless telecommunication facilities – tower or roof/building mounted antennas

**E. Bulk Standards**

All restrictions as set forth in Schedule III of this Chapter and as specifically detailed in the following table apply to the TBI-2 Zoning District:

Development in the TBI-2 District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>TBI-2 Technology and Business Innovation Zone 2 Bulk Standards</b>	
Minimum Lot Area	100,000 square feet
Minimum Lot Width for All Lots	
at Setback Line	300 feet
at Right-of-Way Line	300 feet
Minimum Front Yard Setback	100 feet
Minimum Side Yard Setback	
One	50 feet
Both	100 feet
Minimum Rear Yard Setback	-
Maximum Lot Coverage	80%
Maximum FAR	0.40
Maximum FAR for TBI-1 Uses	0.35
Maximum Building Height	
Principal Structure	40 feet
Accessory Structure	35 feet for parking garages / 14 feet for all other accessory structures

**F. Supplementary standards**

- (1) Retail sales as an accessory use shall be subject to the following standards:
  - (a) The maximum permitted floor area for the accessory retail use is limited to 2,000 square feet or five (5) percent of the gross floor area, whichever is less and be included in the footprint of the primary structure.
  - (b) No outdoor sale of goods shall be permitted.
  - (c) The accessory retail use must be clearly incidental to the principal use.

- (d) The products sold must be produced by or related to the principal use.
- (e) A designated parking area shall be provided for the retail use. This parking area shall provide a clearly marked pedestrian access route to the retail portion of the structure that does not intersect with the travel path of any vehicles that serve the principal business.

## **§ 310-39. AH-ARO Affordable Housing Age-Restricted Overlay**

### **A. Purpose**

The purpose of the Affordable Housing Age-Restricted Overlay Zone (AH-ARO), which applies to Block 221 Lot 5, is to provide areas within the Borough designated for age-restricted, multifamily housing, including age-restricted affordable housing. This district constitutes an overlay, providing property owners with the option of continuing the use of the property as permitted in the underlying zone (TBI-2), or to redevelop with age-restricted residential and affordable housing components.

### **B. Principal permitted uses:**

- (1) Age-restricted multifamily dwellings.
- (2) Age-restricted townhouses, subject to the Borough's definition of found in §310-6 with the exception of height, which shall be governed by the standards within this section.
- (3) Essential services

### **C. Permitted accessory uses:**

- (1) Home Offices/Occupations
- (2) Private parks and playgrounds
- (3) Private recreation buildings and facilities
- (4) Garages and off-street parking facilities
- (5) Solar installations
- (6) Electric vehicle charging infrastructure
- (7) Uses customary and incidental to the principal use

### **D. Bulk Standards**

The bulk standards set forth in the following table shall apply to the AH-ARO District.

Development in the AH-ARO District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>AH-ARO Affordable Housing Age-Restricted Overlay Bulk Standards</b>	
Minimum Lot Area	6.5 acres
Minimum Setbacks	
Front	30 feet
Rear	20 feet
Minimum Side Yard Setback	
One	15 feet
Both	35 feet
Maximum Lot Coverage	60%
Maximum Building Coverage	35%
Maximum Building Height	
Principal Structure	38 feet / 3 stories
Accessory Structure	15 feet
Minimum Distance Between Buildings	No portion of a building shall be closer to another building than 50% of its height. In the event the adjacent buildings are different heights, the higher height shall govern.

**E. Minimum Off-Street Parking:**

- (1) Townhouses: 2 spaces per dwelling unit, 1 of which shall be in a garage.
- (2) Multifamily: 0.75 spaces per unit
- (3) A garage and driveway space shall count as two spaces, as well as a dedicated tandem space in a covered garage.
- (4) To the extent feasible, all off-street parking shall be located interior to the property and have limited visibility from the public rights-of-way.

**F. Maximum Number of Units:**

- (1) 14 units/acre
- (2) At least 20% of all units created shall be set-aside to be occupied by households qualified as low, very-low, or moderate-income, in accordance with current standards.

**G. Affordable Housing**

- (1) Very low-, low-, and moderate-income housing shall be constructed in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split

between very low-, low-, and moderate income housing, provided a minimum of 13% of the affordable units are very low income units at 30% of the median income and 37% of the affordable units are low income units with the (up to) 50% balance of units allowed at moderate income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.

#### **H. Signage**

- (1) The provisions of §310-49, entitled "Signs," shall govern any provisions regarding signage not addressed herein. Where there is conflict between §310-49 and this section, this section shall take precedence.
- (2) One freestanding sign is permitted at each entrance to the development. Each sign shall not exceed 50 square feet per side.
- (3) Freestanding signs may be internally illuminated and may also be illuminated by an exterior light source, facing down, not upwards toward the sky.
- (4) Freestanding signs shall be setback a minimum of 15 feet from the lot line.
- (5) Freestanding signs shall be setback a minimum of 12 feet from internal roadways.
- (6) Directional signs are permitted on all internal roadways. Directional signs shall be consistent with each other and the tract's other signage.
- (7) Numbers indicating the addresses of the multifamily residential buildings are permitted to be hung on the exterior walls, not to exceed 6 square feet and not to protrude more than 6 inches from the building's surface.

#### **I. Additional Standards**

- (1) Two or more principal uses are permitted on a single tract.
- (2) Surface parking lots shall include landscaped medians and/or islands when any expanse of pavement exceeds 108 feet in width; otherwise landscaping along the perimeter is required.
- (3) For surface parking areas associated with multifamily structures, a minimum of 10% of the surface area shall be landscaped and shall include one shade tree for every 20 parking spaces.
- (4) Each multifamily building shall not contain more than 48 units.
- (5) No building shall be in excess of 200 feet in length.

- (6) No dwelling unit and/or room intended for human habitation shall be located in a basement, cellar or attic, with the exception that a townhouse structure and multifamily buildings may have a basement/cellar that contains a general-purpose room such as a family room or recreation room.
- (7) Generators are required for all common areas in multifamily buildings.
- (8) Design standards can be found in Article V.

## **§ 310-40. AHO Affordable Housing Overlay**

### **A. Purpose**

The purpose of the Affordable Housing Overlay (AHO) District, which applies to Block 210: Lots 21, 23, 33; Block 221: Lots 2.01 and 6; and Block 340: Lots 4, 6 and 8, is to provide areas within the Borough designated for multifamily and affordable housing opportunities. This district constitutes an overlay, providing property owners with the option of continuing the use of the property as permitted in the underlying zone (TBI-2), or to redevelop with residential and affordable housing components.

### **B. Principal permitted uses**

- (1) Multifamily
- (2) Townhouses, subject to the Borough's definition of found in Ordinance Section 310-6 with the exception of height, which shall be governed by the standards within this section.

### **C. Permitted accessory uses:**

- (1) Home offices/occupations
- (2) Private parks and playgrounds
- (3) Private recreation buildings and facilities
- (4) Garages and off-street parking facilities
- (5) Solar installations
- (6) Electric vehicle charging infrastructure
- (7) Private recreation buildings and facilities
- (8) Uses customary and incidental to the principal use

### **D. Bulk Standards**

The bulk standards set forth in the following table shall apply to the AHO District.



Development in the AHO District shall also be subject to the enhanced setbacks and buffering requirements found in §310-14 and §310-55, respectively.

<b>AHO Affordable Housing Overlay Bulk Standards</b>	
Minimum Lot Area	2 acres
Minimum Setbacks	
Front	30 feet
Rear	20 feet
Minimum Side Yard Setback	
One	15 feet
Both	35 feet
Maximum Lot Coverage	60%
Maximum Building Coverage	35%
Maximum Building Height	
Principal Structure	38 feet / 3 stories
Accessory Structure	15 feet
Minimum Distance Between Buildings	No portion of a building shall be closer to another building than 50% of its height. In the event the adjacent buildings are different heights, the higher height shall govern.

**E. Minimum Off-Street Parking:**

- (1) Townhouses: 2 spaces per dwelling unit, 1 of which shall be in a garage.
- (2) Multifamily: RSIS
- (3) A garage and driveway space shall count as two spaces, as well as a dedicated tandem space in a covered garage.
- (4) To the extent feasible, all off-street parking shall be located interior to the property and have limited visibility from the public rights-of-way.

**F. Maximum Number of Units**

- (1) Block 210 Lot 21: 9.5 units/acre
- (2) Block 210 Lot 23: 9.5 units/acre
- (3) Block 210 Lot 33: 9.5 units/acre
- (4) Block 340 Lot 4: 16 units/acre
- (5) Block 340 Lot 6: 17 units/acre

- (6) Block 340 Lot 8: 9.5 units/acre
- (7) Block 221 Lot 2.01: 15 units/acre
- (8) Block 221 Lot 6: 16 units/acre
- (9) At least 20% of all units created shall be set-aside to be occupied by households qualified as very low-, low-, or moderate-income, in accordance with current standards.

#### **G. Affordable Housing**

- (1) Very low-, low-, and moderate-income housing shall be constructed in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low-, low-, and moderate-income housing, provided a minimum of 13% of the affordable units are very low-income units at 30% of the median income and 37% of the affordable units are low-income units with the (up to) 50% balance of units allowed at moderate-income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.

#### **H. Signage**

- (1) The provisions of §310-49, entitled "Signs," shall govern any provisions regarding signage not addressed herein. Where there is conflict between §310-49 and this section, this section shall take precedence.
- (2) Freestanding signs may be internally illuminated and may also be illuminated by an exterior light source, facing down, not upwards toward the sky.
- (3) Freestanding signs shall be setback a minimum of 15 feet from the lot line.
- (4) Freestanding signs shall be setback a minimum of 12 feet from internal roadways.
- (5) Directional signs are permitted on all internal roadways. Directional signs shall be consistent with each other and the tract's other signage.
- (6) Numbers indicating the addresses of the multifamily residential buildings are permitted to be hung on the exterior walls, not to exceed 6 square feet and not to protrude more than 6 inches from the building's surface.

#### **I. Additional Standards**

- (1) Two or more principal uses are permitted on a single tract.

- (2) Surface parking lots shall include landscaped medians and/or islands when any expanse of pavement exceeds 108 feet in width; otherwise landscaping along the perimeter is required.
- (3) For surface parking areas associated with multi-family structures, a minimum of 10% of the surface area shall be landscaped and shall include one shade tree for every 20 parking spaces.
- (4) Each multifamily building shall not contain more than 48 units.
- (5) No building shall be in excess of 200 feet in length.
- (6) No dwelling unit and/or room intended for human habitation shall be located in a basement, cellar or attic, with the exception that a townhouse structure and multifamily buildings may have a basement/cellar that contains a general-purpose room such as a family room or recreation room.
- (7) Generators are required for all common areas in multifamily buildings.
- (8) Design standards can be found in Article V.

## **§ 310-41. PACO Planned Adult Community Overlay**

### **A. Purpose**

The purpose of the Planned Adult Community Overlay (PACO) District, which applies to Block 370 Lot 1, is to provide areas within the Borough designated for age-restricted, multifamily housing, including age-restricted affordable housing opportunities. The PACO allows the existing, underlying zoning (TBI-1) to remain with the option of developing a site within the parameters of this overlay ordinance. The intent of this district is to be developed as a single entity. Any development of this site shall respect the character of the existing single-family residential neighborhood that surrounds the site to the north and west. Additionally, buffers and screening along the perimeter of the site shall be provided pursuant to the standards herein. The Borough's steep slope ordinance shall not apply to the PACO.

The development of the PAC shall be substantially consistent with the concept plan, dated August 13, 2018, attached to the executed settlement agreement between the Borough and Linde North America Inc.

### **B. Principal permitted uses:**

- (1) Age-restricted multifamily
- (2) Age-restricted townhouses, subject to the Borough's definition found in Ordinance Section 310-6 with the exception of height, which shall be governed by the standards within this section.

- (3) Essential services

**C. Permitted accessory uses:**

- (1) Home offices/occupations
- (2) Private parks and playgrounds
- (3) Private recreation buildings and facilities
- (4) Garages and off-street parking facilities
- (5) Structured parking beneath the multifamily housing
- (6) Solar installations
- (7) Electric vehicle charging infrastructure
- (8) Private recreation buildings and facilities
- (9) Uses customary and incidental to the principal use

**D. Bulk Standards**

The bulk standards set forth in the following table shall apply to the PACO District:

<b>PACO Planned Adult Community Overlay Bulk Standards</b>	
Minimum Lot Area	21 acres
Minimum Building Setbacks	
From Mountain Avenue	100 feet for 3 residential stories with and without underground parking; 150 feet for 4 residential stories with and without underground parking.
From Southgate Road	40 feet
From Ryder Way	80 feet
From internal streets	12 feet
Maximum Lot Coverage	50%
Maximum Building Coverage	25%
Maximum Building Height	
Townhouses	2.5 stories / 35 feet
Multifamily	3 stories / 40 feet; 4 stories / 50 feet. The height may increase another story and 15 feet for multi-family buildings with structured parking.
Clubhouse	25 feet
All other accessory structures	15 feet

Minimum Distance Between Buildings	No portion of a building shall be closer to another building than 50% of its height. In the event the adjacent buildings are different heights, the higher height shall govern.
Minimum Parking Setback for Multifamily Residential Buildings	Surface parking areas shall be set back a minimum of 12 feet from the principal building.
Townhouse Driveways	Driveways shall be a minimum of 18 feet between the sidewalk and garage.

**E. Minimum Off-Street Parking**

RSIS

**F. Maximum Number of Units**

- (1) 297 dwelling units
- (2) Of the total number of units, 59 shall be affordable, age-restricted rental units. In no event shall this zone produce less than 59 affordable units.

**G. Affordable Housing**

- (1) Very low-, low-, and moderate-income housing shall be constructed in accordance with the Council on Affordable Housing rules at N.J.A.C. 5:93-1 et seq. and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et seq. including standards for the split between very low-, low-, and moderate-income housing, provided a minimum of 13% of the affordable units are very low-income units at 30% of the median income and 37% of the affordable units are low-income units with the (up to) 50% balance of units allowed at moderate-income; bedroom distribution; range of affordability; pricing and rent of units; affirmative marketing; 30-year minimum affordability controls and construction phasing with the market rate units developed on the tract.

**H. Buffers**

- (1) There shall be a buffer area that surrounds the entire perimeter of the site. The buffer area shall be 100 feet off Mountain Avenue, 40 feet off Southgate Road, and 80 feet off Ryder Way.
- (2) Buffering shall be located to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties when necessary. Buffering may include but not be limited to fencing, walls, evergreens, shrubs, landscaping, berms, rocks, boulders, open space, ponds, steep slopes, deciduous trees or combinations thereof to achieve the stated objectives.

- (3) Extensive buffering shall be required where intensive land uses abut less intensive uses (i.e. single-family to townhouses/multifamily). Existing natural vegetation, if appropriate for the above stated purposes, shall be retained.
- (4) No buildings, signs, structures (including stormwater facilities), storage of materials, roadways or parking shall be permitted within the buffer areas, with the exception of access roads into the development and freestanding signs, in accordance this section.

#### **I. Signage**

- (1) The provisions of §310-49, entitled "Signs," shall govern any provisions regarding signage not addressed herein. Where there is conflict between §310-49 and this section, this section shall take precedence.
- (2) One freestanding sign is permitted at each main entrance to the development. Each sign shall not exceed 50 square feet per side.
- (3) Freestanding signs may be internally illuminated and may also be illuminated by an exterior light source, facing down, not upwards toward the sky.
- (4) Freestanding signs shall be setback a minimum of 15 feet from the lot line.
- (5) Freestanding signs shall be setback a minimum of 12 feet from internal roadways.
- (6) Directional signs are permitted on all internal roadways. Directional signs shall be consistent with each other and the tract's other signage.
- (7) Numbers indicating the addresses of the multifamily residential buildings are permitted to be hung on the exterior walls, not to exceed 8 square feet and not to protrude more than 6 inches from the building's surface.

#### **J. Additional Standards**

- (1) Two or more principal uses are permitted on a single tract.
- (2) The multifamily units shall include a recreational amenity, such as a clubhouse or senior center.
- (3) To the extent feasible, the existing forested areas of the tract shall be maintained.
- (4) Access roads to the tract shall be permitted from Southgate Road and/or Ryder Way. No access road shall be permitted to extend from Mountain Avenue.
- (5) Surface parking lots shall include landscaped medians and/or islands.
- (6) For surface parking areas associated with multifamily structures, a minimum of 10% of the surface area shall be landscaped and shall include one shade tree for every 20 parking spaces.

- (7) Multifamily buildings shall not contain more than 135 units.
- (8) No building shall be in excess of 400 feet in length. However, any building in excess of 200 feet shall have significant articulation and offsets so as to not create a monolithic and overbearing aesthetic.
- (9) No dwelling unit and/or room intended for human habitation shall be located in a basement, cellar or attic, with the exception that a townhouse structure may have a basement/cellar that contains a family room or recreation room.
- (10) Generator power is required for the multi-family clubhouse and elevators.
- (11) Design standards can be found in Article V.

## **§ 310-42. CCRCO Continuing Care Retirement Community Overlay**

### **A. Purpose**

The purpose of the Continuing Care Retirement Community Overlay (CCRCO) District, which covers Block 320, Lot 18.01 (comprising approximately 24.6 acres), is to (1) provide an overlay zone for the development of a continuing care retirement community, consisting of independent living units and health care units, and related facilities, and (2) specify all zoning requirements applicable to the development of a CCRC.

This District is an overlay zone, so that the uses permitted in the Technology and Business Innovation Zone I are also permitted, in accordance with the terms of that ordinance section. The intent of this overlay zone is to have the CCRC developed as a single entity. Should any Borough ordinance or section be in conflict or inconsistent with the standards contained in this section, the terms of this section shall take precedence.

### **B. Principal permitted use**

- (1) A Continuing Care Retirement Community
- (2) Health Care Units (HCU)
- (3) Independent Living Units (ILU)
- (4) Essential services

### **C. Permitted accessory uses:**

- (1) Continuing Care Retirement Community Accessory Uses
- (2) Off-street parking and loading, including garages and structured parking above and below grade
- (3) Signs

- (4) Solar installations
- (5) Electric vehicle charging infrastructure
- (6) Private recreation buildings and facilities
- (7) Uses customarily incidental to the principal use

**D. Bulk Standards**

The bulk standards set forth in the following table shall apply to the CCRCO District:

<b>CCRCO Continuing Care Retirement Community Overlay Bulk Standards</b>	
Minimum Lot Area	20 acres
Minimum Lot Width	300 feet
Minimum Building Setbacks	<p>From Mountain Avenue 100 feet</p> <p>From Southgate Road 100 feet</p> <p>From Ryder Way 100 feet</p> <p>From existing R1 Zone boundary, along the northerly rear lot line of Block 320 Lot 18.01 200 feet</p> <p>There shall be no setback requirement along the boundary line of any adjacent CCRC development</p>
Maximum Building Height	<p>Principal Structure</p> <p>1) Maximum of 6 stories (exclusive of up to two (2) partial building levels below the six (6) stories of the structure, and a building level shall be deemed to be a partial building level, and not a story, if (x) its floor area devoted to human habitation (and excluding the floor area of parking facilities) contains no more than 40% of the floor area of the footprint of the building of which it is a part, (y) no more than 50% of the total area of its perimeter elevations is exposed, i.e., visible from the exterior, and (z) none of the exposed elevations face Mountain Avenue); and</p> <p>2) Maximum height of 80 feet measured to the highest point of the roof, and from the finished floor elevation immediately above the highest partial building level.</p> <p>Detached Accessory Structure 15 feet</p>
Maximum Building Length	200 feet; provided a building can be up to 340 feet in length if a parking deck is included in the calculations. Attached structures separated by a firewall are deemed to be separate buildings.
Maximum Building Coverage	40%
Maximum Improved Lot Coverage	60%



### **E. Density**

17 units per acre, subject to the provisions set forth in Section F, below, and with the number of units being calculated in the following manner:

- (a) Each ILU shall be considered to be one unit,
- (b) Each HCU shall be considered to be one-third (1/3) of a unit.

### **F. Increased Density**

The developer may elect to develop up to, but not greater than, 24 units per acre, in accordance with the method of calculation set forth above in Section E.8.a and b; however, in addition to the Non-Residential Development Fee, as set forth in N.J.S.A. 40:55D-8.3, et. seq., the developer shall pay an additional Three Thousand Dollars (\$3,000.00) for each ILU over 17 units per acre and an Additional Development Fee of One Thousand Dollars (\$1,000.00) for each HCU over 17 units per acre, as set forth more particularly below in this Section E.9 (collectively, the "Additional Fee") into the Borough's Affordable Housing Trust Fund. One half of the payment of the Additional Fee shall be due at the time of the application for the building permit, and the balance shall be due prior to the issuance of the certificate of occupancy. The computation of density over which the Additional Fee becomes payable, and payment of the Additional Fee, shall be in accordance with the following provisions:

- (1) **Threshold Density.** First, one shall compute the number of units over which the Additional Payment becomes due (the "Threshold Density"). Assuming that total area of the subject property is 24.6 acres, the Threshold Density shall be 418 units (= 17 units/acre x 24.6 acres).
- (2) **Counting of Units.** Second, the number of units is then computed as the CCRC development proceeds, with each ILU counting as one unit, and each HCU counting as 1/3 of a unit.
- (3) **Payments of Additional Fee.** After the Threshold Density is reached, then:
  - (a) For each ILU thereafter constructed, an Additional Fee of Three Thousand Dollars (\$3,000) shall be paid (i.e., \$1,500 prior to building permit and \$1,500 prior to certificate of occupancy) since, as set forth above, each ILU is the equivalent of one unit for which the Additional Fee is payable.
  - (b) For each HCU thereafter constructed, an Additional Fee of One Thousand Dollars (\$1,000) per HCU shall be paid (i.e., \$500 for each HCU prior to building permit and \$500 for each HCU prior to certificate of occupancy) since, as set forth above, each

HCU is the equivalent of one-third (1/3) of a unit for which the Additional Fee is payable.

- (4) Examples: The following examples assume total acreage of 24.6 acres and build-out of 540 ILU's and 108 HCU's.
- (a) Example 1 - Calculation of Permitted Density. The 540 ILU's and 108 HCU's constitute, in accordance with Section E.8, a total of 576 units for purposes of calculating permitted density (576 units = 540 ILU's + (108 HCU's/3)). At a maximum density of 24 units/acre, the total number of permitted units, based on assumed acreage of 24.6 acres, is 590 (=24 units/acre x 24.6 acres). Therefore, the 540 ILU's and 108 HCU's are permitted, as they represent 576 units, i.e., less than the 590.
- (b) Example 2 - Calculation of Additional Fee. If 108 HCU's are first built, then since they each count as 1/3 of a unit, they will be treated as 36 units (=108/3). Therefore, the Threshold Density of 418 units will be reached upon construction of 382 ILU's (= 418 - 36). Thereafter, when an additional 158 ILU's are constructed, for the above total of 540 (= 382 + 158), the Additional Fee of \$3,000/ILU shall be paid for each of said 158 ILU's in excess of the Threshold Density, for a total Additional Fee of \$474,000 (= 158 ILU's x \$3,000/ILU), all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- (c) Example 3 - Calculation of Additional Fee. If 418 ILU's are initially constructed, then the Threshold Density of 418 units will have been reached. If thereafter, 108 HCU's are built, an Additional Fee of \$1,000/HCU shall be paid for each of said 108 HCU's, i.e., an Additional Fee of \$108,000. And if thereafter, 122 ILU's are constructed, bringing the total to 540 ILU's (= 418 + 122), then an Additional Fee of \$3,000/ILU shall be paid for each of said 122 ILU's, i.e., an Additional Fee of \$366,000 (= 122 ILU's x \$3,000/ILU), for a total Additional Fee of \$474,000 (= \$108,000 + \$366,000), all payable at one-half prior to building permit and one-half prior to certificate of occupancy.
- (d) Example 4 - Maximum Additional Fee. If 540 ILU's and 108 HCU's are constructed on 24.6 acres, then the maximum, total Additional Fee shall be Four Hundred Seventy-Four Thousand Dollars (\$474,000) computed as follows:

$$(540 \text{ U's} + (108 \text{ HCU's}/3) - 418) \times \$3,000 = (540 + 36 - 418) \times \$3,000 =$$

$$(541 - 158) \times \$3,000 = \$474,000$$

## G. Parking

- (1) Size requirements:

- (a) Minimum parking space size: 9 feet x 18 feet
  - (b) Minimum two-way traffic aisle width: 24 feet
- (2) The minimum number of parking spaces for the entirety of a CCRC, including for all of its visitors and employees, and all of its components (such as physical rehabilitation facilities, business and medical offices, and dining spaces) shall be based only on the following ratios:
  - (a) Parking for the ILU's within the CCRC development shall comply with Table 4.4 in the Residential Site Improvement Standards, N.J.A.C. 5:21-1.1, et seq. ("RSIS"), at 1.3 parking spaces per ILU where the number of bedrooms per unit is not shown on the site plan, N.J.A.C. 5:21-4.14; and
  - (b) Parking for the HCU's shall be governed by the Nursing Home requirement in Borough Ordinance 2013-11 (1 parking space for each 2 beds), all subject to such relief as may be granted under RSIS, including de minimis relief under N.J.A.C. 5:21-3.1, and under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.
- (3) Setback: parking shall be allowed in any yard, subject to a 70-foot setback requirement.

#### **H. Fences**

Fences shall conform to the Borough's fence ordinance, found in §310-19, except that fences eight (8) feet in height shall be permitted around the memory care center, and all fences shall be located outside of the required front, side, and rear yard setback areas, except as otherwise required by law.

#### **I. Additional Zone Standards**

- (1) Principal Buildings: multiple principal buildings shall be allowed on a single lot.
- (2) Except for stormwater management facilities, utilities, street lighting, and signage (including related signage lighting), accessory structures shall abide by all setback requirements as established herein.
- (3) To the extent feasible, existing forested areas within required setbacks shall be maintained.
- (4) Any access points to the CCRC development (tract) from Southgate Road, north of Ryder Way would be designated as emergency access only.
- (5) Generators shall be required to provide back-up electric service to the following life safety improvements in common areas: Elevators, fire alarms, egress/access control doors, egress lighting, eyewash station lighting, and mechanical room lighting.
- (6) The provisions of the Borough's steep slopes ordinance do not apply.

- (7) Design standards can be found in Article V.

**J. Signs**

The signage provisions of §310-49 governing Commercial and Industrial districts shall be applicable to the CCRC district. One freestanding monument sign shall be permitted at each entrance to the CCRC, other than any entrance limited to emergency vehicles.

**§ 310-43. Riparian Zone Overlay**

**A. Intent.**

It is the intent of this section to provide compliance with NJAC 7:15-5.25(g)3, which requires municipalities to adopt an ordinance regulating new disturbances for projects or activities in riparian zones as part of a Wastewater Management Plan. Compliance with the riparian zone requirements of this Chapter does not constitute compliance with the riparian zone or buffer requirements imposed under any other Federal, State or local statute, regulation or ordinance.

**B. Riparian Zone Protection**

Riparian zones adjacent to all waters as described below in this paragraph shall be protected from avoidable disturbance:

- (1) The riparian zone is 300 feet wide along both sides of any Category One water, and all upstream tributaries situated within the same HUC 14 watershed.
- (2) The riparian zone is 150 feet wide along both sides of the following waters not identified in (1) above:
  - (a) Any trout production water and all upstream waters (including tributaries);
  - (b) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;
  - (c) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and
  - (d) Any segment of a water flowing through an area that contains acid producing soils.
- (3) A riparian zone 50 feet wide shall be maintained along both sides of all waters not subject to (1) or (2) above.

### C. Exceptions

- (1) The following disturbances are excepted:
  - (a) Redevelopment within the limits of existing impervious surfaces; and
  - (b) The Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), Subchapter 7, Permits by Rule, establishes permits-by-rule for certain regulated activities. This Article hereby adopts by reference said Subchapter as it exists at the time of passage of this ordinance and as it may be modified from time to time, as a means of allowing regulated activities in the riparian zone without any other permits or approvals, except as may be required by any other provisions of this Code (e.g., lot grading, tree removal, zoning, site plan). In addition, any permit-by-rule provision that requires notification to The New Jersey Department of Environmental Protection shall also be copied to the Borough Engineer.
  - (c) New disturbance in the riparian zone necessary to protect public health, safety or welfare; to provide an environmental benefit; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.
- (2) An exception to any of the disturbances listed in (1)(a) and (1)(b) above shall be granted by the Borough Engineer upon proof, in the case of (1)(a), by virtue of submission of appropriate maps and drawings, that the proposed redevelopment is within the limits of impervious surfaces that existed at the time of passage of this ordinance, or, in the case of (1)(b), that it complies with the requirements of the applicable NJDEP regulations. Application for an exception under (1)(a) or (1)(b) above shall be made in the form of an application for a lot grading permit.
- (3) An exception to any of the disturbances listed in (1)(c) above shall be granted by the Planning Board upon proof, by virtue of submission of appropriate maps, drawings, reports and testimony, that the disturbance protects public health, safety or welfare; provides an environmental benefit; prevents extraordinary hardship on the property owner peculiar to the property; or prevents extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. The Board of Adjustment shall have the power to grant these same exceptions if an exception is sought in conjunction with an application required to be heard by it in accordance with NJSA 40:55D-1. et. seq. (Municipal Land Use Law).

- (4) Appeals of a determination by the Borough Engineer made in accordance with 2. above may be made to the Planning Board.

**D. Adjustments.**

Adjustments to the riparian zones established by this Article are allowed to the extent they comply with the Stormwater Management Rules (N.J.A.C. 7:8), and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13).

**§ 310-44. Steep Slopes**

**A. Purpose.**

According to the Soil Conservation Service, United States Department of Agriculture, soils with a slope of 15% or greater invariably involve severe limitations to development, including but not limited to building and road construction and septic effluent disposal. Moreover, it is found that the removal of vegetation and disturbance of soils in steep slopes by excavation and fill will increase runoff and result in soil erosion and siltation with the resultant pollution of streams as well as the potential danger of flooding and water drainage, thereby having the potential of endangering public and private property and life, and that this condition is aggravated by soil disturbance, construction and development of these slopes which create an additional hazard to the lives and property of those dwelling on the slopes and below them. Accordingly, it has been determined that a major objective of the Borough's zoning regulations should be the protection of areas of steep slopes. To this end, the following requirements and limitations are established:

**B. Limits on Disturbance.**

- (1) Slopes of 25% or greater shall remain undisturbed, except that any applicant shall be permitted to disturb slopes of greater than 25% in accordance with the following:
  - (a) Each application is permitted to have a disturbance of slopes greater than 25%, not to exceed 1% of the slope area in excess of 25% or 10,000 square feet, whichever is less; except that
  - (b) Notwithstanding Subsection B(1)(a) above, each application is permitted to disturb slopes of greater than 25% up to 500 square feet in total area.
- (2) Not more than 20% of slopes ranging from 20% to 25% shall be disturbed, and the area of disturbance of such slope area shall not exceed 5% of the total lot area.
- (3) Not more than 30% of slopes ranging from 15% to 20% shall be disturbed, and the area of disturbance of such slope area shall not exceed 10% of the total lot area.

## § 310-45. Certain Permitted Uses

### A. Portable Home Storage Units (PODs)

- (1) A portable home storage (POD) unit may be placed upon any property only upon the issuance of a permit by the Zoning Officer.
- (2) Permits will be granted for a period of 90 days. At the expiration of the 90-day period, the permittee may seek one extension of the permit for up to an additional 90 days for an additional fee.
- (3) PODs are prohibited from being placed in streets or in front yards of a property. POD units must be kept in the driveway of the property at the furthest accessible point from the street. All locations must be paved off-street surfaces. In addition to the permit required above, the applicant must obtain pre-approval from the Zoning Officer in the following situations:
  - (a) If the property does not have a driveway.
  - (b) If the location of the unit in the driveway is in the front yard of the property.
  - (c) If the property is a corner lot.
- (4) This section shall be enforced by the Police Department and the Zoning Officer.
- (5) Fees associated with POD permits and permit extensions can be found in Chapter 147, entitled "Fees and Licenses," of the Borough's Code.

### B. Child Care Centers

- (1) Child care centers are permitted uses in all non-residential zones in accordance with the following requirements:
  - (a) Such use shall meet the area and bulk requirements of the zone where located.
  - (b) The floor area occupied in any building or structure as a child care center shall be excluded in calculating the following:
    1. Any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, as required under this article.
    2. The permitted density allowable for that building or structure under the applicable zone requirements

### C. Community Residences

Community Residences for the Developmentally Disabled, Community Shelters for Victims of Domestic Violence, Community Residences for the Terminally Ill, Community Residences for Persons with Head Injuries, and Adult Family Day Care Homes for Elderly Persons and Physically Disabled Adults

- (1) In accordance with N.J.S.A. 40:55D-66.1, such use, as defined in this Chapter, shall be a permitted use in all residential zoning districts in accordance with the following requirements:
  - (a) The requirements shall be the same as for single-family dwelling units located within such districts.
  - (b) The facility contains fifteen (15) or fewer occupants, excluding staff.
  - (c) The facility is licensed by the State of New Jersey in accordance with the standards described at N.J.S.A. 40:55D-66.1 and 66.2.

#### **D. Essential Services**

- (1) Essential services, as defined in §310-6, are permitted in all zoning districts and shall not be required to be located on a lot, nor shall this Chapter be interpreted to prohibit the use of a property in any zone for the above uses.
- (2) Essential services shall not be subject to the bulk standards of this Chapter.

#### **E. Small Wind Energy Systems**

- (1) Definitions. The following definitions shall apply to this section.

**Meteorological Tower or Met Tower.** A structure designed to support the gathering of wind energy resource data, and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**Owner.** An individual or entity that intends to own and operate the small wind energy system in accordance with this section.

**Rotor Diameter.** The cross-sectional dimension of the circle swept by the rotating blades of a wind-powered energy generator.

**Small Wind Energy System.** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L. 1975,c. 217 (C.52:27D-119 et seq.) and technical bulletins issued pursuant to section 2 of P.L.2009, c.244 (C.40:55D-66.13), and which will be used primarily for onsite consumption.



**System Height.** The height above grade of the tower plus the wind generator.

**Total Height in Relation to a Wind Energy System.** The vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point.

**Total Roof Mounted Structure Height.** The highest point above the main roof structure, not including architectural features such as a chimney, cupola, and similar type features, reached by a rotor blade in the vertical position, or any other part of the structure.

**Tower.** A monopole, freestanding, or guyed structure that supports a wind generator.

**Tower Height.** The height above grade of the fixed portion of the tower, excluding the wind generator.

**Wind Energy System.** A wind generator and all associated equipment, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component necessary to fully utilize the wind generator.

**Wind Generator.** Blades and associated mechanical and electrical conversion components mounted on top of the tower.

(2) Residential Zones

- (a) Roof-mounted small wind energy systems are conditionally permitted in residential zones pursuant to the Conditional Use standards found in §310-46. Ground-mounted wind energy systems are not permitted in any residential zones.

(3) Commercial Zones

- (a) Roof- and ground-mounted small wind energy systems are conditionally permitted in commercial zones pursuant to the Conditional Use standards found in §310-46.

(4) Industrial Zones

- (a) In accordance with N.J.S.A. 40:55D-66.11, small wind energy systems are permitted accessory uses in all industrial zones within the Borough.

(5) Standards relevant to all installations

- (a) Electrical Wires. All wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (b) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration and is subject to Planning Board and Board of Adjustment approval as part of the site plan process.

- (c) Appearance, Color and Finish. The wind generator and tower shall be non-obtrusive and shall be painted or finished so as to minimize their visual impact on the surrounding landscape.
- (d) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower building, or other structure associated with a small wind energy system visible from any public road shall be prohibited. Small wind energy systems shall not be used for displaying any advertising except for small and reasonable identification of the manufacturer or operator of the system. In no case shall any identification sign be visible from a property line.
- (e) Code Compliance. A small wind energy system including tower shall comply with all applicable construction and electrical codes, and the National Electrical Code.
- (f) Utility notification and interconnection. Small wind energy systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems.
- (g) Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.
- (h) For wind speeds in the range of 0-25 mph, the noise level of any small wind energy system shall not
  - 1. Exceed 60 dBA measured from any property line; or
  - 2. Be in the excess of 5 dBA above the background noise, whichever is greater, as measured at the closest neighboring inhabited dwelling. The measurement will be taken downwind of the turbine to account for the cancelling effect of the sound of the wind itself. The provisions within this section shall not be applicable to the increased sound levels during the occurrence of short-term events such as storms and utility outages.
- (6) Approval Requirements.
  - (a) Site Plan Approval. Site Plan approval from the Planning Board or Board of Adjustment, as appropriate, shall be required for the installation of a small wind energy system.
  - (b) Documents. The Site Plan application shall be accompanied by a plot plan, which includes the following:
    - 1. Property lines and physical dimensions of the property.

2. Location, dimensions, and types of existing structures on the property.
  3. Location of the proposed small wind energy system.
  4. The right-of-way of any public road that is contiguous with the property.
  5. Any overhead utility lines.
  6. Small wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type.
  7. Stamped, engineered tower and tower foundation drawings.
  8. Noise levels of the proposed wind energy system at all property lines and at the closest neighboring inhabited dwelling.
  9. A visual site distance analysis must be submitted, including all photos of the subject property, that graphically simulates the appearance of any proposed small wind energy system and indicating its view from at least five (5) locations around and within one (1) mile of the proposed tower.
- (7) Expiration. A permit issued for an application approved by the Planning Board or Zoning Board of Adjustment, if appropriate, shall expire if:
- (a) The small wind energy system is not installed and functioning within 24 months from the date the permit is issued; or
  - (b) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.
- (8) Abandonment
- (a) A small wind energy system that is out of service for a continuous 18-month period will be deemed to have been abandoned.
  - (b) The Administrative Officer may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.
  - (c) The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date.
  - (d) If the Owner provides information that demonstrates the small wind energy system has not been abandoned, the Administrative Officer shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn.
  - (e) If the Administrative Officer determines that the small wind energy system has been abandoned, the owner of the small wind energy system shall remove the wind

generator from the tower at the Owner's sole expense within six (6) months after the Owner receives the Notice of Abandonment.

- (f) If the Owner fails to remove the wind generator from the tower in the time allowed under (e) above, the Administrative Officer may pursue legal action to have the wind generator removed at the Owner's expense.
- (9) Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance.
- (10) Administration and Enforcement.
  - (a) This ordinance shall be administered by the Administrative Officer or other official as designated.
  - (b) The Administrative Officer may enter any property for which a permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
  - (c) The Administrative Officer may issue orders to abate any violation of this ordinance.
  - (d) The Administrative Officer may issue a citation for any violation of this ordinance.
  - (e) The Administrative Officer may refer any violation of this ordinance to legal counsel for enforcement.
- (11) Penalties.
  - (a) Any person who fails to comply with any provision of this ordinance shall be subject to enforcement and penalties as stipulated in chapter and section of the appropriate zoning code.
  - (b) Nothing in this section shall be construed to prevent the appropriate Borough of New Providence Board from using any other lawful means to enforce this ordinance.

#### **F. Solar Energy Systems**

- (1) Purpose. The primary purpose of the solar energy system will be to provide power for the principal use of the property whereon the said system is to be located and shall not be for the generation of power for commercial purposes for resale, other than as permitted by net metering laws. Solar energy systems shall be permitted as a conditional use in all zones in the Borough of New Providence in accordance with the following standards.
- (2) Residential Zones
  - (a) Roof-mounted solar energy systems, shall be permitted on residential buildings provided the systems are in accordance with the following:

1. In no event shall the placement of the solar panels result in the total height, including the building and panels, exceeding what is permitted in the zoning district.
  2. In no instance shall any part of the system extend beyond the edge of the roof.
  3. If solar systems are attached to accessory buildings, then such systems shall not be located in the front yard and shall not be less than six (6) feet from any property line.
  4. Rooftop installations must not interfere with any operation of plumbing fixtures protruding from the rooftop level as required by the New Jersey Plumbing Codes.
- (b) Ground-mounted solar energy can be located in the residential zones in accordance with the following:
1. Shall not be located within any front yard, easements, or utility line or along the front wall of the principal building.
  2. Such systems shall maintain the side and rear yard setbacks as stipulated within the respective zoning district.
  3. Ground-mounted solar energy systems shall not exceed 400 square feet.
  4. Such systems shall not exceed ten (10) feet in height.
  5. Adequate screening in the form of four seasons planting shall be provided along the property line.
  6. Ground mounted solar energy systems shall not be categorized as accessory buildings.
  7. Systems shall be located and installed so that the sun glare is directed away from an adjoining property line or public right of way.
  8. System shall be designed by using materials, colors, textures, screening and landscaping that will blend into the natural setting and existing environment.
- (c) Utility notifications and interconnection. Solar systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C 14:4-9.
- (3) Commercial and Industrial Zones
- (a) Roof mounted solar energy system on non-residential properties shall be in accordance with the following:

1. In no instance shall any part of the system extend beyond the peak of the roof, extend beyond the maximum height of the roof line or exceed the maximum height permitted for principal buildings in the respective zone.
  2. The design of solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend into the natural setting and existing environment.
  3. Rooftop installations must not interfere with any operation of plumbing fixtures protruding from the rooftop level as required by the New Jersey Plumbing Codes.
  4. All applicable building codes must be followed.
  5. If located on a flat roof, then adequate screening should be provided to eliminate visibility from the public right-of-way, parking lots, and adjacent property. Sight line drawings depicting the visual sight lines from the right-of-way, parking lot, and adjacent properties should be provided at the time of Site Plan Review.
- (b) Ground-mounted solar energy systems provided:
1. Solar panels may be installed on a ground-mounted apparatus only on lots with a minimum lot size of five (5) acres.
  2. Solar panels shall not be located within front yards, easements or utility lines, or along the front facade of the building.
  3. Such systems shall not exceed ten (10) feet in height.
  4. Systems shall be located and installed so that the sun glare is directed away from an adjoining property line or public right of way.
  5. Systems shall be designed by using materials, colors, textures, screening, and landscaping that will blend into the natural setting and existing environment.
- (4) Solar energy commercial operations are prohibited as a principal use. These are systems whose main purpose is to generate energy back into the energy grid systems rather than being consumed on site.
- (5) Signs. There shall be no signs that are visible from any public road posted on a solar energy system or any associated building, except for the manufacturer's or installer's identification in accordance with Subsection (7) below, appropriate warning signs or owner identification. Solar energy systems shall not be used for displaying any advertising except for small and reasonable identification of the manufacturer or operator of the system. In no case shall any identification sign be visible from a property line.

- (6) Utility notifications and interconnection. Solar systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C 14:4-9.

- (7) Labeling requirements.

A minimum of one sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition, the following information shall be posted on a label or labels on the interconnection cabinet of the solar energy system:

- (a) The maximum power output of the system.
- (b) Nominal voltage and maximum current.
- (c) Manufacturer's name, address and telephone number, serial number and model number.
- (d) Emergency and normal shutdown procedures.
- (e) Should the solar energy system interconnection cabinet be located on the inside of a structure, a sign notifying the existence of a solar energy system shall be placed on the outside of the building, near the electrical and/or gas meter in order to notify emergency personnel of the solar energy system.

- (8) Standards for and regulation of Solar Energy System.

- (a) Construction. Solar energy system construction shall be in accordance with the appropriate sections of the Basic Building Code as adopted and as currently amended, by the State of New Jersey and any future amendments and/or revisions to same.
- (b) The installation of a solar energy system shall conform to the National Electric Code as adopted by the NJDCA and/or any other applicable agency with jurisdiction. The installation of a solar energy system is subject to any and all the electric utility company's requirements for interconnection, its successors and assigns, and/or designated by state authority, in perpetuity.
- (c) The design of any solar energy system shall be signed and sealed by a professional engineer, licensed in the State of New Jersey, certifying that the design complies with all the standards set forth for safety and stability in all applicable codes then in effect in the State of New Jersey and all sections referred to hereinabove.
- (d) Utility company notification. The appropriate electric utility company, its successors and assigns, and/or as designated by state authority, shall be notified in writing by the applicant of any proposed interface to the company's grid prior to installing such

interface and shall conform to any legislated requirements governing installations of solar energy systems so as to comply with the utility tariff specifications. Evidence of such notification shall be submitted at time of application for conditional use approval and building permit.

- (9) All electric/utility lines shall be located underground. All electric and utility lines leading down the side of the structure from rooftop installations shall be placed and tacked as aesthetically as possible.
- (10) Any approval of a solar energy system does not create any actual or inferred solar energy system easement against adjacent property and/or structures. The owner and/or property owner of a solar energy system shall not infer or claim any rights to protective writs to any caused shadows or operating ineffectiveness against future development adjacent to or higher than the property location of the solar energy system. Although the Borough of New Providence may to an extent possible attempt to mitigate or prevent the occurrence or cause shadows or operating ineffectiveness of existing solar energy systems, the approval of any solar energy system granted by the Borough of New Providence under this Article shall not create any future liability or infer any vested rights to the owner and/or property owner of the solar energy system on the part of the Borough of New Providence or by any other officer or employee thereof for any future claims against said issuance of approval of the solar energy system that results from reliance on this Article or any administrative decision lawfully made there under.
- (11) No equipment, framing or other materials directly related to solar operations for any residential or commercial use shall be abandoned in place and whereby after a unit is non-functional or no longer in use, it must be dismantled and removed in its entirety within 120 days.
- (12) Approval Requirements.
  - (a) Site Plan Approval. Site Plan approval from the Planning Board or Board of Adjustment, as appropriate, shall be required for the installation of a solar energy system.
  - (b) Documents. The Site Plan application shall be accompanied by a plot plan, which includes the following:
    1. Property lines and physical dimensions of the property.
    2. Location of the proposed solar energy system.
    3. The right-of-way of any public road that is contiguous with the property.
    4. Any overhead utility lines.



5. Manufacturer solar energy system specification/cut sheets certified by a licensed New Jersey Engineer, including manufacturer and model.
  6. A visual site distance analysis must be submitted, including all photos of the subject property, that graphically simulates the appearance of any proposed solar energy system and indicating its view from at least five (5) locations around the property.
  7. Notification of utility company for interconnection purposes.
  8. The documents and plans shall contain enough information and accurately depict the installation of the solar energy system for the Borough of New Providence to make a formal decision on the application. The amount of information and accuracy of information shall be in the sole judgment of the Administrative Officer.
- (13) Expiration. A permit issued for an application approved by the Planning Board or Zoning Board of Adjustment, if appropriate, shall expire if:
- (a) The solar energy system is not installed and functioning within 12 months from the date the permit is issued; or
  - (b) The solar energy system is out of service or otherwise unused for a continuous 12-month period.
- (14) Administration and Enforcement.
- (a) This ordinance shall be administered by the Administrative Officer or other official as designated.
  - (b) The Administrative Officer may enter any property for which a permit has been applied for and/or issued under this section to conduct an inspection to determine whether the conditions stated in the permit have been met.
  - (c) At the discretion of the Administrator and/or Borough of New Providence Construction Office for which a zoning, building and/or electrical permit was obtained, as applicable, the Borough reserves the right to require the applicant to obtain and submit an "as-built" survey upon completion of the solar energy system evidencing the exact location and height of the structures to ensure said installation is made in accordance with the requirements of the Borough of New Providence.
  - (d) The Administrative Officer may issue orders to abate any violation of this section.
  - (e) The Administrative Officer may issue a citation for any violation of this section.

- (f) The Administrative Officer may refer any violation of this section to legal counsel for enforcement.
- (15) Violations.
- (a) It is unlawful for any person to construct, install, or operate a solar energy system that is not in compliance with this section.
  - (b) Any person who fails to comply with any provision of this Article shall be subject to enforcement and penalties as stipulated in this Chapter and Article.
  - (c) Nothing in this section shall be construed to prevent the Borough Council and/or Administrative Officers of the Borough of New Providence from using any other lawful means to enforce this Article.
  - (d) Any solar energy systems installed prior to the adoption of this section are exempt from the provisions of this Chapter.

#### **G. Wireless Communication Facilities**

The purpose of this section is to establish general guidelines for the siting of wireless telecommunications towers and antennas. Review of all wireless telecommunications facilities, whether a permitted use, conditional use, or use variance application shall comply with the following standards.

- (1) The goals of this section are to:
  - (a) Protect residential areas and land uses from potential adverse impacts of towers and antennas.
  - (b) Encourage the location of towers in non-residential areas.
  - (c) Minimize the total number of towers throughout the community.
  - (d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - (e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse visual impact on the community is minimal.
  - (f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
  - (g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

(h) Avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures. In furtherance of these goals, the appropriate land use agency shall give due consideration to the Borough's Master Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(2) Definitions

**WIRELESS TELECOMMUNICATIONS COLLOCATION**

To place or install wireless communications equipment on a wireless communications support structure that is legally existing and complies with the MLUL at *N.J.S.A. 40:55D-46.2*.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT**

A set of equipment and network components used in the provision of wireless communications services: including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cabling, and coaxial and fiber optic cable, but excluding wireless communications support structures.

**WIRELESS TELECOMMUNICATIONS EQUIPMENT COMPOUND**

An area surrounding or adjacent to the base of a wireless communications support structure within which is located wireless communications equipment.

**WIRELESS TELECOMMUNICATIONS SERVICE PROVIDER ("WT SERVICE PROVIDER")**

Any person, business organization, or other entity of any kind, whether public or private, which seeks to install, operate, or maintain any combination of WT technology within the boundaries of the Borough of New Providence, or which already operates or maintains such WT technology as of the effective date of this ordinance.

**WIRELESS COMMUNICATIONS SUPPORT STRUCTURE**

A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, a self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

**WIRELESS TELECOMMUNICATIONS TECHNOLOGY ("WT TECHNOLOGY")**

Collectively WT antennas, WT equipment, WT equipment compound and WT towers.

(3) General Requirements

- (a) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. Commercial wireless telecommunications antennas shall be considered a principal use unless used exclusively in conjunction with the operation of another principal use on the same property. In zones where standalone towers are permitted, such lots shall be permitted to have multiple principal uses/structures on a single lot as it relates to wireless telecommunication facilities.
- (b) Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Borough or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for development approvals under this Chapter or other organizations seeking to locate antennas within the jurisdiction of the Borough, provided, however that the sharing of such information shall not in any way constitute a representation or warranty that such sites are available or suitable.
- (c) Aesthetics. Towers and antennas shall meet the following requirements:
  - 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings as well as resemble the architectural style of residential dwellings which may be proximate to the site.
  - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (d) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to surrounding views and shall be subject to

applicable lighting standards as are elsewhere contained within the Borough Ordinances.

- (e) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations in accordance with law within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (f) Signs. No signs shall be allowed on an antenna or tower, unless as required by the FAA, the FCC, or any other agency of the State or Federal government with the authority to regulate towers and antennas.
- (4) Siting Preference.
- (a) If the applicant demonstrates that it is reasonably necessary to install, construct, erect, move, reconstruct, or modify an antenna within the Borough of New Providence, then, subject to all other permitted conditional use standards, the proposed antenna may be located upon an existing building or other structure.
  - (b) If the applicant demonstrates that an antenna location on an existing structure is not feasible, then the proposed antenna may be located or collocated upon an existing tower.
  - (c) If the applicant demonstrates that collocation on an existing tower is not feasible, then the proposed antenna may be constructed on a new tower, subject to all conditions and standards set forth in this Chapter.
- (5) Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Borough notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower, or request a hearing, within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (6) Applications to collocate wireless communications equipment.

- (a) An application for development to collocate wireless communications equipment on a wireless communications support structure or in an existing equipment compound shall not be subject to site plan review provided the application meets the following requirements:
  - 1. The wireless communications support structure shall have been previously granted all necessary approvals by the appropriate approving authority.
  - 2. The proposed collocation shall not increase
    - i. The overall height of the wireless communications support structure by more than ten percent of the original height of the wireless communications support structure.
    - ii. The width of the wireless communications support structure, or
    - iii. The square footage of the existing equipment compound to an area greater than 2,500 square feet.
  - 3. The proposed collocation complies with the final approval of the wireless communications support structure and all conditions attached thereto and does not create a condition for which variance relief would be required.
- (7) Site Plan Requirements. In addition to compliance with all applicable zoning and site plan requirements, applications for approval of wireless technology shall include the following:
  - (a) An access road, turnaround, and one parking space, as may be necessary to provide adequate emergency and service access, using existing roads, public or private, to the maximum extent practicable.
  - (b) The color or colors of the proposed wireless technology equipment.
  - (c) A Visual Environmental Assessment Form ("Visual EAF") with particular attention given to the visibility of the proposed wireless technology equipment from key viewpoints identified in the Visual EAF, existing tree lines, and proposed elevations.
  - (d) A map of existing wireless technology within the Borough of New Providence, which is owned, leased or otherwise under the custody, control, or use of the applicant at the time of application, and of sites within the Borough of New Providence where wireless technology is proposed or projected to be installed, constructed, erected, moved, reconstructed and/or modified by or for the benefit of the applicant within the next two years.
  - (e) A certified load analysis report for the building, structure, existing wireless technology tower, or proposed wireless technology tower upon which a wireless technology

antenna is proposed to be located, indicating its ability to support possible future, collocated wireless technology antennas.

- (f) The approving authority may waive any of these requirements, for good cause shown, where an application is made to locate the proposed wireless technology antenna upon an existing building, structure, or wireless technology tower.

#### **H. Sidewalk Sales**

The sale of goods and commodities outside the confines of a building in the CCD, C1 and C2 Districts may be permitted by the Borough Council in connection with a district-wide promotion by the Chamber of Commerce or other recognized merchants association, conditioned upon application to the Borough Council, 15 days prior to the scheduled event, by the sponsoring organization and further conditioned upon the limitation that such goods and commodities will be offered only in an area contiguous to the building in which the merchant offering said items for sale does business and provided that the same shall not be conducted for more than three continuous business days, exclusive of Sunday

### **§ 310-46. Conditional Uses**

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

Conditional Uses shall be governed as provided below. An applicant shall demonstrate compliance with the specific conditions associated with each use. The Planning Board or Zoning Board as appropriate shall review a conditional use application in the manner set forth at N.J.S.A. 40:55D-67 and Chapter 291 of the Borough's Code. All applications for conditional use require site plan review by the Planning Board or Zoning Board as appropriate.

#### **B. Automobile Service Stations and Repair Establishments.**

The location, relocation or enlargement of automobile service stations and repair establishments shall be permitted upon authorization by the approving authority in accordance with the following conditions and site plan review.

- (1) No such use shall be located within 1,000 feet of any existing automobile service station or repair establishment.
- (2) No such use shall be located within 150 feet of any residential district or use.
- (3) No outdoor oil drainage pits or hydraulic lifts shall be permitted.
- (4) All repair operations shall be conducted within a building.
- (5) All vehicle parking or storage spaces shall be delineated on the site plan. No vehicle parking or storage shall be permitted outside of the delineated space overnight.
- (6) All tanks shall be underground.

- (7) No vehicle shall be parked, or parking spaces provided within 10 feet of any street or roadways.
- (8) Fuel pumps shall be permitted within the required front yard but in no event closer than 15 feet to street lines, property lines and road- widening easement lines. Canopies above fuel pump islands may extend within 10 feet of a street line.
- (9) The sale or rental of any vehicles or used cars is prohibited.

**C. Places of Worship / Institutional and Public Uses / Membership and Fraternal Organizations**

Places of worship / institutional and public uses / membership and fraternal organizations may be permitted upon authorization by the approving authority in accordance with the following standards and site plan review.

- (1) Such uses shall be located on a minimum lot area of two acres.
- (2) All vehicular entrances and exits shall be clearly visible from the street, and pedestrian crossing shall be clearly marked.
- (3) All passenger loading and unloading areas shall be located so as to avoid safety hazards from vehicular traffic, and adequate walkways shall be provided.
- (4) Outdoor play areas shall be adequately separated from vehicular circulation and parking areas as approved by the approving board.
- (5) Ancillary uses such as schools, rectories, convents and other accessory uses for religious and/or sectarian activities shall not be permitted as a freestanding use. Said ancillary uses shall only be permitted when proximate to and accessory to the permitted principal conditional use, e.g., the place of worship.
- (6) No building shall exceed thirty-five (35) feet in height, with the exception of the height exceptions pursuant to §310-18.
- (7) All off-street parking provided within twenty (20) feet of any property line shall be protected from adverse impact upon adjacent properties through a visual screen of planting not less than four (4) feet high, of a type or types of planting approved by the approving board.

**D. Small Wind Energy Systems**

- (1) Residential Zones

Roof-mounted wind energy systems, whose primary purpose is to provide power for the principal use of the property whereon the said system is to be located and shall not be for the generation of power for commercial purposes for resale, can be located in residential zones in accordance with the following:



- (a) The minimum distance between a roof-mounted wind energy system and a property line shall be equal or greater than the minimum setbacks applicable to the building on which the system sits.
  - (b) The total height of the roof mounted structure shall not exceed five (5) feet above the ridge of the roof. The said system shall not be placed on top of any architectural features such as cupola, chimney etc.
  - (c) No portion of the roof mounted wind energy system shall extend beyond the edge of the building to which it is attached.
  - (d) Small decorative wind turbines: small wind turbines less than one meter in diameter that use direct current solely for decorative or yard lighting are exempt from the above-mentioned requirements.
- (2) Commercial Zones
- (a) Roof-mounted small wind energy systems are conditionally permitted in commercial zones pursuant to the standards of (1) above.
  - (b) Ground-mounted small wind energy systems are conditionally permitted in commercial zones pursuant to the following standards:
    - 1. Minimum Lot Size. The minimum lot size for a small wind energy system shall be five (5) acres.
    - 2. Setbacks. A wind tower for a small wind energy system shall not be located within any front yard, easements or utility line, and shall maintain a setback of the underlying zone. No portion of the wind generator shall extend beyond the setback line, or into the following:
      - i. Any public road right-of-way.
      - ii. Any overhead utility lines, unless written permission is granted by the utility that owns and/or controls the lines.
  - (c) Pole mounted wind towers shall not be higher than 25 feet in accordance with the definition of "Tower Height," in §310-45.
  - (d) Access.
    - 1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
    - 2. The tower shall be designed and installed so as to not provide step bolts, a ladder, or other publicly accessible means of climbing the tower, for a minimum height of eight feet above the ground.

**E. Wireless Communication Facilities.**

Wireless communication facilities may be permitted upon authorization by the approving authority in accordance with the following standards and site plan review.

- (1) Building/Roof-Mounted Antennas
  - (a) Antennas mounted on buildings or other structures shall not exceed 10 feet in height above the structure's roofline.
  - (b) Any equipment shelters/compounds associated with the antennas shall be located internally within the building or on the rooftop, which shall be screened from public view.
- (2) Towers
  - (a) Towers shall be a permitted conditional use in the TBI-1 and TBI-2 zones.
  - (b) Towers shall not exceed 75 feet in height.
  - (c) Ground Equipment Shelters/Compounds Associated with Towers
    1. Equipment compounds shall be enclosed within a locked security fence at least seven (7) feet in height, unless located within an existing building.
    2. No equipment compound or wireless equipment housed therein shall exceed fifteen (15) feet in overall height.
  - (d) Setback Requirements
    1. The minimum setback from any school lot line or other lot line on which a licensed educational facility is located shall be 300 feet.
    2. The minimum setback from residential zones or uses shall be 150 feet.
    3. Wireless technology shall not be located in the front yard of any lot.

**F. Long-Term Care Facility**

Long-term care facilities may be permitted upon authorization by the approving authority in accordance with the following standards and site plan review.

- (1) Such use shall be on a minimum lot area of two acres
- (2) Such use shall be licensed by the appropriate State authority

## **§ 310-47. Nonconforming Uses, Structures, and Lots**

### **A. Continuation.**

A use, building or structure lawfully in existence on the date hereof, which shall be made nonconforming by the passage of this Chapter, or any applicable amendment thereto may be continued, except as otherwise provided in this Article.

### **B. Discontinuance of abandoned nonconforming uses.**

- (1) Any nonconforming use that has been deemed to be abandoned shall lose its status as a pre-existing nonconforming use.

### **C. Alteration, Extension, or Enlargement of Nonconforming Use or Structure**

- (1) A non-conforming use of any building, structure or land shall not be increased, enlarged, extended, or changed in any manner whatsoever.
- (2) No building in which a nonconforming use exists shall be enlarged, extended, or structurally altered in any manner; provided, however, that:
  - (a) Nothing herein shall prevent the repair and maintenance of any building wherein there exists a non-conforming use, provided that such maintenance and repair does not in any way constitute or result in a further extension of a non-conforming use.
  - (b) Minor alterations and improvements which do not constitute or require structural changes may be made in or to a building wherein a non-conforming use exists, provided that such non-conforming use will not be increased, extended, or enlarged thereby.
  - (c) Nothing herein shall prevent the strengthening or restoration to a safe and lawful condition of any part of any building which is non-conforming.
- (3) Structural alterations, internal rearrangements and renovations may be made in a building or structure which is non-conforming because it fails to comply with height, area, yard, off-street parking, or other like requirements of this Chapter, other than use, so long as the structural alteration or increase, internal rearrangement or renovation does not extend or enlarge the non-conformance of said building or structure. No structural alterations shall be made which would increase the number of dwelling units.
- (4) A non-conforming use changed or altered to a conforming use may not thereafter be changed back to a non-conforming use without application and site plan approval by the Board.

**D. Restoration of Pre-Existing Buildings or Structures Nonconforming Because of Use.**

- (1) Any nonconforming building or structure sustaining damage to less than 50% (as determined by the Borough Construction Official) of its previous existing floor area may be restored, reconstructed, or used as before, provided that the floor area of such use, building or structure shall not exceed the floor area which existed prior to such damage. All repairs shall be completed within one year after damage occurs, or such use shall not be rebuilt except as a conforming use.

**E. Restoration of Pre-Existing Buildings or Structures which are Nonconforming for Reasons other than Use.**

- (1) Whenever a building is non-conforming because it fails to comply with any height, area, yard, off-street parking, or requirements of this Chapter, other than use, and such building is partially destroyed (up to 50% as determined by the Borough Construction Official), such building may be restored to its prior condition; provided, however, that such restoration shall not enlarge the previously existing non-conformance.

**F. Nonconforming Improved Lot.**

- (1) When an improved lot in a residential zone exists as a separate isolated lot under separate ownership and does not adjoin any vacant land or vacant lot of the same owner, and such improved lot is non-conforming due to size, shape, area or setback; any existing residential building or structure on the lot may be further improved, provided that:
  - (a) The number of dwelling units shall not be increased even if such increased number of dwelling units are allowed in the zone.
  - (b) Any pre-existing nonconforming setbacks from streets, side lot lines or rear lot lines shall not be made more nonconforming, including any vertical additions of any type.
  - (c) Any existing and proposed improvement on the pre-existing nonconforming improved lot shall not exceed the percentage of building or impervious coverage set forth in this Chapter.
  - (d) The Borough Construction Official of the Borough of New Providence is hereby authorized and empowered to administratively approve such application and issue any necessary construction permits in accordance with the provisions of this section.

**G. Nonconforming Unimproved Lot**

- (1) Notwithstanding any other provision of this Chapter, for development applications that do not require subdivision or site plan approval, any pre-existing nonconforming lot not adjoining any vacant land or vacant lot of the same owner, and which is nonconforming

due to shape, or area may be improved with a new building or structure in accordance with the use requirements of this Chapter.

- (2) Should a new building or structure be proposed on a pre-existing nonconforming lot in accordance with G(1) above, and should all of the minimum requirements as set forth in this Chapter be met, the Borough's Building Department officials are hereby authorized and empowered to administratively approve such application and issue any necessary construction permits in accordance with the provisions of this section.

## **§ 310-48 Off-Street Parking and Loading Requirements**

### **A. Unscheduled Uses**

Off-street parking requirements for uses not listed in Schedule IV shall be established by the reviewing Board, based upon accepted industry standards.

### **B. Combined Uses**

In the case of a combination of uses, the off-street parking requirement shall consist of the sum of the spaces required for each individual use unless it can be demonstrated that staggered hours would permit modification pursuant to Subparagraph E below.

### **C. Fractional Spaces**

Whenever the application of Schedule IV standards results in a fractional space, any fraction of less than one-half may be discarded, while a fraction of one-half (0.5) or greater shall be counted as an additional parking space.

### **D. Parking Area**

- (1) No parking area shall be used for any purpose other than the accessory parking of vehicles.
- (2) In the CCD and CCD-TH Zones, parking shall not be located in the front yard for any non-residential development.

### **E. Shared Parking**

- (3) Parking for joint or multiple uses, such as day and night or weekday and weekend may be shared between the uses, provided that sufficient spaces are provided for any period of overlap in use.
- (4) The reviewing Board may approve a shared parking plan with a maximum reduction of 30% from the total combined parking requirement for the participating uses without a need for a variance, if all of the following standards are met:
  - (a) The applicant shall submit a parking report to the reviewing Board and must demonstrate that the particular combination of uses and the peak periods of demand

for parking and/or loading spaces, as applicable, are such that a lesser number of spaces are necessary to meet the total parking and/or loading needs for the development at all times. Standards such as the Urban Land Institute Shared Parking Report or ITE Shared Parking Guidelines may be of assistance in presenting the case for adequate parking arrangements.

- (b) The applicant must demonstrate that the parking and/or loading spaces are located to be reasonably convenient, safe, and suitable for use by the various uses, buildings, and/or lots involved in the shared parking program.
  - (c) In all shared parking arrangements, a building, structure or use for which a Shared Parking Agreement is proposed shall be located within seven hundred (700) feet walking distances of the shared parking lot, measured from the entrance of the building, structure or use or the nearest parking space within the shared parking lot.
- (5) Shared Parking Agreement.
- (a) In all shared parking arrangements, the applicant must execute a Shared Parking Agreement as a mechanism that will ensure that the shared parking and/or loading spaces, as applicable, will continue to comply with this section for the life of the development.
  - (b) The Shared Parking Agreement shall be dedicated and recorded with the County Clerk's Office as an easement on the land on which the parking facilities are to be located to run with the length of the shared uses.
  - (c) The Shared Parking Agreement must include the following sections:
    - 1. Use of facilities, describing the nature of the shared use such as times and days of the week.
    - 2. Maintenance, describing the responsibility for aspects of maintenance of the facilities between the lessor and the lessee regarding cleaning, striping, seal coating, repair.
    - 3. Utilities and taxes, describing responsibility for utilities and taxes.
    - 4. Signage, describing signage allowances and restrictions.
    - 5. Enforcement, describing facility usage enforcement methods.
    - 6. Cooperation, describing anticipated communication methods should conflict arise between parties.
    - 7. Insurance, describing insurance requirements for the facilities.
    - 8. Indemnification, describing indemnification as applicable and negotiated.

9. Termination, describing how to or if this agreement can be terminated and post termination responsibilities.
10. Supplemental covenants, as needed.

**F. Access Drives and Driveways.**

(1) General

- (a) There shall be adequate provisions for ingress and egress to all parking spaces.
- (b) No access drive or driveway, pathway or any other means of egress or ingress shall be located in any residential zone to provide access to uses other than those permitted in such residential zone.
- (c) In residential zones, driveways shall not be closer than six (6) feet to any rear or side lot line or street side lot line.

(2) One- and Two-Family Dwellings

- (a) Access drives or driveways for one- and two-family dwellings shall be located entirely on the lot with the principal building and shall be not less than 10 feet wide and not more than 14 feet wide at the curblineline for single driveways or 18 feet for double driveways.
- (b) No more than one driveway entrance is permitted for any one-family dwelling.
- (c) Two driveway entrances may be used for a two-family dwelling where the units are side-by-side divided by a vertical wall with two separate garages located on opposite sides of the structure.
- (d) All access driveways and/or driveways to one- and two-family homes shall be paved to the standards of the Borough Engineering Department.

(3) All Other Uses

- (a) Access drives or driveways shall be paved and not less than 12 feet wide and so designed as to minimize interference with traffic on abutting streets. If customer parking is involved, access driveways shall be at least 20 feet wide, except that if only one-way traffic is permitted, the driveway shall be at least 12 feet wide. In addition, a sidewalk at least six (6) feet wide shall be provided to permit pedestrian ingress and egress to and from the building.
- (b) In the interest of safety, the following requirements with respect to the location and construction of driveways shall apply:

1. No commercial driveway entrance or exit from a parking area shall be located closer than 50 feet from any intersection or as required by County or State regulations.
2. No driveway shall have a width in excess of 24 feet.
3. All driveways shall cross sidewalk areas at sidewalk grade.

**G. Minimum Required Off-Street Parking Schedule**

- (1) Affordable Housing Zoning Districts and Overlays that were approved as part of a Court Order or similar compliance process may have standards that differ from Schedule IV. Where there is conflict between those Zoning Districts' standards and Schedule IV, the standards of the individual Districts shall govern.
- (2) Schedule IV Parking Requirements:

Type of Use	Required Off-Street Parking
<b>Residential Uses</b>	
Single-Family	2 for each dwelling unit, one of which shall be in the garage
Two-Family	2 for all other dwelling units; 1 space per unit shall be in a garage
Townhouse	2 for each dwelling unit, one of which shall be in the garage
Multifamily	Residential Site Improvement Standards RS Zone: 3/4 space per unit
<b>Non-Residential Uses</b>	
Ambulatory Health Care Facility	10 per building plus 1 per 200 square feet
Arts Center / Theater / Movie Theater	1 per 100 square feet of gross floor area or 1 for each 3 seats, whichever is greater
Automobile Repair Establishment / Automobile Service Station	4 for each bay plus 1 for every 1 1/2 employees
Brewery / Micro Distillery / Drinking Establishment	1 per 3 occupants at capacity, as determined by the Uniform Construction Code Requirements
Brewpub / Eating Establishment / Restaurant	1 for every 3 seats
Data Center	1 per employee
Educational (excluding primary and secondary schools)	1 per employee plus 0.9 per student



Financial Institutions	1 per 300 square feet
Funeral Home	10 for each viewing room; minimum 30 spaces
Health Care Testing Facility	10 per building plus 1 per 150 square feet
Hotel	1 per sleeping room Restaurants or other amenity space that are open to the public shall be calculated separately
Hotel with Conference Facility	1 per sleeping room, plus 1 space for each 1,000 square feet of conference or similar space; restaurants or other amenity space that are open to the public shall be calculated separately
Laboratory / Light Industrial Use	1 for each 800 square feet of gross floor area
Long-Term Care Facility	1 for every 2 beds
Office (excluding Home Office)	1 per 300 square feet of gross floor area
Personal Service / Retail Service	1 per 300 square feet of gross floor area
Places of Worship / Membership / Fraternal Organizations	1 for each 3 seats. Where the specific amount of seating is undetermined, then 1 parking space shall be required for each 250 square feet of assemblage area.
Recreation / Sports Facility	4 per 1,000 square feet of gross floor area
Restaurant Drive-through	1 per 4 seats
Retail uses not separately listed	4 per 1,000 square feet of gross floor area
School – Primary (elementary and intermediate)	1 per employee or as determined appropriate by the reviewing Board
School – Secondary	1 per employee plus 5 per classroom or as determined appropriate by the reviewing Board
Telecom Hotel	1 per 300 square feet of gross floor area
Veterinary Clinic	1 per 300 square feet of gross floor area
Veterinary Hospital	6 per doctor
Wholesale	1 per 500 square feet of gross floor area

#### **H. Parking Restrictions in Residential Zones**

- (1) No commercially licensed motor vehicle, truck, van, trailer, or other equipment shall be parked on a residential property in a residential zone unless completely housed in a garage and sheltered from public view, except as provided hereunder.
- (2) Commercially licensed automobiles, vans, and trucks are permitted to park on a residential property, provided that all of the following conditions are satisfied:
  - (a) Such vehicle shall have a single chassis body with not more than four wheels and shall not be more than 20 feet long and 8 feet high and shall not exceed 10,100 pounds registered gross vehicle weight (GVWR).
  - (b) Only one commercially licensed vehicle which meets all of the above criteria shall be permitted to park on a residential property.
- (3) No trailer designed or used for commercial hauling or transporting, shall be regularly parked or stored on, by or in the vicinity of any lot in any residential district.
  - (a) Nothing herein shall be deemed to prohibit a person from parking a commercially licensed vehicle on residential property while such vehicle is being used in the transaction of business with the owner or occupant of the residential property.
- (4) Recreational vehicles shall not be parked or stored on a residential property unless all of the following conditions are satisfied:
  - (a) Recreational vehicles may be parked or stored in a garage located on the premises, provided that such garage completely encloses the recreational vehicle.
  - (b) If stored outside of a garage, such recreational vehicle shall be stored on a parking area which is in addition to such parking spaces as are required in Schedule IV of this Chapter. Such vehicle shall be adequately screened from adjacent properties by a fence, wall, gate, door, hedge, trees, other plant material, landscaping or a combination of such items. Such screening shall be subject to all other regulations set forth in this chapter.
  - (c) No recreational vehicle shall be parked or stored in the front yard of any residential property.
  - (d) Only one recreational vehicle shall be permitted to be parked or stored on a residential property.

#### **I. Electric Vehicle Supply/Service Equipment**

- (1) Purpose: The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of electric vehicle service equipment

("EVSE") and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

- (a) Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
- (b) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
- (c) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
- (d) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

(2) Definitions

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

**Charging Level.** The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.

Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.

Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

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

**Electric Vehicle Supply/Service Equipment or (EVSE):** The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station." {Note: Definition is directly from legislation and cannot be changed.}

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

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

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

(3) Approvals and Permits

- (a) An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
- (b) EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.
- (c) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (d) The Zoning Officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject

to the same enforcement and penalty provisions as other violations of New Providence's land use regulations.

- (e) An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
  - 1. The proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
  - 2. All other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
  - 3. The proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (f) An application pursuant to Section 5. above shall be deemed complete if:
  - 1. The application, including the permit fee and all necessary documentation, is determined to be complete,
  - 2. A notice of incompleteness is not provided within 20 days after the filing of the application, or
  - 3. A one-time written correction notice is not issued by the Zoning Officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
- (g) EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- (h) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

(4) Requirements for New Installations of EVSE and Make-Ready Parking Spaces

- (a) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
1. Prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces.
  2. Within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces.
  3. Within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
  4. Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
  5. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (b) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in (a) above shall:
1. Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
  2. Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
  3. Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
  4. Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities if there will be 101 to 150 off-street parking spaces.

5. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
6. In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
7. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
8. Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

(5) Minimum Parking Requirements

- (a) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to Schedule IV.
- (b) A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- (c) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (d) Additional installation of EVSE and Make-Ready parking spaces above what is required in subparagraph (4) above may be encouraged, but shall not be required in development projects

(6) Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

- (a) Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- (b) Installation:
  1. Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.

2. Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
3. To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
4. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.

(c) EVSE Parking:

1. Publicly accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE. The use of time limits is optional and shall be determined by the owner.
2. Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
3. Public Parking. Pursuant to NJSA 40:48-2, publicly accessible EVSE parking spaces shall be monitored by the Borough's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space, or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of the Borough's Code. Signage indicating the penalties for violations shall comply with subparagraph (e) below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
4. Private Parking. The use of EVSE shall be monitored by the property owner or designee.

(d) Safety



1. Each publicly accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to subparagraph (e) below.
2. Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with New Providence's ordinances and regulations.
3. Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
4. EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted and shall contain a cord management system as described in 5. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
5. Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
6. Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
7. Publicly accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, New Providence shall require the owners/designee of publicly accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

(e) Signs

1. Publicly accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
2. All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
3. Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b. above.
4. In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly accessible EVSE parking spaces:
  - i. Hours of operation and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee.
  - ii. Usage fees and parking fees, if applicable.
  - iii. Contact information (telephone number) for reporting when the equipment is not operating or other problems.

(f) Usage Fees

1. For publicly accessible municipal EVSE: The fee to use public parking spaces within the municipality identified as EVSE spaces shall be the same as any metered space for non EVSE.
2. This fee may be amended by a resolution adopted by the governing body.
3. Private EVSE: Nothing in this Chapter shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

**J. Off-Street Loading Requirements.**

- (1) Nonresidential.
  - (a) All nonresidential uses shall provide for off-street loading and unloading by providing one parking space for the first 10,000 square feet and an additional space for each additional 10,000 square feet of gross floor area. All such spaces shall be designed, planned, and constructed in accordance with generally accepted engineering and construction practices and be reviewed by the Borough Engineering Department prior to submission to the reviewing board under site plan review.
- (2) Multifamily
  - (a) One (1) loading space shall be required for multifamily residential developments with twenty (20) or more units. Such loading space shall be appropriately located to accommodate move-in/move-out operations as well as package delivery services.

**§ 310-49 Signs**

**A. Purpose.**

The purpose of this section is to promote and protect the public health, safety, and welfare by creating a more attractive residential and commercial climate within all areas of the municipality. This code is intended to create a more attractive business climate by further enhancing the streetscape improvement project undertaken by the community. This code seeks to enhance and protect the physical appearance of all areas by reducing the obstructions and hazards to pedestrian and auto traffic caused by indiscriminate placement and use of signs.

**B. Applicability**

- (1) All signs within the Borough of New Providence shall be subject to the provisions of this section.
- (2) No sign shall be placed on, or attached to a building, or erected independently, for any purpose other than to advertise a permitted business or use conducted on the same premises unless specifically permitted herein.

**C. Definitions:**

**Abandoned Sign.** A sign no longer used for its original intent or a sign on a vacant, unoccupied, or abandoned property.

**Awning and Canopy.** A temporary or portable roof-like covering that project from the wall of a building for the purpose of shielding openings from the elements. Under no circumstances can an awning or canopy be opaque or let light through. Awnings and canopies may extend a maximum of six (6) feet from the exterior wall with the building.

**Banner or Pennant Sign.** Any sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered pennant signs or banners for the purpose of this chapter.

**Changeable Copy.** A sign, or portion of a sign, that is designed so that characters, letters, or illustrations can be changed or rearranged, manually, without altering the face or the surface of the sign.

**Holiday Decoration Sign.** Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local, or religious holiday or observance.

**Identification Sign.** A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol and address of a buildings business development, or establishment on the premises where it is located.

**Sign Area.** The area of a sign which is computed by multiplying the greatest width of the sign face by the greatest height of the sign face. The sign area shall include the sign face and any framing, trim or molding, but shall not include the supporting structure. (See Signable Facade Area)

**Sign Face.** The area or display surface used for the message.

**Sign Fascia.** The vertical surface of a lintel over a storefront that is suitable for sign attachment

**Sign Icon.** A sign that illustrates by its shape and graphics, the nature of the business conducted within.

**Sign, Animated or Moving.** Any sign or part of a sign, which changes physical position by any movement, or rotation or which gives the visual impression of such movement or rotation.

**Sign, Awning.** A sign that is mounted to or painted on or attached to an awning that is otherwise permitted by this chapter.

**Sign, Billboard.** A sign which contains a commercial message, and which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**Sign, Bus Shelter.** A sign which contains a commercial message, and which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Sign, Canopy.** A sign that is mounted to or painted on or attached to a canopy that is otherwise permitted by this chapter.

**Sign, Changeable.** A sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face of or the surface of the sign and is not electronic in nature.

**Sign, Community Information.** A sign which contains messages of civic groups, churches or places of worship, and local special events which direct attention to a church or place of worship, facility, event, club, or organization.

**Sign, Construction.** A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals, or firms having a role or interest with respect to the structure or project.

**Sign, Contractor.** Any on-site sign advertising the name or business of a mechanic, contractor, or artisan performing work on the premises- where the sign is placed.

**Sign, Developer.** Any on-site or off-premise sign identifying or directing traffic to a particular site or development for an approved period of time longer than thirty (30) days.

**Sign, Directional and Informational.** Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way", "entrance", and "exit". Window signs such as those that indicate hours of operation, credit card acceptance, and business affiliations are considered as informational signs. No sign with a commercial message legible from a position on the street shall be considered directional or informational.

**Sign, Directory.** Signs listing the tenants or occupants of a building or group of buildings. The respective professions or business activities may also be included as part of the sign.

**Sign, Façade.** See Sign, Wall

**Sign, Freestanding.** Any immovable sign not affixed to a building.

**Sign, Home Occupation or Sign, Home Professional Office.** A sign containing only the name and occupation or professional of a permitted home occupation or permitted home professional office.

**Sign, Illuminated.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed towards the sign.

**Sign, Inflatable.** Any display or object capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

**Sign, Marquee.** A sign that is mounted, or painted on, or attached to a marquee that is otherwise permitted by this chapter.

**Sign, Memorial or Nameplate.** Memorial signs or tablets, names of building and date of erection when cut into any masonry surface, integral to the construction of a building, or when constructed of bronze or other incombustible material mounted on the face of a building, bench, or other structure.

**Sign, Neighborhood Identification.** Signs which identify any type of housing development, by name. No advertising for real estate agents, developers, contractors, builders, architects or other is permitted on Neighborhood Identification Signs.

**Sign, Nonconforming.** Any sign that does not conform to the regulations of this chapter.

**Sign Political.** A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

**Sign, Portable.** A sign that is not permanent, affixed to a building, structure, or the ground.

**Sign, Projecting.** A sign which is fixed to a building or other structure that extends beyond the surface to which it is affixed. Projecting signs shall be at least eight (8) feet from the ground and should project no more than four (4) feet from the structure.

**Sign, Real Estate.** A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

**Sign, Street Banner.** Any banner sign which is stretched across and hung over a public right-of-way.

**Sign, Suspended.** A sign hanging down from a marquee, awning, canopy, porch, or roof overhang that would exist without the sign.

**Sign, Temporary.** A sign constructed of paper, cloth, canvas, plastic, plywood, or other lightweight material intended to be displayed for a short period of time, not to exceed thirty (30) days exclusive of construction signs, contractor signs, and developer signs.

**Sign, Vehicle.** A sign affixed or painted on a vehicle or trailer and parked at a specific location for a period of four (4) or more days so that its primary purpose is as a commercial message.

**Sign, Wall.** A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than six (6) inches from such building, or structure.

**Sign, Window.** A sign that is applied to or attached to the exterior or interior of a window or located in such manner within a building that it can be seen from the exterior of the structure through a window.

**Signable Facade Area.** The rectangular, continuous area on the wall of a building, which extends from the top line of windows and doors on the first floor, and the bottom line of the second-floor

windows, roof, or cornice above, in an area that is uninterrupted by windows, architectural details, or openings.

**D. Approvals Required**

- (1) Each application for development shall include a sign plan showing a description of the message, trademark, symbol, or insignia, and the specific design, location, size, dimensions, colors, materials, height above ground, construction, and illumination of proposed signs in accordance with the following regulations.
- (2) Any sign hereafter erected in New Providence, which is exposed to public view, shall conform to the provisions of this section and any other ordinance or regulation of New Providence, the County, State or Federal government relating to the erection and maintenance of signs, In the event of conflicting regulations, the most restrictive regulation shall prevail.
- (3) No existing sign shall be enlarged, rebuilt, structurally altered, or relocated except in accordance with the provisions of this ordinance. Furthermore, the failure to issue a permit for any sign shall not relieve the owner or lessee of the premises from the duty of safely maintaining any such structures.
- (4) All development applications shall submit all signs to be approved by the Planning Board or Zoning Board of Adjustment.
- (5) In applications where only sign modification is sought and no other site modifications are proposed, any sign exceeding the maximum area, height, or otherwise not in conformance with the requirements of this section shall require application and approval for minor site plan with waiver(s).
- (6) No sign, other than exempt signs, shall be erected without first obtaining a sign permit from the Zoning Office. Permit applications shall be accompanied by a plan, drawn to scale, showing details of the sign, type of illumination, type of materials, colors, its size, and location on the building and/or lot. Permits for window signs and changeable copy signs shall be valid as long as there is no change in the sign area, location, and type of such signs that have been authorized by permit.
- (7) If applicable, a building permit from the Construction Official may be required.
- (8) Fees shall be established pursuant to the requirements of Chapter 147 of the Code of the Borough of New Providence.

### **E. General Provisions**

- (1) No sign other than street, traffic or similar official signs shall be erected within or project over the right-of-way of any public street, sidewalk, or public promenade, except as hereafter provided.
- (2) Street signs shall be in conformance with the New Jersey Department of Transportation Standards and the Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition. The location of street signs shall be determined by the Borough Engineer and shall be free from visual obstruction.
- (3) No signs shall be erected, altered or replaced which are not in accordance with the standards established in this section.
- (4) No sign shall be placed on any property without the consent of the property owner.
- (5) No sign shall be attached to utility poles, public structures, trees, stumps, fenceposts, other signs or signposts, but shall be free-standing or attached to buildings in accordance with this section, except as otherwise provided herein for "warning signs."
- (6) No sign shall be erected so as to project over any property line.
- (7) No signs shall be clustered, and no commercial shopping center or office complex identification signs shall contain individual signs for individual tenants except as part of an approved site plan or waiver of site plan approval by the appropriate municipal agency.
- (8) No permanent marquees or canopies extending over a sidewalk or public right-of-way shall be erected, except in connection with entrances to public buildings. Special permission for a temporary canopy, extending over a sidewalk or public right-of-way, to be in use for 24 hours only, may be granted by the Construction Official.

### **F. Exemptions.**

The following signs shall be permitted in any zone without prior approvals; however, all signs are subject to the requirements of the General Provisions section found in Section E. above.

- (1) One (1) real estate sign advertising the sale, lease, or rent of the premises upon which the sign is located, which sign shall not exceed eighteen (18) inches high by twenty-four (24) inches wide or three (3) square feet. These signs must be set back three (3) linear feet from all property lines. The sign must be mounted so that the top of the sign is no more than sixty (60) inches above the ground.
- (2) One (1) temporary construction sign of architects, engineers, real estate agencies, or corporations on the lot(s) to which it relates. Said signs shall not exceed six (6) square feet. In addition, said signs must be removed within seven (7) days of the issuance of the final



construction department certificate of occupancy of the project to which the sign relates. It must be mounted so that the top of the sign is no more than forty-eight (48) inches above the ground. The sign shall not be located in any sight triangle.

- (3) One (1) temporary contractor sign per contractor shall be permitted only during the period the contractor is actively performing work on the lands or premises where the sign is placed. The sign shall not exceed six (6) square feet in area, and the top of the sign shall not be more than three (3) feet above the ground. The sign shall not be located in any sight triangle and shall be located behind the street line by a minimum of three (3) feet.
- (4) Decorations for a recognized officially designated holiday or observance provided that they do not create a traffic or fire hazard, and provided that said signs are removed within fifteen (15) days after the holiday.
- (5) Official municipal, county, state or federal governmental signs.
- (6) Political and personal opinion signs shall be permitted throughout the Municipality. Political and personal opinion signs shall be removed within three (3) days after the event they advertise. Political signs and personal opinion signs shall not exceed six (6) square feet and shall not be attached to trees or utility poles.
- (7) Temporary garage sale or yard sale. Such signs may not exceed three (3) square feet; may not be erected more than seven (7) days prior to such sale; and must be removed immediately upon conclusion of the event. No premise shall be permitted to erect such signs more than two times in any calendar year.
- (8) Flags of the United States of America, the States, County, or municipality, foreign nations having diplomatic relations with the United States, and any other flag adopted and sanctioned by an elected legislative body or competent jurisdiction, provided that such flag shall not exceed twenty-five (25) square feet and shall not be flown from a pole that exceeds 35 feet in height.
- (9) The following signs will be permitted in any public, quasi-public, commercial, or industrial districts without prior approvals:
  - (a) Change in the copy of a changeable copy once a permit for the sign has been issued.
  - (b) Grand opening signs which shall be no larger than twenty (20) square feet in area, provided that the sign is not placed for more than 30 days. These signs may be banner signs mounted on the facade or building and must be at least eight (8) feet high above sidewalk elevation and no higher than the second habitable floor of the building, or other types of similar temporary signs.

- (c) A portable swinger, "A" frame, or sandwich sign that can be no larger than five (5) square feet when utilized to advertise daily specials, special events, restaurant menu specials and the like, providing the sign is located in front of the establishment and is only displayed when the establishment is open for business. Under no circumstances can these signs impede pedestrian flow or be displayed when the enterprise is not open.
- (d) Restaurant menu when displayed in a glass case affixed to the exterior building wall for that purpose, or when displayed on a signboard located in close proximity to the restaurant entrance located on private property. The area of the signboard or display case shall not exceed the menu size by more than thirty (30) percent.
- (e) Temporary window signs shall not exceed twenty-five percent (25) percent of the total storefront window area and shall be promptly removed upon termination of the sale or event and shall not be displayed for longer than thirty (30) days. Paper signs should be hung one foot behind the glass attached to a rigid backer board and highlighted with a spotlight.
- (f) Directional and Informational window signs including hours of operation, credit card acceptance, and business affiliations are considered informational signs, and are not included in the 25 percent maximum permitted window sign area. No sign with a commercial message legible from a position on the street shall be considered directional or informational.
- (g) Temporary banner signs over the public right-of-way shall be approved and permitted by the official action of the Borough Council and be permitted by permit for fourteen (14) days. If temporary banner signs are proposed along a county roadway, permission must be granted by Union County.

#### **G. General Sign Design Guidelines.**

The sign's design should complement the design of its host building or site and the overall character of the business district. Signs should be designed and painted by professional sign makers or experienced artists. Each sign should be designed in accordance with the following standards.

- (1) Appearance- Signs should be compatible with their surroundings. Signs for businesses in a common building or contiguous structure, shopping, office, or industrial center should be compatible with each other. Signs attached to the same building should be the same shape, background color and dimension, regardless of individual business ownership or tenancy in the building.
- (2) Materials- High-quality materials will ensure that a sign will look attractive, reduce maintenance costs, and last longer. Sign materials and finished textures should

complement the building materials. Permanent signs should be made of wood, high-density foam simulating wood, medium density overlay and finished plywood, brass, copper, or bronze. Plastic and lexan materials should be used for internally illuminated signs.

- (3) Placement- Signs should be integrated with the building without obscuring important architectural details or storefront windows. Signs should be mounted so as to minimize damage to historic materials. and finished with architectural details to complement the sign, such as ornamental iron or brass supports and routed wood posts and edges to provide detail and relief.
- (4) Lettering- Lettering and character typefaces should match the scale of the building and size of the sign as well as consider of the adjacent roadway speed limits and whether pedestrians are in the area.
- (5) Color- The colors should be compatible with the style and color scheme of the building and its neighbors. Color schemes should be kept simple, limited to two or three colors, and based on a host building's painted exterior detailing, such as window trim and cornices. Earth tones, primary colors, and pastels are appropriate and can be designed with subtle combinations, and variations. Fluorescent, luminescent and iridescent colors and tones should only be used for traffic safety signs. Signs with a strong color contrast are more legible.
- (6) Lighting- Decorative light fixtures, such as gooseneck, hooded, historic reproduction, and alcove fixtures, are encouraged that are complimentary to the design of building, sign, or site. Signs should be evenly lit with no isolated bright or dark spots. No substantial light or glare may be directed or reflected onto adjacent streets or properties. Internally illuminated signs should use LED lights to the extent feasible and lettering should be channel set.

#### **H. Specific Design Standards**

- (1) All height limitations shall be measured from the average grade at the curb line to the top or bottom of the sign, as is specified, or it's supporting structure.
- (2) Where any sign, flag, or banner is located over a walkway, sidewalk, pedestrian way, or other public area, the bottom of the sign, flag, or banner shall be at least eight (8) feet above grade level of the pedestrian area.
- (3) Signs shall be located outside of sight triangles.
- (4) All of the illuminated signs shall be either indirectly lighted or of the diffused lighting type, unless illuminated by an interior source. No sign shall be lighted by using unshielded incandescent bulbs, lasers, neon or gas discharge tubes, mirrors reflecting a direct light source or similar devices. Buildings or structures may not be outlined by tubing or strings

of lights except for seasonal lighting which may remain on a building but shall not be illuminated post season.

- (5) An application for an illuminated sign must include a lighting fixture catalogue cut or manufacturer's product description sheet with isolux or lumens specifications and mounting information. It shall indicate the lighting intensity (lumens) that would be generated by any lighting devices shining onto the sign and the rest of the property and neighboring properties and the lumens that would be projecting from any illuminated signs as part of the sign plan. (This Information is part of the manufacturer's data sheet.) Externally illuminated signs consisting of three or fewer one-hundred-watt incandescent light bulbs, or compact fluorescent lights of comparable illuminating capacity, shall be exempt from submitting a lumens plan.
- (6) Attached wall signs shall be affixed parallel to wall to which they are attached, and the face of the sign shall project no more than ten (10) inches from the surface of the wall.
- (7) All signs shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of defective parts or landscaping, painting, repainting, cleaning, and other acts required for the maintenance of said sign. The owner of any property on which a sign is located and those responsible for the maintenance of the sign shall be equally responsible for the condition of the area in the vicinity of the sign and shall be required to keep this area clean, sanitary, and free from noxious or offensive substances, rubbish, and flammable waste materials. If the sign is not made to comply with adequate safety standards, the Zoning Officer shall require its removal within thirty (30) days.
- (8) All signs should have a consistent sign design throughout a particular project. The design theme would include style of lettering, construction, material, type of pole or standard (wood or metal) size and lighting. Color of letters and background should be carefully considered in relation to the color of the material of the buildings or where the signs are proposed to be located.
- (9) The sign area of two-sided signs shall be computed using one (1) side of the sign, if the signs are identical.
- (10) The area of wall signs shall be computed by first measuring the initial letter, number, logo, trademark or symbol or letters of the name independently as a rectangle enclosing the letter, number, logo, trademark, or symbol and adding thereto the area of a rectangle enclosing all the remaining letters, numbers, logos, trademarks, or symbols forming the sign. Other wall signs of a solid face construction, which are placed and securely fastened

to the building wall and are complete in and of themselves shall have the area computed on the basis of a rectangle formed by a complete sign.

#### **I. Prohibited Signs**

- (1) All signs not expressly permitted under this Section (§310-49) or exempt from regulations in accordance with § 310-49F are prohibited.
- (2) No sign of any type shall be permitted to obstruct driving vision, pedestrian or vehicular traffic, traffic signals, traffic directional and identification signs, walkways, entrances, exits, fire escape, doorways, other places of business, 48" wide sidewalks, or other signs or windows of the building on which they are located, or in any way affect the safety of the public. The Borough of New Providence is authorized to remove any such sign at the expense of the permittee or owner of the property upon which it is located or person or entity responsible for erecting the sign.
- (3) Billboard or Off-Premise Signs- The Borough of New Providence hereby prohibits all billboard and/or off-premise signs.
- (4) Additional prohibited signs include but are not limited to:
  - (a) Changeable copy signs, except as otherwise permitted herein
  - (b) Neon or gas tubing like signs
  - (c) Beacons
  - (d) Tethered balloons
  - (e) Signs using red, yellow, and green lights which mimic the operation of any traffic control signal
  - (f) Roof signs or signs mounted on the roof
  - (g) Signs painted directly onto buildings
  - (h) Inflatable signs
  - (i) Animated, or moving signs
  - (j) Mobile signs
  - (k) Mechanical or electrical signs employing devices to revolve, flash or display movement or the illusion of movement or scrolling text and images
  - (l) Internally illuminated awning and canopy signs
  - (m) Internally illuminated projecting and suspended signs (box signs)

- (n) Vehicle(s) or trailer(s) permanently located to serve as a sign in circumvention of this chapter
- (o) Signs which present lewd language or graphic sexual depictions
- (p) Bench signs
- (q) Bus shelter signs

**J. Developer Signs**

- (1) One on-site temporary developer sign for projects that have received final site plan or subdivision approval from the board of jurisdiction shall be permitted. The sign shall identify the project and shall be shown on the final site plan or subdivision map. The sign area shall not exceed thirty (30) square feet and the sign height shall not exceed four (4) feet about the adjacent ground level. The sign shall be located outside of sight triangles and shall be located behind the street line by a minimum of three (3) feet. Once construction is completed, prior to the release of sureties, or when the project is dormant for over three (3) months, the on-site temporary sign shall be removed.

**K. Public and Quasi-Public Uses.**

- (1) Community event signage
  - (a) Community event signs sponsored by a civic organization, club, municipality or house of worship shall be permitted.
  - (b) Community event signs shall be no larger than four (4) feet by six (6) feet.
  - (c) Community event signs shall be setback at least fifteen (15) feet from any street or property line, and that such signs shall only be erected for a period of fourteen (14) days and shall be removed immediately following the event.
  - (d) These signs are exempt from permit filing, but the community event organizer must register the sign with the Borough Building Department, including sign location, event date, sign specifications and person or persons responsible for the sign with a contact phone number with the Zoning Officer or other designated official.
- (2) A place of worship may have two (2) signs not to exceed a total of thirty-two (32) square feet displayed on the property. One sign may be an identification sign and one sign may be a changeable copy sign.

**L. All Residential Districts and Uses located in New Providence**

- (1) A permitted home office / occupation may have one sign not to exceed four (4) square feet in area or be higher than five (5) feet above surrounding grade level. The sign shall be setback a minimum of three (3) feet from all property lines. Where a building housing a

permitted home office / occupation is located within six (6) feet of the front lot line or the street line, one (1) projecting sign may be used in lieu of a small freestanding sign noted above. The projecting sign shall not exceed four (4) square feet in area. The projecting sign shall be permitted to be located between an imaginary line drawn perpendicular to the top of any first or ground floor windows and/or doors and the top of the floor of the second floor.

- (2) No other displays or changes in facade that alter the residential character of the building shall be permitted in any residential district.
- (3) Neighborhood identification signs shall not exceed six (6) square feet in area, shall not be more than 18 inches above ground level, and shall not exceed five (5) feet high.

#### **M. Commercial and Industrial Districts**

##### (1) Freestanding Signs

- (a) One (1) freestanding sign shall be permitted at a rate of one (1) square foot of sign (per side), for every two (2) linear feet of street frontage. Freestanding signs shall not exceed a total maximum area of fifty (50) square feet per side.
- (b) Freestanding signs shall be located a minimum of ten (10) feet away from all property lines and outside of any sight triangles.
- (c) Freestanding signs shall be mounted so that the bottom of the sign is at least eighteen (18) inches above ground level.
- (d) Freestanding signs shall be monument-style and no higher than ten (10) feet above ground level.
- (e) Freestanding signs may be internally illuminated. Freestanding signs may also be illuminated by an exterior light source, facing down, not upwards towards the sky.
- (f) Individual freestanding signs for multiple tenants or tenant structures shall not be permitted.

##### (2) Building signs

- (a) Façade, wall, suspended, projecting, and window signs shall have a maximum total area of four (4%) percent of the total of the area of the building facade fronting on a principal entrance, but in no case shall any individual sign be greater than fifty (50) square feet. One building sign per public entrance (maximum of 2) shall be permitted.
  1. As a general guideline and best practice, twenty-five (25) square feet is the preferred sign size for a public entrance façade / wall sign. The Borough

encourages applicants to work with the Borough's Building Department to determine the most appropriate size and location of public entrance signs.

- (b) Wall signs shall be located between the top line of windows or doors on the first floor, and the bottom line of the second-floor windows, roof, or cornice above, in an area that is uninterrupted by windows, architectural details, or openings. (See Signable Façade Area)
  - (c) Wall signs shall not project beyond the roof or sides of the building. Wall signs may not project more than six (6) inches beyond the front surface of the building.
  - (d) In addition to the permitted signs, projecting, or suspended signs with a display area not greater than four (4) square feet that maintain a height of eight (8) feet over the sidewalk or surrounding grade and do not project more than four (4) feet from the exterior wall, shall be permitted under a canopy for each storefront or business service having an individual public entrance from the exterior of the building. This sign area shall not count against the maximum signage permitted per this section.
  - (e) Suspended signs may not extend farther away from the exterior wall of the building than the structure from which it is supported. In no case shall the suspended sign be greater than four (4) feet from the exterior wall of the building.
  - (f) One etched or painted permanent window sign shall be permitted in one storefront window of any retail or commercial business, providing it does not exceed twenty-five (25) percent of the window area.
  - (g) One awning or canopy sign shall be permitted on the awning or canopy providing the maximum letter height does not exceed eighteen (18) inches. Under no circumstances shall the awning or canopy be internally illuminated. Awnings and canopies are permitted to encroach upon the sidewalk a minimum of three (3) and maximum of six (6) feet and be located eight (8) feet above surrounding adjacent grade level. The signage should be provided on the valance and should be limited to the store, business name or street number. No other text should be on the awning.
  - (h) Changeable copy signs are permitted for gasoline service stations to provide fuel pricing information.
- (3) Directory signs shall be permitted in relation to each building, provided the directory is no more than six (6) square feet in area and four (4) feet in height. The sign shall not be located in the front yard setback.
  - (4) Directional signs. Directional signage shall be permitted on sites where necessary to safely and effectively convey persons to their intended destination. Directional signs shall be



consistent with each other and the site's other signage and shall be limited to six (6) square feet in area and four (4) feet in height. The signs shall not be used for advertising purposes and may be internally illuminated.

**N. Maintenance**

- (1) The property owner shall be responsible for maintaining all signs erected on a tax lot. This maintenance shall include repainting, repairing and cleaning, as necessary. No sign shall be permitted to exhibit:
  - (a) Excessive chipped or peeling paint or lettering
  - (b) Damaged or broken lettering or signboard
  - (c) Illegible material due to fading, obliteration, or other condition
  - (d) Dirty, torn, broken, or otherwise damaged awning, canopy, projecting sign, or other sign support structure.
- (2) If the Zoning Officer determines that any sign is in a state of disrepair so as to no longer be reasonably capable of presenting its message or abandoned or a danger to the public health or public safety, he shall give written notice of the condition of the sign to the owner of the sign and to the owner of record of the tax lot.
- (3) The property owner shall thereafter have 30 days to repair or remove said sign.
- (4) If said sign is not satisfactorily repaired or removed within the thirty-day period, the Zoning Officer may thereafter take such actions as are permitted pursuant to this Chapter.

**O. Abandonment.**

Abandoned signs and their supporting structures shall be removed within 30 days. The Borough may thereafter take such actions as are permitted pursuant to this Chapter.

**P. Permits Fees.**

- (1) All signs, excluding those specifically exempted within this section, shall require a sign permit from the Zoning Officer and, if applicable, a building permit from the Construction Code Official. The applicant shall furnish the Zoning Officer with a fee as required and the necessary information from which to determine whether the subject sign meets the requirements of this section
- (2) Individual signs placed within a multiple sign structure subsequent to its installation shall require a separate permit.
- (3) Where the erection of a sign has not been completed within six (6) months after the date of issuance of the permit, the permit shall become null and void and subject to

reapplication. The Zoning Officer shall have the discretion to grant a reasonable continuation of time where unavoidable conditions prevented the initiation or completion of work within the prescribed time period.

- (4) Fees shall be established pursuant to the requirements of §147-4 of the Code of the Borough of New Providence
- (5) Notwithstanding the provisions of this section, the Borough Council in its absolute and sole discretion, or by contract or agreement, may provide advertising for any business, organization or use when such advertising is deemed to be in furtherance of the public good, health, safety and/ or general welfare.

#### **Q. Enforcement**

- (1) If the Zoning Officer shall find that any sign regulated herein is unsafe, insecure, in need of repair, equipped with flashing or blinking lights, or otherwise in violation of this section, the Zoning Officer shall give written notice to the owner thereof or to his/her attorney. If the owner fails to remove, alter or repair the sign within 30 days after such notice, the Zoning Officer may initiate further action as provided in this section in order to abate or remedy the violation.
- (2) Upon failing to comply with the violation notice from the Zoning Officer within the time specified, the Zoning Officer is authorized to cause the removal of the sign, and any expense incidental thereto shall be paid by the permittee or owner of the property upon which the sign is located.

#### **R. Violations and remedies**

- (1) Penalties. Any violation of any provision of this section shall be punishable upon conviction by a fine of not less than \$50.00 dollars and not to exceed \$1,000.00 dollars.
- (2) The following individuals shall be subject to potential punishment:
  - (a) The owner, tenant or occupant of a building, premises, or part thereof where such a violation has been committed or does exist; and
  - (b) Any agent, contractor, corporation or other person who commits, takes part or assists in the violation.
- (3) Each day a violation continues shall constitute a separate and distinct offense, punishable as such in accordance with the following:
  - (a) A minimum penalty of \$50.00 dollars per day shall be imposed; and
  - (b) Any person or entity who is convicted of violating any provision of this section within one (1) year of the date of a previous violation of the same provision of this section,

and who was fined for the previous violation, shall be sentenced by the Municipal Court an additional fine as a repeat offender. The additional fine imposed by the Court upon such person or entity for a repeat offense shall not be less than the minimum fine fixed for a violation of the section but shall be calculated separately and in addition to the fine imposed for the violation of this section.

- (c) The imposition of penalties herein shall not preclude the Borough of New Providence or any other person from instituting an action to prevent the unlawful construction, reconstruction, installation, alteration, repair, conversion, or use of a sign, or to restrain, correct or abate a violation.
- (4) Injunctive and other relief. In addition to the foregoing, the Borough of New Providence may institute and maintain a civil action for injunctive or other relief as provided in the Municipal Land Use Law and other applicable laws.

## **Article V. Development Requirements and Design Standards.**

The standards within this Article shall apply to all applications for development, and the reviewing Board shall have the authority to grant exceptions from these requirements in accordance with N.J.A.C. 40:55D-51.b. unless otherwise noted.

### **§ 310-50. General Design Standards**

#### **A. Design Guidelines.**

The following standards are general design guidelines that applicants shall follow to the extent feasible.

- (1) The design and layout of buildings and parking areas shall provide an aesthetically pleasing design and efficient arrangement compatible with the character of surrounding development. Particular attention shall be given to safety and fire protection and the impact on surrounding development and adjacent buildings and lands.
- (2) Groups of related buildings shall be designed to present a harmonious appearance in terms of building silhouette, architectural style, and scale; massing of building form; surface material, finish and texture; decorative features; window and doorway proportions, entry way placement and location, signage, and landscaping.
- (3) Buildings shall be designed to have attractive, finished appearances from all public spaces.
- (4) Durable materials shall be utilized for the exterior finish of all buildings and structures.
- (5) All additions, alterations, and accessory buildings should be compatible with the principal structure in design and materials.

**B. Appurtenances.**

- (1) Rooftop equipment shall be set back from the roof edge a distance equal to the height of the equipment and/or screened by parapet walls or other architectural elements that are consistent with the overall building design. Such equipment shall not be visible from the public right-of-way.

**§ 310-51. Public or Common Private Open Space Design**

- A. All open space shall incorporate elements such as shrubbery, attractive paving materials, street furniture, lighting, low walls, fountains, and other architectural and artistic amenities so as to produce and provide a pleasant environment at all levels and to complement the surrounding buildings. All open space shall be designed to invite and attract the public.
- B. Adequate lighting shall be provided to promote a sense of security in the open space.
- C. Open spaces shall be so located as to provide for maximum usability and to create a harmonious relationship between buildings.
- D. Open spaces shall be designed in an equitable manner that promotes the usability of the entire population, regardless of abilities.
- E. All property owners or tenants in a development that consists of private open space shall have the right to use the common open space and any recreational facilities located on the site.
- F. The regulations concerning the maintenance, control and ownership of common open space and common elements of Chapter 305, Subdivision of Land and Site Plan Review shall apply.

**§ 310-52. Design Standards for the Central Commercial and the Central Commercial Townhouse Districts**

**A. Applicability.**

The following design standards apply to all new construction projects and projects involving the renovation of existing buildings/structures within the CCD and CCD-TH Zoning Districts.

**B. Purpose of Design Standards.**

A streetscape that is comfortable, safe, and interesting will draw pedestrians to the shops and residences in Downtown New Providence. Design standards for building facades, building relationships, and streetscape elements define the experience of the public realm, articulate the common culture and history of a place, and reflect how it is valued by and within the community at-large. The design standards that follow are enacted for the purpose of creating a distinctive identity for Downtown New Providence, establishing a destination atmosphere that draws people and business. The standards are organized around the following characteristics of good urban form:

- (1) Defining the downtown layout and public realm

- (2) Enlivening downtown with inviting and prosperous commercial establishments
- (3) Adding visual interests while respecting the Borough's Architecture of Place
- (4) Transitioning the public and private realms
- (5) Securing a safe and comfortable public realm
- (6) Promoting decipherable and coherent signage
- (7) Establishing an equitable downtown experience, able to be enjoyed by everyone, regardless of ability
- (8) Installing appropriate utility screening
- (9) Promoting a multi-modal circulation network for pedestrians and cyclists

#### **C. Resolution of Conflicts.**

In addition to the following design standards, development in the CCD and CCD-TH shall continue to abide by the general design standards found in the Borough's Subdivision of Land and Site Plan Review ordinance (Chapter 305). Where design standards conflict with Chapter 305 or any other section of Chapter 310, the standards in this section shall rule.

#### **D. Definitions**

**Arcade:** A type of building frontage wherein the first-floor façade is setback from the frontage line, and a permanent roof supported by a series of arches on columns or piers extends up to the frontage line. The upper floors of the building are built up to the frontage line.

**Architectural Features:** Shall mean a prominent or significant element extending beyond the main façade or wall of a building or structure. An architectural feature shall not be included in the calculation of building coverage, and lot coverage.

**Awning:** A flexible roof-like cover that extends out from an exterior wall and shields a window, doorway, sidewalk, or other space below from the elements.

**Bay Window:** Generally, a U-shaped architectural feature that is an enclosure containing windows, which extends the interior space of the building outward of the exterior building wall along its street-facing facade.

**Building Envelope:** The three-dimensional space within which a structure is permitted to be built on a lot; it is defined by maximum height regulations, and minimum yard setbacks.

**Canopy:** An flat overhead roof or structure over which fabric or metal covering is attached that extends horizontally from a building's facade at the building's principal entryway, which is able to provide shade or shelter from weather conditions.

**Column:** A structural or decorative vertical element, usually circular, supporting or framing the upper parts of a building.

**Cornice:** Any horizontal member, structural or non-structural, projecting outward from the exterior walls at the roofline, including eaves and other roof overhang.

**Dormer:** A projection from a sloping roof that contains a window and its own roof.

**Eaves:** The overhang at the lower edge of a roof.

**Exterior Building Walls:** Any wall that defines the exterior boundaries of a building or structure.

**Façade:** The exterior face of a building, including but not limited to, walls, window sills, doorways, and such traditional design elements as horizontal lines, cornice, and parapet.

**Façade Transparency:** The ratio between opaque building surfaces, such as brick, or wood, to transparent surfaces, such as glass, that make up the façade of a building. It determines the amount of visibility into and out of the space inside the building

**Frontage:** The property along a public street.

**Gable Roof:** A ridged roof forming a gable at both ends.

**Ground Floor:** The floor of a building at or nearest to ground level.

**Hip roof:** A roof with pitched ends and sides.

**Infill:** A style of development on scattered sites in a built-up area.

**Lintel:** A structural or merely decorative horizontal member spanning a window opening.

**Parapet:** The extension of the main walls of a building above the roof level.

**Parking, Structured.** A building or structure which may be located above or below ground, with parking stalls accessed via interior aisles, and used for temporary storage of motor vehicles. Structured parking can be a standalone use or a part of a building containing other uses.

**Plaza:** An unroofed public open space designed for pedestrians that is open to public sidewalks on at least one side.

**Portico:** An open-sided structure attached to a building, sheltering an entrance, or serving as a semi-enclosed space, a columned porch.

**Projecting Fabric Wall Sign:** A building sign, which is made of canvas or other durable material and is waterproof.

**Public Realm:** The space between buildings, including publicly owned streets, sidewalks, rights-of-ways, parks and other publicly accessible open spaces, and public and civic buildings and facilities.

**Sill:** A horizontal member beneath a window opening, constructed of wood, stone, concrete, or similar material.

**Storefront:** The street-facing facade of a retail or service establishment.

**Street Light:** A lamp supported on a lamppost for illuminating a street.

**Streetscape:** A representation of a street and its surrounding environment.

#### **E. Downtown Layout and Public Realm.**

The following regulations relate to site planning principles that shape the fundamental structure of the built environment in downtown New Providence. Basic regulations for the relationship between buildings and their on-site orientation create the bones on which all other aspects of design are applied. Continuous facades, shorter setbacks, and shorter blocks can create the sense of physical definition and enclosure that produces a comfortable public realm. The standards below are in the style of Traditional Neighborhood Design and encourage development in Downtown New Providence that gives visitors a coherent and comfortable sense of the public realm.

- (1) **Building Orientation.** New buildings shall relate to public streets and plazas, both functionally and visually.
- (2) **Entrance Orientation.** Primary building entrances shall face the public realm, whether that be the street, or the public parking lot in the case of the Village Shopping Center.
- (3) **New Streets.** Street layouts shall be aimed at achieving a grid pattern connecting to the major street network. The use of cul-de-sacs and other roadways with a single point of entry is prohibited.
- (4) **Infill Projects.** Proposed infill projects shall complement and strengthen the surrounding neighborhood and reinforce desirable community design patterns and architectural features referenced in this Chapter.
- (5) **Gateways.** Buildings located at obvious entrances to residential, mixed-use, or commercial areas shall mark the transition into and out of the neighborhood with distinct elements using massing, additional height and/or contrasting materials. Walkway areas at these entrances shall be marked with pedestrian-oriented decorative gateways.
- (6) **Focal Points.** Points of visual termination shall be occupied by monuments, fountains, or distinctive civic buildings and spaces. These structures shall generally employ enhanced height, massing, and architectural treatments.

- (7) **Corner Lots.** Buildings situated on corner lots shall treat side facades that face a street or driveway the same as the front yard façade. For example, cornice treatments, top and bottom window alignments, parapets, etc. should wrap around the front and side façades exposed to the public right-of-way. This includes buildings that front on a major driveway entrance such as those access points to the Village Shopping Center.
- (8) **Loading and Service Area.** Loading and service areas of a building shall be located in the rear of the property and shall be screened from public view.

#### **F. Design and Appearance General.**

The following regulations relate to the design and appearance of the commercial uses of the Downtown. They address storefronts and other design elements that mediate the exterior realm of the street and the interior space of the shop, encouraging visibility and permeability between exterior and interior areas. The standards operate on the assumption that potential customers are more likely to be drawn into a business when they have a clear idea of the goods and services for sale, and when they can observe other customers inside enjoying their shopping, dining, or other consumer experience.

- (1) **Storefront Transparency.** First floor retail, restaurant, and service uses shall have at least 70% of their surface area glazed.
- (2) **Sill Height.** The maximum height of the sill above the sidewalk shall be 3 feet.
- (3) **Entrance Recessions.** Entrances should be recessed so that doors do not open into the sidewalk's flow of traffic.
- (4) **Door Design.** Flat metal doors without glass are prohibited. Glass panel doors are required so that a site line exists between the pedestrian realm and inside of the shop.
- (5) **Transom Windows.** Transom windows are encouraged in new development and should be restored if possible, in rehabilitation projects.
- (6) **Window Coverings.** In no event shall the maximum percentage of glass that is blocked with interior furnishings or signs exceed 20% of the window's surface area.
- (7) **New Providence Color Palette.** The New Providence color palette consists of a fairly small range of earth tones: beiges, greens, browns, reds, and tans for the main surfaces, with deeper, bolder colors for awnings, accents, and signage. These should be complemented in new construction. Avoid white and black, which can look stark when viewed next to warmer tones, particularly when used over large surfaces. They also appear dirty more easily than other colors.



- (8) Interior Display Illumination. Front windows and portions of the store interior should remain lit at night through the use of specially located interior lighting. This illumination will make the street feel friendlier and safer.
- (9) Storefront Vacancy. In the event of storefront vacancy, the storefront windows should be covered with historical images of the Borough, leased to other businesses for promotional displays, or provided to local citizens groups for display presentations. Covering windows with newspapers, sheets, clothes, or any other material that promotes a negative image of the Downtown is prohibited.
- (10) Display Windows. Furniture, shelves, etc. placed within view of the store's exterior is discouraged. A display area should be created as a visually pleasing transition from outside to inside. Some basic design principles to follow include:
  - (a) Keep it simple. Do not try to put in everything at once.
  - (b) Change displays frequently to keep the look fresh.
  - (c) Use lighting, both during the day and at night to highlight individual items or signs.
  - (d) Consider making windows available to local non-profit organizations that are promoting a good cause. Window displays used for community projects often create good will for the retailer.
  - (e) Continue the theme of the window display with other displays inside the store.
  - (f) Place items in the window at varying heights and depths to catch shoppers' attention and make the overall display inviting to the eye.
  - (g) Keep windows clean to maximize the effectiveness of window displays.

#### **G. Building Design.**

The following standards are meant to encourage designers to make aesthetic decisions that contribute to creating an Architecture of Place in downtown New Providence. Such an Architecture of Place is achieved through an approach to design that depends on historical precedent and patterns for guidance and inspiration while including reinterpretations that are incremental and respectful of the value of what already exists. A downtown aesthetic should be generated that is both visually interesting by virtue of its variation and harmonious by virtue of its respect for existing characteristic design elements.

- (1) Building Facades
  - (a) Building Variation. While they should be complementary in general style, adjacent buildings may vary in terms of architectural elements, roof orientation, entrance treatments, or other design elements, so that visual interest within the district is

strengthened. Window dimensions, cornice lines, sign band locations, and base treatments should establish a harmonious and uniform theme.

- (b) Exterior Walls. Buildings shall have varied and interesting facades. Mixed-use and commercial buildings shall avoid long, monotonous, uninterrupted walls. Facades shall be articulated at a minimum interval of 25 feet, achieved through changes in building plane, material color, or features such as columns, bay windows, pilasters, or others. Use of texture and window variations are encouraged.
- (c) Entryways. Building entrances should be clearly defined through the use of detailed paving, architectural treatment, canopies, porticos, overhangs, arcades, recesses, outdoor patios, and/or site furnishings. All pedestrian entryways and/or lobbies shall be prominent, well-lit, and separate from service entrances. Entrances shall be at grade with the adjacent sidewalks to the greatest extent possible.
- (d) Building Scale. To modulate scale, multi-story buildings shall articulate the base, middle, and top, separated by cornices, stepbacks at upper floors, or other architectural features. Where a building height exceeds the dominant pattern for adjacent buildings, consistent cornice lines between buildings, or building setback for upper floors should be created to reduce the scale of the building.
- (e) Cornice Projection. A cornice, which terminates or caps the top of a building wall, may project horizontally from the vertical building wall plane no more than 12 inches. Cornices should be articulated to provide visual interest and may be ornamented with moldings, brackets, and other details.
- (f) Division of Uses. A horizontal division shall define the ground floor from the upper floors on the front facades of buildings. Differentiation can be achieved through cornice lines and changes in materials. Further differentiation can be achieved through signs, awnings, and exterior lighting.
- (g) Height of Architectural Features. Non-habitable architectural features such as clock towers, spires, belfries, cupolas, domes, or chimneys may exceed height restrictions pursuant to §310-18.
- (h) Permitted Materials. Permitted building materials include brick, wood clapboard, natural or cultured stone, stucco that is not textured, concrete siding (Hardy Plank lap siding or shingle), and non-reflective and non-tinted glass. These should be used for new construction, and to the extent practical, for rehabilitation and redevelopment. Synthetic stucco is not permitted on the first-floor façade.
- (i) Base Course. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with the sill level of the first story.

- (j) Exposed Foundations. Exposed foundations to a building shall be limited to no more than 30 inches above grade and are only permitted on side or rear sides of a building.
- (2) Roofs.
- (a) Roof Design. The type, shape, pitch, texture, and color of a roof shall be considered an integral part of the design of a building and shall be architecturally compatible with the type, materials, colors and details of the buildings. Roof forms should be similar to those predominantly found on adjacent buildings.
  - (b) Eaves. All hipped or gabled roofs must have eaves, and the eaves must overhang the exterior building wall surface by a minimum of 12 inches.
  - (c) Roof Pitch. All pitched roofs must have a minimum roof pitch of 8:12.
  - (d) Parapet Walls. All flat roofs shall have a parapet wall along the front façade of the building of at least 2 feet in height that spans the entire width of the façade. Articulated cornices shall be included on the front-facing side of the parapet wall to provide visual interest.
  - (e) Screening of Roof Penetrations. Roof penetrations shall be located so as to limit or eliminate their visibility from the public realm.
  - (f) Climate Considerations. Building exteriors shall employ porticos, arcades, and porches to the maximum extent possible to provide shelter from sun, rain, and wind.
- (3) Awnings and Canopies.
- (a) Awning Location. If awnings are to be used in a multi-tenant building, awnings should be located in each retail bay and have a consistent design (profile, color & dimensions). Awnings should fit the opening of each single bay fully and the base of the awning should align with the bottom of the transom.
  - (b) Awning Type. Retractable and non-retractable awnings are permitted. However, it should be noted that in winter, awnings may limit sunlight and become undesirable. Retractable awnings provide options for use.
  - (c) Awning Dimensions. Awnings should provide a minimum clearance of eight (8) feet and project a minimum of three (3) feet and a maximum of four (4) feet from the building face.
  - (d) Awning Limitations. Awnings should not obstruct architectural ornaments.
  - (e) Permitted Awning Materials. Awnings should be canvas and waterproof cloth materials over metal frames as these will better weather the elements.

- (f) **Prohibited Awning Materials.** Metal, vinyl, or plastics awnings are not permitted. Translucent backlit awnings are prohibited.
- (g) **Awning Colors.** Colors should be chosen to coordinate with the facade color palette.
- (h) **Awning Shape.** Awnings should be open sided in order to ensure a lighter feel and to provide thermal and weather protection with adequate diffused light.
- (i) **Permitted Canopies.** Canopies are permanent elements of the facade constructed of stone, metal, wood or glass. (See definitions section for a differentiation of canopy and awning).
- (j) **Canopy Location.** Canopies identify and occur at the major entrance to a building.
- (k) **Canopy Character.** As with awnings, a canopy should fit the opening of the entrance, be appropriately scaled to the building, and should not obscure any architectural detail.

#### **H. Public and Private Spaces.**

One hallmark of a comfortable and coherent public realm is a clear distinction between public and private areas, with elements that allow for interaction between the two in semi-public areas such as shops and plazas. Windows, doors, and fences are elements of design that help to transition the public and private realms. The standards below seek to foster transitions that provide for an easily discernible public-private interface, while also providing adequate light and air to building interiors.

- (1) **Transparency, Windows, and Doors**
  - (a) **Transparency Requirements for Street-Facing Facades.** Any street-facing façade must have a minimum transparency level of 40% of the area of the wall, with the exception of the ground floor storefront types listed in “Storefront Transparency” under Section F(1) that must adhere to the higher 70% requirement for the first-floor wall area.
  - (b) **Transparency Requirements for Non-Street-Facing Facades.** Non-street-facing facades must have a minimum transparency of 20%. A reduction in this standard is permitted if required by the Uniform Construction Code.
  - (c) **Window Alignment.** Windows on upper levels should be aligned with the location of windows and doors on ground level.
  - (d) **Window Dimensions.** The horizontal dimension of wall openings for windows (excluding storefronts) and doors shall not exceed the vertical dimension.

- (e) Window Mounting. All windows on the second or third story of a structure that are visible from the public realm shall not be mounted flush with the exterior wall surface and shall be set back a minimum of 2 inches, so as to create a sense of depth on the primary building façade.
- (f) Windowsills. All windows shall have windowsills that project a minimum of 2 inches from the exterior building wall surface.
- (g) Window Decoration. Windows should have design elements including louvers, mullions, cornerstones, keystones, and wide frames to prevent large expanses of blank walls.
- (h) Entrance Location – Corners. When a building is located on a corner, the entrance must be along the main street or oriented diagonal at the corner.
- (i) Entrances for Individual Uses. Each individual use on the ground floor is required to have its own primary entrance.
- (j) Entrance Definition. All entrances to a building shall be defined and articulated by architectural elements that are compatible with the style, materials, colors, and details of the building as a whole.
- (k) Door Design. The proportions between doors and windows should be compatible with the architectural style and character of the surrounding area. Doors should be simple and traditional in design. Doors shall not be flush with applied trim. Doors should not have window treatments such as shades or curtains.
- (l) Trim. All window or door trim or framing elements shall be painted and sealed.
- (m) Lintels. All windows or entryway openings shall have lintels that project a minimum of 3 inches from the exterior building wall surface.
- (n) Fence Material. Fences should have the appearance of wrought iron, i.e. square metal posts mounted on horizontal metal bars with the posts protruding through the upper bar often with a decorative cap that does not make them dangerous to the public.
- (o) Fences Color and Placement. Fences should be painted a flat black, and where there is room, set in a landscaped flowerbed. Fences and their landscaping should allow pedestrians to easily see through them. Fences associated with townhouse development in the CCD-TH Zoning District shall abide by the standards of §310-19.
- (p) Prohibited Fences. Highway-style guard rails, stockade fences, chain-link fences, vinyl or PVC fences, or fences that block vision, fences with barbed wire or razor wire are prohibited, except that townhouse development within the CCD-TH District may

utilize vinyl or PVC fences. Fences are prohibited in front yards (with the exception of townhouse development in the CCD-TH District which shall be subject to §310-19).

- (q) Fence Height. Fence side yard areas shall not exceed 3 feet. In rear yard areas where a non-residential use abuts a residential property or zone, a maximum fence height of 6 feet shall be permitted. In the rear yard, fences may be board-on-board, and must be 100% opaque.

#### **I. Streetscape Design.**

Residents, pedestrians, customers, and visitors to Downtown New Providence are encouraged to walk throughout the downtown area if they are provided with a safe, well-lit, comfortable corridor. The following standards are meant to promote use of the pedestrian realm by providing reasonable and quality lighting, shade (plantings), and seating.

- (1) Lighting Standards on Private Sites.
  - (a) Lighting Style. Outdoor light fixtures must be compatible with the style and period of the building and not obscure or conflict with significant architectural details of the building. Building and signage lighting must be indirect, with the light source(s) hidden from direct pedestrian and motorist view.
  - (b) Signage Lighting. Gooseneck or stemmed flood or spotlight fixtures are preferred for lighting signage.
  - (c) Lighting Color. Colored lighting schemes should not be permitted.
  - (d) Lighting at Display Windows. Lighting at display windows and entrances shall be LED and concealed from direct view.
  - (e) Prohibited Lighting. No rotating, blinking, animated, or flashing lights shall be permitted. Neon lights are not permitted.
  - (f) Wiring. Overhead and exposed wiring and conduits for outdoor lighting are not permitted.
  - (g) Recommended Lighting. Light sources should be LED lights in the “warm” spectrum.
  - (h) Conformance with Additional Standards. In addition to the lighting standards stated in these design standards, all lighting levels and specifications must also adhere to the current Borough lighting standards found in §310-56.
- (2) Outdoor Area and Streetscape Standards
  - (a) Alleyway treatment. If open and accessible to the public, alleys between buildings that connect the street with an interior lot area should be treated as extensions of the public street or sidewalk and should be paved, landscaped, and lit accordingly.

- (b) Alleyway adornment. Alleys should have decorative treatments that help to define the space of the alleyway and help to identify these pathways as part of the public realm. Such decorative elements should be present in the pavers used to define the path on the ground and can be extended to murals or other elements of visual interest on the walls of the buildings adjacent to the path.
  - (c) Outdoor dining areas. Outdoor dining areas are permitted in the Downtown as regulated by the Outdoor Area and Streetscape Standards Borough's current outdoor seating standards found at §310-15.
  - (d) Seating. Seating may be provided when space allows for a clear pedestrian walking zone and separate seating areas. Seating expands opportunities for people to use the street, especially in commercial streetscapes. Seating may be provided by benches, planter walls, edges, steps, or moveable chairs.
  - (e) Seating design. Walls, ledges and steps made available for seating should be between 12 and 20 inches high and 16 inches wide wherever possible. Walls used for seating on both sides should be a minimum of 30 inches wide.
  - (f) Seating anchors. Except for moveable chairs, seating should be secured permanently to paved surfaces for safety and to avoid vandalism.
- (3) Planting Pots and Planter Standards.
- (a) Planter character. Pots should not block other elements such as streets, signs, meters, or street lights, or block pedestrian activity. Planters must always be leveled with leveling shims when installed on sloped surfaces. Combined height of containers and plantings should not obstruct motorists' or pedestrians' views at street intersections and access drives.
  - (b) Location of planters. Planters should be used within front yard or right-of-way areas where safe access to and from buildings is maintained. Avoid placing planters within pedestrian traffic areas. Containers should be sited near street corners (with respect to previously noted location requirements), to flank entrances to buildings, or to physically and visually define outdoor seating spaces.
  - (c) Planter materials. A neutral stone planter color should be used to harmonize with pavers, concrete sidewalks, most building facades, and the countless color combinations produced by annual plantings. Planter colors are simple and intentionally understated in character. Planters should be considerably heavy and difficult to move to prevent vandalism.

- (d) Hanging baskets. Hanging baskets can be attached to 1) building facades with suitable attachment brackets or 2) combined with the selected light poles. When attached to pedestrian lights, two baskets are recommended.

## **J. Signage.**

Though it may seem counter-intuitive, the most eye-catching signs are often the simplest. People reach a visual saturation point quickly, after which they simply ignore visuals that include too much clutter. The following signage standards strive for eye-catching simplicity in the Downtown area. Should there be discrepancy between this section and §310-49 Signs, this section shall govern.

- (1) Permitted Signs. The following types of signs are permitted in the CCD and CCD-TH districts:
  - (a) Wall signs
  - (b) Projecting signs
  - (c) Awning signs
  - (d) Window signs

Definitions for these signage types are as defined in the Borough's general signage ordinance (§310-49).

- (2) Signage Zone. New construction shall include a "signage zone" above the doorways, display windows, transom, and awnings of retail use frontage that is integrated into the overall architectural design of the building.
- (3) Sign Number. Each use in a building is permitted no more than two signs, not to exceed a combined total area of 60 square feet. One sign may be a horizontally oriented wall sign (preferably located in the signage zone) or window sign, and the other sign may be a projecting sign.
- (4) Signage on Corner Lots. Corner lots are permitted one wall or window and one projecting sign for each building façade facing a public street.
- (5) Sign Area. The total square footage of each individual sign associated with a particular use shall not be greater than two (2) times the width of the street frontage of the ground floor establishment, or 60 square feet, whichever is smaller. (For example, a twenty-foot-wide store could erect a sign no larger than 40 square feet.)
- (6) Sign Lettering. Letters shall not be taller than 18 inches in height.
- (7) Sign Position. Horizontally oriented signage shall not protrude above the sill line of the second floor (vertically-oriented projecting signs are exempt.)



- (8) Awning Signage. Lettering is permitted on the valance of awnings but shall be not more than 12 inches high. Only the name and address of the business are permitted to be printed on the awning.
- (9) Projecting Fabric Wall Sign Standards.
  - (a) Shall project no more than 18 inches beyond the building facade.
  - (b) The overall height shall not exceed four (4) feet.
  - (c) Shall be located within the sign band.
  - (d) Shall be subject to the same limitations as other.

**K. Utilities.**

While utilities and waste removal are vital functions within the built environment, they should be screened from public view so as to promote a clean and attractive Downtown.

- (1) Placement of utility areas. Utility meters, trash and recycling receptacles, and mechanical equipment such as air conditioning units shall not be located in the front yard of a property.
- (1) Ground-mounted screening. All exterior mechanical, trash and storage areas, service yards, loading areas and air conditioning units must be screened from view. Efforts should be made for the screening of these mechanical and utility areas to become part of the building or landscape. Screening treatments should be similar materials, colors and/or style as the primary building in order to be architecturally compatible with adjacent buildings. Alternatively, utility equipment can be “screened” via the installation of public art on its surface.
- (2) Roof-mounted screening. All roof equipment must be screened from public view if visible from the street.

**§ 310-53. Residential Building and Site Design Standards**

**A. Single-Family and Two-Family Residential**

- (1) No structure shall be erected, constructed, placed, altered or enlarged in a residential district, which shall be excessively similar to any neighboring structure, as hereinafter defined, whether such neighboring structure is then in existence or whether a building permit has been issued or applied for. Such structure shall not be inappropriate to its neighborhood with respect to the elements of exterior design affecting the character of the neighborhood, such as size, height, and materials used in construction, with particular attention to:
  - (a) The appearance and shape of roof lines.

- (b) The appearance and arrangement of windows and other apertures in the front elevation relative to a door, chimney, porch, and garage in the same elevation.
  - (c) The type and kind of materials used in the front elevation.
- (2) Structures between which the only difference in the relative location of elements is end-to-end or side-to-side or a reversal of elements shall be deemed to be like each other.
  - (3) A structure shall be deemed to be a “neighboring structure” pursuant above in accordance with the following:
    - (a) A structure located on any lot fronting on the same street as the subject property, which is the first, second, or third lot along the street in either direction, without regard or intervening street lines.
    - (b) A structure located on any lot where any part of the street frontage lies across the street from the subject property or from a lot referred to in subsection (a) above.
    - (c) A structure located on any lot which is located around the corner from and adjacent to a lot referred to in subsection (a) above.

**B. All other Residential Development**

- (1) No building or group of attached buildings shall contain more than 24 dwelling units. A deviation from this standard shall trigger variance relief.
- (2) No building shall exceed a length of 200 feet. A deviation from this standard shall trigger variance relief.
- (3) A general architectural design theme shall be established.
- (4) The sidewalls in all multifamily developments shall have at least the same proportion of openings to solid wall as the front and rear walls. For the purposes of this subsection, openings shall include but not be limited to doors and windows. In those instances where a sidewall faces another single- or multifamily unit, to the maximum extent possible, all openings shall be staggered to minimize direct sight lines between units.
- (5) Fences or walls enclosing individually owned or controlled outdoor space shall be consistent throughout the development and shall complement the architecture and design of the buildings.
- (6) Multifamily development shall provide for bicycle storage area interior to the building for residents.
- (7) Trash/Recycling

- (a) All multifamily development, whether in a mixed-use or standalone building, shall provide for adequate storage areas for both trash and recycling.
- (b) At the time of site plan review, the applicant of multifamily developments shall provide a plan for trash/recycling storage and pick-up. Interior storage and pick-up of trash/recycling is preferred. However, where the applicant can demonstrate that this situation is not feasible, the applicant may provide for outside dumpster storage areas that are appropriately buffered and screened from public rights-of-way as provided herein.
- (c) Trash/recycling storage areas shall be appropriately sized to accommodate receptacles for materials, which are recycled by the Borough of New Providence, as well as a general trash receptacle.
- (d) Any dumpster storage area shall be enclosed by solid screening of a minimum of five (5') feet in height on all sides of the enclosure where access is not required. Chain-link fencing with woven wire fabric slats shall not be acceptable as a screening for dumpster storage areas.
  - 1. Required access doors shall be designed to completely screen the dumpsters from view.
  - 2. The enclosure shall be roofed to prevent dumpster visibility from upper levels of nearby dwellings.
  - 3. Appropriate lighting and landscaping shall be provided for each proposed dumpster storage area.

**C. Specific Design Standards Applicable to the A4, AH-ARO, and AHO Districts.**

- (1) Architecture
  - (a) All development shall be designed in such a manner that respects the architectural character of the New Providence residential community.
  - (b) Building massing shall be broken up through the use of one or more of the following: multiple gables, varying roof heights, dormers, oriental treatments, alternating materials, and architectural articulation.
  - (c) Garage doors shall be constructed of a solid material and be aesthetically pleasing.
- (2) Landscaping.
  - (a) Any landscaping which, within 2 years of planting dies for any reason, shall be replaced by the developer(s) at their expense.

- (b) A minimum 3-foot-wide landscape strip (e.g. grass, ornamental plants, street trees) shall be provided between the curb and the sidewalk along all internal streets.
  - (c) Street trees shall be planted 40 feet apart on average within the landscape strip along all internal streets.
  - (d) Street trees shall be at least 2.5-inch caliper at planting. Evergreen trees shall be at least 6 feet tall at planting. All trees shall adhere to the American Standards for Nursery Stock.
  - (e) All areas not occupied by buildings, roadways, parking areas, patios, walkways, and/or any other impervious surface shall be adequately landscaped.
  - (f) No landscaping at any location shall interfere with sight triangles.
- (3) Exterior Lighting.
- (a) Exterior lighting fixtures shall not create excessive glare or light levels or direct light onto neighboring buildings or properties.
  - (b) All building entrances to multi-family structures shall be illuminated by exterior lighting.
  - (c) Light poles shall not exceed 18 feet in height.
  - (d) Street lights shall be provided along all internal streets.
- (4) Circulation.
- (a) The development of the tract shall take into consideration both the vehicular and pedestrian movement of the site.
  - (b) Sidewalks shall be provided throughout the entire tract, providing access to all structures and parking areas.
  - (c) Sidewalks shall be a minimum of 4 feet in width. In no event shall sidewalk clearance be less than the minimum levels set by the Americans with Disabilities Act.
  - (d) All intersections shall contain handicapped accessible ramps.
  - (e) All intersections shall contain painted crosswalks.
  - (f) All crosswalks shall be a minimum of 5 feet in width.
- (5) Utilities.
- (a) Utilities shall be as visually unobtrusive as possible.
  - (b) Meters and access panels shall be integrated with street and building design and screened from public view.

- (c) Transformers and primary and back-up generators shall be located interior to the building or vaulted underground within the pavement area of an internal street.
  - (d) Emergency generators shall be located interior to the building or shall be completely screened from public view.
  - (e) Ground-level utilities shall be screened by non-deciduous landscaping that will conceal the utilities throughout the year, without impeding access by the utility company.
- (6) Refuse and Recycling.
- (a) For multifamily construction:
    - 1. No refuse and recycling storage and collection areas shall be permitted between the front of a building and the street.
    - 2. All outside refuse and recycling storage areas shall conform to the perimeter setbacks as established herein.
    - 3. Outdoor refuse and recycling containers shall be screened with a durable enclosure, so as to not be visible by interior roads or adjacent properties. Landscaping and/or fencing shall be used as additional screening measures.
    - 4. Refuse and recycling areas shall be designed to appropriately contain all refuse generated on site.
    - 5. There shall be clear and unobstructed access to all refuse and recycling areas for collection vehicles.

(7) Sustainable Building Design Guidelines

The Sustainable Building Design Guidelines provide opportunities to improve building efficiency and sustainability.

- (a) Where possible, windows should be oriented to the south.
- (b) Utilize high-performance glazing to reduce heat gain while admitting light.
- (c) Provide shading devices, such as roof overhangs, controllable shades, etc.
- (d) Use deciduous landscaping to shade the summer sun and maximize heating from winter sun.
- (e) Ensure that insulation is properly rated.
- (f) Install high-efficiency HVAC systems.
- (g) Incorporate thermal mass construction.

- (h) Install fully shielded and cutoff light fixtures that are compatible with dark skies guidelines.
- (i) Utilize programable switches, sensors or timers to adjust lighting levels for different times of day, and to reduce energy consumption.
- (j) Install lighting fixtures that utilize LED bulbs or similar efficient models.
- (k) Use roofs of lighter shades or utilize reflective surface finishing.
- (l) Install green roofs, which consist of a lightweight engineered soil media, underlain by drainage layer and a high-quality impermeable membrane that protects the building structure. Green roofs are useful for assisting with stormwater management, but they also protect the roof, can be used as an amenity, reduce heat island effect, reduce noise, reduce cooling needs in the summer and heating needs in the winter, and provide water quality management benefits.

**D. Specific Design Standards Applicable to the PACO Zoning District**

- (1) Landscaping.
  - (a) Any landscaping which, within 2 years of planting dies for any reason, shall be replaced by the developer(s) at their expense by way of written agreement.
  - (b) A minimum 3-foot-wide landscape strip (e.g. grass and street trees) shall be provided between the curb and the sidewalk (where required by RSIS) along all internal streets.
  - (c) Street trees shall be planted 40 feet apart within the landscape strip along all internal streets.
  - (d) Street trees shall be at least 2.5-inch caliper at planting. Evergreen trees shall be at least 6 feet tall at planting. All trees shall adhere to the American Standards for Nursery Stock.
  - (e) All areas not occupied by buildings, roadways, parking areas, patios, walkways, and/or any other impervious surface shall be adequately landscaped.
  - (f) No landscaping at any location shall interfere with sight triangles.
- (2) Exterior Lighting.
  - (a) Exterior lighting fixtures shall not create excessive glare or light levels or direct light onto neighboring buildings or properties.
  - (b) All building entrances to multi-family structures shall be illuminated by exterior lighting.
  - (c) For parking lots, light poles shall not exceed 18 feet in height.

- (d) Street lights shall be provided along all internal streets at a height not to exceed 18 feet.
- (3) Circulation.
  - (a) The development of the tract shall take into consideration both the vehicular and pedestrian movement of the site.
  - (b) Sidewalks shall be provided throughout the entire tract (where required by RSIS), providing access to all structures and parking areas.
  - (c) Sidewalks shall be a minimum of 4 feet in width. In no event shall sidewalk clearance be less than the minimum levels set by the Americans with Disabilities Act.
  - (d) All intersections shall contain handicapped accessible ramps.
  - (e) All intersections shall contain painted crosswalks.
  - (f) All crosswalks shall be a minimum of 5 feet in width.
- (4) Utilities.
  - (a) Utilities shall be as visually unobtrusive as possible.
  - (b) Meters and access panels shall be integrated with street and building design and screened from public view.
  - (c) Transformers and primary and back-up generators shall be located interior to the building or vaulted underground within the pavement area of an internal street.
  - (d) The existing substation shall be appropriately screened by landscaping.
- (5) Refuse and Recycling.
  - (a) For multifamily construction:
    - 1. No refuse and recycling storage and collection areas shall be permitted between the front of a building and the street.
    - 2. All outside refuse and recycling storage areas shall conform to the perimeter setbacks as established herein.
    - 3. Outdoor refuse and recycling containers shall be screened with a durable enclosure, so as to not be visible by interior roads or adjacent properties. Landscaping and/or fencing may be used as additional screening measures.
    - 4. Refuse and recycling areas shall be designed to appropriately contain all refuse generated on site.

5. There shall be clear and unobstructed access to all refuse and recycling areas for collection vehicles.

(6) Sustainable Building Design Guidelines

(a) Development shall comply with Energy Star Guidelines.

**E. Specific Design Standards Applicable to the CCRCO Zoning District**

(1) Landscaping.

(a) Any landscaping which, within 2 years of planting dies for any reason, shall be replaced by the developer(s) at their expense by way of written agreement.

(b) Street trees shall be planted 40 to 50 feet apart along all internal streets/roadways.

(c) Street trees shall be at least 2.5 inch caliper at planting and adhere to the American Standards for Nursery Stock.

(d) All areas not occupied by buildings, roadways, parking areas, patios, walkways, and/or any other impervious surface shall be adequately landscaped.

(e) A minimum of 1 tree per 20 surface parking spaces shall be planted around the perimeter of, or adjacent to, the outdoor surface parking areas.

(f) No landscaping at any location shall interfere with sight triangles.

(2) Exterior Lighting.

(a) Exterior lighting fixtures shall not create excessive glare or light levels or direct light onto neighboring buildings or properties.

(b) All building entrances shall be illuminated by exterior lighting.

(c) Site lighting: Light fixtures shall not exceed 20 feet in height and shall be equipped with LED bulbs. Such fixtures shall provide for precision lighting to minimize any overflow lighting or intrusion.

(3) Circulation.

(a) The development of the tract shall take into consideration both the vehicular and pedestrian movement of the site in accordance with RSIS standards.

(b) Sidewalks shall have a minimum clearance of 4 feet in width. Sidewalk clearance must not be less than the minimum levels set by the Americans with Disabilities Act.

(c) All intersections shall contain handicapped accessible ramps.

(d) All intersections shall contain crosswalks.



- (e) All crosswalks shall be a minimum of 5 feet in width.
- (4) Utilities.
  - (a) Utilities shall be screened as reasonably as possible.
  - (b) Meters and access panels shall be integrated with street and building design.
  - (c) Transformers and primary and back-up generators shall be screened.
- (5) Refuse and Recycling.
  - (a) No refuse and recycling storage and collection areas shall be permitted between the front of a building and a public right-of-way.
  - (b) All outside refuse and recycling storage areas shall conform to the building setbacks and buffer areas as established herein.
  - (c) Outdoor refuse and recycling containers shall be screened with a durable enclosure, so as to not be visible from public rights-of-way or adjacent residential zones. Landscaping and/or fencing may be used as additional screening measures.
  - (d) Refuse and recycling areas shall be designed to appropriately contain all refuse generated on site.
  - (e) There shall be clear and unobstructed access to all refuse and recycling areas for collection vehicles.
- (6) Sustainable Building Design Guidelines

The following guidelines provide opportunities to improve building efficiency and sustainability, and are provided for an applicant's strong consideration, but deviation from the following guidelines does not require waiver, exception, or variance relief.

- (a) Energy Star appliances shall be utilized.
- (b) Where possible, windows should be oriented to the south.
- (c) Utilize high-performance glazing to reduce heat gain while admitting light.
- (d) Provide shading devices, such as roof overhangs, controllable shades, etc.
- (e) Use deciduous landscaping to shade the summer sun and maximize heating from winter sun.
- (f) Ensure that insulation is properly rated.
- (g) Install high-efficiency HVAC systems.
- (h) Incorporate thermal mass construction.

- (i) Install fully shielded and cutoff light fixtures that are compatible with dark skies guidelines.
- (j) Utilize programable switches, sensors, or timers to adjust lighting levels for different times of day, and to reduce energy consumption.
- (k) Install lighting fixtures that utilize LED bulbs or similar efficient models.
- (l) Use roofs of lighter shades or utilize reflective surface finishing.

## **§ 310-54. Commercial and Industrial Building and Site Design Standards**

### **A. General**

- (1) Development in the CCD and CCD-TH Zone shall abide by the design standards found in §310-52 "Design Standards for the Central Business Districts." All other nonresidential development shall be governed by the following section.
- (2) To the maximum extent feasible, commercial and industrial buildings shall be designed in such a way so as to avoid the appearance of clutter by integrating mechanical, electrical, storage structures, loading facilities, etc., into the general architectural concept for the site.
- (3) When development results in more than one structure, whether individually owned or owned by common entities, all buildings shall maintain a consistent design theme throughout the development.
- (4) Commercial development located adjacent to a residential use or zone shall, to the maximum extent feasible, be designed to complement the existing architectural and/or design theme of the residential neighborhood.
  - (a) This may be accomplished through landscaping, decorative ornamentation, rooflines, and where appropriate, building materials and color schemes.
- (5) Landscaping and buffering shall be pursuant to the standards of this Article.

### **B. Basements.**

- (1) No basement or cellar shall be used for the receiving of the public. In addition, no basement or cellar shall be used for permanent employee use unless there is a separate entrance and exit leading directly to that basement or cellar from outside the building and an additional entrance and exit leading directly up to the ground floor of such building and such basement or cellar is in compliance with all health and safety codes.

## **§ 310-55. Landscaping and Buffer Requirements**

### **A. General.**

- (1) Natural features and existing trees shall be preserved and saved to the extent possible.

- (2) The reuse of existing on-site plant material of good landscape value and quality is encouraged to meet landscaping requirements.
- (3) Landscaping should provide a variety and mixture of plantings. The selection should consider appropriateness to the subject planting zone, susceptibility to disease, colors, seasons, hardiness, texture, shapes, blossoms, and foliage.
- (4) Foundation plantings shall be provided where feasible around multifamily and commercial or industrial structures and shall be of suitable size in proportion to the building structure.
- (5) Non-invasive species shall be selected for all landscaping plantings, and native species should be utilized to the extent feasible.
- (6) Species listed on the New Jersey Invasive Species Strike Team Do Not Plant List shall not be used in any landscaping projects throughout the Borough.
- (7) All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped.
- (8) No landscaping shall interfere with required sight triangles and no plantings within sight triangles shall exceed 30 inches in height at time of planting and shall be maintained at that a maximum 30-inch height.
- (9) Shade trees shall be provided when feasible on all multifamily and non-residential applications. Trees shall be approximately 35 feet apart and shall be located between the setback line and the street right-of-way.

**B. Commercial Districts.**

- (1) Any commercial use, when abutting or adjacent to a residential district, shall be screened from the residential property by a dense visual screen consisting of evergreen hedges or shrubs maintained in good condition and which shall be at least four feet high at the time of planting and which shall attain a height within three growing seasons of at least eight feet. If fencing is provided or required, it shall be screened by the landscaping determined to be suitable by the reviewing board.
- (2) All surface parking lots and detention basins located in commercial zones shall be setback a minimum of 30 feet from any lot consisting of a single-family dwelling or located within the R-1, R-2, R-2A, R-3, or R-3A Zones. Such buffer area shall be landscaped with trees, hedges, shrubs, and other natural growth or suitable screening mechanisms as may be determined by the reviewing board.
- (3) Landscaping in Parking Areas

- (a) A minimum of one major shade tree shall be provided per 10 parking stalls or one shade tree per 3,000 square feet of parking area, whichever is greater.
- (b) Landscaped islands shall be a minimum of three (3) feet in width.
- (c) Bioswales using native water and pollution-tolerant plant species are encouraged along the edges of parking lots to assist with stormwater management functions.

**C. Residential Districts.**

- (1) Nonresidential uses in residential districts shall be screened from adjacent residential properties by a dense visual screen consisting of evergreen hedges or shrubs maintained in good condition, which shall be at least four feet high at the time of planting and which shall attain a height within three growing seasons of at least eight feet. If fencing is provided or required, it shall be screened by landscaping determined to be suitable by the reviewing board.
- (2) All surface parking lots or detention basins associated with multifamily development or nonresidential development shall be setback a minimum of 30 feet from any lot consisting of a single-family dwelling or located within the R-1, R-2, R-2A, R-3, or R-3A Zones. Such buffer area shall be landscaped with trees, hedges, shrubs, and other natural growth or suitable screening mechanisms as may be determined by the reviewing board.
- (3) For multifamily development, a minimum of one major shade tree shall be provided per 10 parking stalls or one shade tree per 3,000 square feet of parking area, whichever is greater. Landscaped islands shall be a minimum of three (3) feet in width.
  - (a) Bioswales using native water and pollution-tolerant plant species are encouraged along the edges of parking lots to assist with stormwater management functions.

**D. Industrial Districts.**

- (1) All uses shall be screened from adjacent residential properties by a dense visual screen consisting of evergreen hedges or shrubs maintained in good condition, which shall be at least four feet high at the time of planting and which shall attain a height within three growing seasons of at least eight feet. If fencing is provided or required, it shall be screened by landscaping determined to be suitable by the reviewing board.
- (2) All surface parking lots or detention basins shall be setback a minimum of 30 feet from any lot consisting of a single-family dwelling or located within the R-1, R-2, R-2A, R-3, or R-3A Zones. Such buffer area shall be landscaped with trees, hedges, shrubs, and other natural growth or suitable screening mechanisms as may be determined by the reviewing board.

## § 310-56. Lighting Design Standards

### A. Purpose

Light pollution contributes to glowing skies and is caused by light aimed up at the sky or by light reflected by the ground or objects.

Except as otherwise provided herein, commercial and recreational lighting shall conform to the standards of the Illuminating Engineering Society of North America.

No lighting shall shine directly into or reflect into windows or into streets and driveways in such a manner as to interfere with driver vision and negatively impact the public health or safety. This section is intended to encourage reasonable outdoor lighting providing nighttime safety, security, and enjoyment while preserving the setting of the night. The purpose is to enhance the nighttime environment and:

- (1) Provide lighting in outdoor public places where public health, safety, and welfare are potential concerns.
- (1) Protect drivers and pedestrians from the glare of non-vehicular light sources that shine into their eyes and thereby impair safe traverse.
- (2) Protect neighbors and the night sky from nuisance glare and stray light from poorly aimed, placed, applied, or shielded light sources.
- (3) Promote energy conservation through efficient lighting design.
- (4) Promote efficiencies by limiting the amount of lighting equipment and subsequent maintenance costs.

### B. Definitions

**IESNA.** Refers to The Illuminating Engineering Society of North America.

**Sky Glow.** Light resulting from dust, water vapor, and other particles reflecting and scattering stray and reflected light that is emitted into the atmosphere (IESNA).

**Light Trespass.** Any form of artificial luminance emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance. It may be caused by unwanted light onto adjacent properties or excessive brightness in the normal field of vision.

**Glare.** The sensation produced by luminance within the visual field that are sufficiently greater than the luminance to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance and visibility.

**Footcandle.** A measurement of luminance equal to 1 lumen per square foot.

**Trespass Lighting.** Any illumination at the property line exceeding the required horizontal or vertical footcandle requirements; and any light emanating from a fixture which is so positioned or aimed as to produce objectionable glare on any adjacent property.

**Nadir.** The angle pointing directly downward from a luminary, or 0 degrees.

**Horizontal Luminance.** The amount of light striking a horizontal plane.

**Full Cut-Off.** The preventing all upward transmission of light.

**Vertical Luminance.** The amount of light striking a vertical plane.

**Lumens.** A measurement of brightness of the illumination exiting a bulb.

**Light Fixture on Luminary.** A complete lighting unit consisting of a lamp or lamps and/or ballast or ballasts, together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to a supply of power.

**Light.** Radiant energy that is capable of exciting the retina and producing a visual sensation.

**Light Source.** A bulb together with a lens, diffuser, or reflective enclosure.

**Visibility.** The quality or state of being perceivable by the eye.

### C. Applicability

Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse; including but not limited to the following: commercial, industrial, public-recreational, and institutional uses. The reviewing Board may require lighting be incorporated for other uses or locations, as they deem necessary. The glare-control requirements herein contained apply to lighting in all above mentioned uses as well as, but not limited to, sign, architectural, and landscape.

### D. Criteria

Except as specifically stated herein, lighting shall have intensities and uniformity ratios in accordance with the current recommended practices of the Illuminating Engineering Society of North America (IESNA) as contained in the IESNA Lighting Handbook, as amended. Future amendments to recommended practices shall become a part of this section without further action by the Borough.

### E. General

- (1) The style of the light and light standard shall be consistent with the architectural style of the principal building.

- (2) All lighting shall be designed in accordance with minimum standards of safety and suggested lighting levels as specified herein and in the standards of the Illuminating Engineering Society (I.E.S.).
- (3) All parking area lighting shall be designed for convenience and safety and operated so as not to reflect or shine on adjacent properties. Parking spaces, driveways and pathways shall be clearly marked. For safety and fire-fighting purposes, free access to adjacent parking areas shall be provided.
- (4) Light poles in the right-of-way shall be of pedestrian scale and consistent in design with existing light poles.
- (5) Light sources shall comply with the following:
  - (a) All light sources shall be shielded or positioned so as to prevent direct glare to adjacent properties or the traveling public.
  - (b) Poles in pedestrian walkway areas shall not be greater than 15 feet in height and shall utilize underground wiring.
  - (c) Poles in all other areas shall not exceed 20 feet in height and shall utilize underground wiring.
  - (d) Light sources on structures shall not exceed 20 feet or the height of the structure, whichever is the lesser.

**F. Luminance Requirements**

General Parking and Pedestrian Areas		
Level of Activity	Footcandles (min)	Max. Uniformity Ratio (Average : Minimum)
High	1.0	4:1
Low	0.5	4:1
Vehicular Use Areas		
High	2.0	3:1
Low	1.0	4:1

- (1) Maximum illumination level at property line. The level of illumination shall not exceed 0.5 footcandles at any property line abutting a property used by or zoned for commercial use, and 0.1 footcandles at any property line abutting a property used by or zoned for residential use.
- (2) Although the footcandles are stated as minimum illumination levels at any point, the average illumination levels shall also not greatly exceed the levels resulting from applying the maximum uniformity ratio to the minimum illumination level. For example, if the minimum illumination level at any point is 0.6 footcandles, and the maximum uniformity

ratio is 4:1, the average illumination level for the area shall not greatly exceed 2.4 footcandles ( $0.6 \times 4=2.4$ ).

- (3) For all commercial properties or recreational fields any proposed lighting design must indicate no hot spots on the property.

#### **G. Fixture Design.**

Control of Nuisance and Disabling Glare. All outdoor lighting on commercial, industrial, municipal, recreational, or institutional property, shall be aimed, located, designed, fitted, and maintained so as not to present a disabling glare hazard to drivers or pedestrians, or a nuisance glare concern to neighboring properties.

#### **H. Directional Fixtures**

Directional fixtures installed on commercial properties and recreational facilities, such as flood lights and spotlights, shall be installed or aimed at an angle no higher than forty-five (45) degrees above straight down (half-way between straight down and straight to the side) so that they do not shine directly into the window of a neighboring building, directly into a roadway, or skyward. In no case shall these lights extend above the lowest eave line. These lighting fixtures shall be full-cutoff lighting fixtures.

#### **I. Automatic Switching Devices**

All commercial outdoor lighting shall be controlled by automatic switching devices such as timers, motion detectors, and/or photocells, to extinguish offending sources between 11:00 p.m. to dawn, to mitigate glare and sky-lighting consequences. However, in areas where security is a concern, lighting may be maintained throughout the night, with the understanding that the intensity of the illumination level be reduced during that timeframe of operation.

#### **J. Control of Glare**

Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, such control shall be achieved primarily through the use of sharp cut-off fixtures, the appropriate application of mounting height, wattage, aiming angle, fixture placement, and fixture design, etc. and the additions of shields and baffles as necessary.

#### **K. Exceptions to Control of Glare.**

- (1) Luminaries used for public-roadway illuminations should be installed as required by the Police Department and Engineering Department.
- (1) All temporary emergency lighting needed by the Police or Fire Department or other emergency services, as well as all vehicular Light fixtures shall be exempt from the requirements of this article.



- (2) Luminaries used primarily for sign illuminations may be mounted at any height to a maximum of twenty (20) feet or to the top of the sign, whichever is less.

#### **L. Externally Illuminated Signs**

Externally illuminated signs are preferred to be lighted by fixtures mounted at the top of the sign and aimed down rather than by fixtures mounted at the bottom of the sign and aimed up, however in such cases where it may be necessary for up lighted fixtures, they shall conform to the standards of M.6(b) below. Site lighting shall not include any unlighted fixture, except light fixtures used to illuminate the State or the National flag mounted on a pole, pedestal or platform shall use a narrow column beam of light that will not extend beyond the maximum extensions of the illuminated object.

#### **M. Installation of Commercial Lighting**

Lighting fixtures on properties zoned for commercial use shall be mounted at the top of a pole at heights suitable to provide the best overall lighting design, but in no case shall the lights be mounted in excess of twenty-five (25) feet above grade.

- (1) Electrical feeds to lighting standards shall run underground, not overhead.
- (2) Lighting standards in parking areas shall be placed a minimum of five (5) feet outside the paved area, outside where vehicles may conflict with the placement of the fixture. Where the poles are five (5) feet outside the paved area, the base of the fixture shall be flush mounted with the ground.
- (3) Where, due to restrictions in light locations due to inadequate spacing between vehicle areas and light fixtures, lights may be placed on reinforced concrete pedestals at least thirty (30) inches high above the pavement, or by other acceptable protective means. Above ground mounting of light fixtures is not encouraged or desirable. Where due to space limitations, the concrete footing must extend above grade for protection of the poles, they shall be decoratively treated to complement the building materials.
- (4) Maintenance: Lighting fixtures shall be maintained so as to always meet the requirements of this Ordinance.
- (5) Fixture Location and Placement: The following are requirements for placement of street lighting fixtures:
  - (a) Any/all non-public roads, designed as a major thoroughfare through the proposed development shall have the placement/location of all fixtures designed to meet the same requirements as specified above.
  - (b) For the purpose of this section, any non-public road designed and/or used as a main thoroughfare through a land development shall be considered a public road as it pertains to the interpretation of this section.

- (6) Outdoor Advertising, Off-Premise Signs and Ground Signs
  - (a) Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall be full cut-off fixtures.
  - (b) Bottom-mounted lighting shall be limited to the illumination of signs and shall be designed or provided with sharp cut-off capability and shall be restricted and focused so as to minimize up-light, light spillage, and glare. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.
  - (c) Compliance Limit. Existing outdoor advertising structures shall be brought into conformance with the Code at the time of a sign upgrade or a change in occupancy.
- (7) Recreational Facilities.
  - (a) Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:
    - (b) For field sports, including but not limited to football, soccer, baseball, track and field, the maximum pole height shall be 80 feet.
    - (c) All fixtures used for event lighting shall be fully shielded as defined in this code, or be designed or provided with sharp cut-off capability, so as to minimized up-light, spill-light, and glare.
    - (d) Trespass lighting shall not be more than 0.1 foot-candle at any adjacent residential property line.
    - (e) All events requiring field lighting shall be scheduled to commence leaving sufficient time to complete all activity before or as near to 10:00 p.m. as practical. Under no circumstances shall any illuminations of a playing field, court, or track be permitted after 11:00 p.m., except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m., or except for that lighting which shall be necessary to ensure public safety following the conclusion of an event.
- (8) Temporary Outdoor Lighting.
  - (a) Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed.

- (b) Non-conforming temporary lighting, shall not be utilized past 9:00 p.m. or for more than 3 consecutive hours.
  - (c) Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is permitted, shall be permitted upon receipt of a temporary event zoning permit.
  - (d) Searchlights. The operation of searchlights for advertising purposes shall be permitted upon receipt of a temporary event- zoning permit.
  - (e) Compliance Monitoring. Safety Hazards. If the Code Enforcement Officer or Borough Engineer judges that a lighting installation creates a safety or personal security hazard, the person(s) responsible for the lighting shall be notified and requested to timely remedial actions.
  - (f) Temporary lighting used for educational or recreational purposes shall be exempt from the requirements of this Ordinance. Notwithstanding this exemption, temporary lighting used for educational or recreational purposes shall not be utilized past 10:00 p.m. in the months from the first day of June through the last day of August and 9:30 p.m. for the remaining months of the year."
- (9) Plan Submission/Commercial Properties and Recreational Facilities
- (a) Description of outdoor light fixtures including component specifications such as amps, reflectors, optics, angle of cutoff, supports, poles and include manufacturers catalog cuts.
  - (b) Locations and description of every outdoor light fixture and hours of operation and foundation details for light poles.
  - (c) Lighting plans submitted to the municipality for review and approval shall include a layout of the proposed fixture locations; the average footcandles, minimum footcandles, and maximum footcandles, and the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
  - (d) The horizontal illuminance of the site and the vertical light trespass around the site perimeter shall be provided.
  - (e) All point method lighting plans shall include all canopy, interior and building lights as well as the site lighting proposed.
  - (f) All site plans are required to provide a point method lighting plan according to light standards and illumination levels stated in this section.

- (g) The photometrics plans shall contain a plan identification symbol or abbreviation, fixture type, lamp type, lamp lumens, lamp degree Kelvin, fixture lens height above lowest adjacent finished grade, and total light loss factor utilized.

#### **N. Lighting Impacting Residential Properties**

In addition to the forgoing, any lighting source whether residential, commercial, or recreational that impacts residential properties, such as directional fixtures, flood lights and spotlights shall be installed or aimed so that they do not shine directly into the window of a neighboring building, directly into a roadway, or skyward.

#### **O. Law Governing Conflicts**

Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

### **§ 310-57. Off-Street Parking and Loading Design Standards**

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

- (1) Where applicable, the Residential Site Improvement Standards (RSIS), as amended periodically, shall apply.
- (2) Parking areas for three or more vehicles and access to such parking shall be paved and shall be designed, planned, and constructed in accordance with generally accepted engineering and construction practices. All such plans shall be reviewed by the Borough Engineering Department, and recommendations shall be forwarded to the reviewing board before the board shall act under site plan review. Parking areas shall be landscaped to minimize nuisance characteristics to adjacent properties and for aesthetic reasons.
- (3) Parking areas shall be drained in accordance with Borough specifications.
- (4) All parking spaces for multifamily residential developments shall be provided off street, except that nothing herein shall be construed to prohibit required parking spaces from being placed perpendicular to a one- or two-way local street or at an angle to a one-way local street, provided that both the pavement width of the street and the length of each parking space meet the requirements set forth in this Chapter.
- (5) No arterial or collector street shall provide direct access to an individually required parking space provided in accordance with above.

#### **B. Size of Space**

- (1) Standard off-street parking space serving uses other than one- and two-family units shall measure not less than nine by eighteen (9 x 18) feet, exclusive of access drives and aisles, and shall be of usual shape and condition.

- (2) Where front overhang of the vehicle is possible onto a paved or grass area not used for circulation, parking or landscaping, the space may be reduced to nine by seventeen (9 x 17) feet.
- (3) The size and number of handicap spaces shall be as required by law.
- (4) Loading Space Dimensions.
  - (a) Loading spaces for multifamily or office uses shall measure a minimum of 10 feet in width and 35 feet in length (10' x 35').
  - (b) Loading spaces for all other nonresidential uses shall measure 12 feet in width and 60 feet in length (12' x 60').

**C. Size of Aisles**

- (1) Aisle widths providing direct access to individual parking spaces shall be in accordance with the following standards:

Parking Angle (degrees)	Aisle Width (feet)
0 (end-to-end)	12
30	15
45	18
60	20
90	24

**D. Construction.**

Each off-street parking space shall have an improved support consisting of asphalt, concrete or gravel.

**§ 310-58. Green Building, Sustainability, and Resiliency**

**A. Purpose.**

Green building, sustainability, and resiliency are at the forefront of planning best practices. Application of these principles should be ingrained in local decision making and all development projects. The following standards are sourced in part and paraphrased from the LEED v.4 standards for New Construction and Major Renovation as well as other relevant best practices. These standards are meant to guide the preparation and review of applications for development in the Borough of New Providence. LEED Certification for new projects is encouraged, but not required.

Encouraging green building, sustainability, and resiliency in development projects advances the purposes of the Municipal Land Use Law and is beneficial to the public health, safety, and welfare.

All multifamily or nonresidential development projects shall take the following into consideration. At the time of site plan review, applicants should be prepared to discuss how green building practices and sustainable mechanisms are being incorporated into the development proposal.

## **B. Principles**

### (1) Site Layout and Design

- (a) Open Space – Open space should be provided on site that includes vegetated space with multiple types of vegetation or an overhead canopy. Outdoor space should contribute to the vibrancy of the site and the well-being of its occupants by incorporating social and recreational amenities, gardens, diverse green space, and habitat for local flora and fauna.
- (b) Rainwater Management – Utilize structural and non-structural low-impact development or green infrastructure practices to retain additional runoff. Bioswales, rain gardens, green roofs, cisterns, and other similar methods may be used to supplement traditional storm water management infrastructure.
- (c) Heat Island Reduction
  - 1. Specify a high-reflectance roof (cool roof). High-reflectance low-sloped roofs should have an initial Solar Reflectance Index (SRI) of at minimum of 82 and an aged SRI of at least 64. Steep sloped roofs with pitches greater than 2:12 should have an initial SRI of 39 and an aged SRI of 32.
  - 2. Specify a vegetate roof using native or adaptive plant species.
  - 3. Provide parking under cover within buildings or under canopies with green roofs or solar panels.
- (d) Light Pollution Reduction – Design site lighting to prevent off-site spillage and eliminate vertical glare or sky glow. Lights should use energy efficient LEDs, be designed to reduce the mounting height of fixtures to the extent possible, and lighting levels should be reduced after operating hours and extinguished where not necessary for safety and security.
- (e) Reducing parking footprint – Parking capacity should not exceed the minimum amount required by Ordinance, and the applicant, with the approving Board's consent may consider banked parking arrangements whereby some spaces are "banked" and only constructed if required in the future. It is also strongly recommended that where appropriate, applicants take advantage of the shared parking provisions of this Chapter.

- (2) Water Efficiency
  - (a) Indoor and outdoor water use reduction
    - 1. WaterSense fixtures and fittings should be specified for toilets, urinals, and showerheads.
    - 2. EnergyStar appliances or equivalent should be specified for clothes washers, dishwashers, and ice machines.
    - 3. Native, drought-tolerant landscaping should be utilized where appropriate to minimize irrigation needs.
  - (b) Cooling towers and evaporative condensers should be equipped with makeup water meters, conductivity controllers and overflow alarms, and efficient drift eliminators.
- (3) Energy Use
  - (a) Renewable energy – Renewable energy should be incorporated into projects to the extent feasible. Building mounted solar panels, solar canopies over parking lots, and integration of emerging technologies are encouraged.
  - (b) Efficient building performance – Building design should consider reductions in interior and exterior lighting power, daylight controls, occupant sensors, enhancements to the building envelope, high efficiency HVAC units, and other energy use reduction measures.
- (4) Materials and Waste Management
  - (a) Storage and collection of recyclables – Developments should include dedicated areas for the storage and collection of recyclable materials that includes separate disposal areas for batteries, mercury containing lamps, and electronic waste.
  - (b) Construction and demolition waste management – Development plans should include a construction and demolition waste plan that considers waste prevention and diversion. Diversion is reuse or recycling of construction or demolition materials to prevent them from entering landfills. Waste prevention can be achieved by salvaging and recycling materials and employing a waste minimizing design strategy.
- (5) Indoor Environmental Quality
  - (a) Low-emitting materials – All interior finish materials should be selected to minimize VOC (Volatile Organic Carbon) content and emissions. All wood products should be certified as ultra-low-emitting formaldehyde (ULEF) products or certified as no added formaldehyde resins (NAF) project.

- (b) Thermal comfort – Individual and group thermal comfort controls should be provided where appropriate to allow for the adjustment of one or more of air temperature, radiant temperature, air speed, and humidity.
  - (c) Indoor air quality – Allow for naturally ventilated spaces or provide mechanical ventilation controls that provide for a consistent, minimum design outdoor airflow.
- (6) Location and Transportation
- (a) Connections to transit – Where transit services exist near the development site, the site design should include connections between the site and the transit service to encourage the use of transit to access the site.
  - (b) Bicycle facilities – Developments should include bicycle racks, indoor bicycle storage, lockers, changing rooms, and other facilities to encourage the use of bicycles. Large developments should incorporate dedicated bicycle pathways with signage identifying points of access and destinations. Charging areas for electric bikes (“e-bikes”) should also be included.
  - (c) Electric vehicle charging – Developments should include electric vehicle charging stations and adaptable infrastructure to easily increase capacity as fleet electrification matures. Implementation of electric vehicle charging infrastructure shall be in accordance with the State Model Ordinance.
- (7) Hazard Reduction and Resiliency
- (a) Consider flood proofing and retrofitting in the construction of new commercial developments near the flood plain that may be affected by extreme flooding events and future sea level rise.
  - (b) Consider sea level rise models when siting buildings, site infrastructure, and critical facilities.
  - (c) Build new residential structures with extra freeboard beyond the minimum required by Ordinance and Code when in the flood hazard area.
  - (d) Consider landscaping for resiliency by selecting flood tolerant species, and plants with durable root structures that are less likely to be damaged or destroyed by flooding.
  - (e) Locate mechanical systems on roofs or platforms where possible in the 0.2% chance of flood zone or in areas potentially impacted by sea level rise.



## **§ 310-59. Utilities**

### **A. General.**

- (1) On commercial, industrial, or multifamily developments all utility improvements, such as transformer compounds, external heating and cooling equipment, and refuse areas, etc. shall be screened from adjacent properties and public rights-of-way.
- (2) Standards of §310-52.K., entitled "Utilities," shall apply to all commercial and industrial development within the Borough.

## **Article VI. Administration and Enforcement.**

### **§ 310-60. Compliance Required.**

To ensure compliance with the provisions of this chapter and the Subdivision and Site Plan Ordinance, (see Chapter 305, Subdivision of Land and Site Plan Review), no person shall erect, alter, or convert any structure or building or part thereof nor alter the use of any land subsequent to the adoption of this chapter until the proper permits have been obtained.

### **§ 310-61. Zoning Permit**

A zoning permit certifying that the proposed use, structure, or building complies with the provisions of this Chapter, or a variance therefrom approved by a borough board is required precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building.

#### **A. Zoning Officer.**

The Zoning Officer is hereby given the duty, power, and authority to issue zoning permits and to interpret, administer and enforce the provisions of this chapter. He shall review all construction permit and certificate of occupancy applications and all applications to the Planning Board and Board of Adjustment for compliance with this chapter.

#### **B. Noncompliance.**

When the Zoning Officer is not satisfied that the applicant's proposal meets the requirements of this chapter, he shall refuse to issue a zoning permit and shall so notify the Construction Official and the applicant in writing, giving the reasons for denial. The Zoning Officer shall make a tentative determination as to which board has authority to hear an appeal to the denial.

#### **C. Records.**

The Zoning Officer shall keep a record of all applications for zoning permits.

### **§ 310-62. Construction permit.**

A construction permit certifying that the proposal is in conformance with the State of New Jersey Uniform Construction Code and all other applicable state and local laws, rules and regulations and that all other review, action and approval required pursuant to such laws, rules and regulations, including those listed below, have been performed and/or obtained is required precedent to the commencement of the erection, construction, reconstruction, alteration, conversion or installation of a structure or building.

#### **A. Zoning Permit.**

A zoning permit shall be required before the issuance of a construction permit.

#### **B. Tax Delinquency.**

As a condition for the issuance of a construction permit, there shall be no tax or assessment for Borough improvements due or delinquent on the property for which the application is made or for any property in the Borough owned by the applicant or owner of said property.

#### **C. Performance Guaranty.**

The Construction Official shall require and accept, in accordance with the standards of Chapter 305, Subdivision of Land and Site Plan Review, § 305-15, a performance guaranty for the purpose of assuring the installation and maintenance of on- tract improvements when such a requirement is part of the stipulation of the approval of a development application.

#### **D. Display.**

All permits shall be issued in duplicate, and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No person shall perform any construction operation of any kind unless a permit covering such operation has been displayed as required by this chapter, nor shall construction operations of any kind be performed after notification of the revocation of the permit.

#### **E. Records.**

The Construction Official shall file and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for the use of the Borough Council and of other officials of the Borough, the county and the state. Records shall not be removed except with the written consent of the Construction Official.

#### **F. Reports.**

The Construction Official shall prepare a monthly report for the Borough Council summarizing for the period since his last previous report all construction permits and certificates of occupancy issued by him and all complaints of violation and the action taken by him consequently thereon. A

copy of each such report shall be filed with the Borough Tax Assessor at the same time it is filed with the Borough Council.

**G. Revocation.**

If it appears at any time to the Construction Official that the application or accompanying plans are in any respect false or misleading or the work being done upon the premises is differing materially from that called for in the application or plans filed with him under existing laws or ordinances, he shall forthwith revoke the construction permit, whereupon the person holding the same shall surrender it and all copies thereof to the Construction Official. After the permit has been revoked, the Construction Official may, in his discretion, before issuing the new permit, require the applicant to file an indemnity bond in favor of the Borough with sufficient surety conditioned on compliance with this chapter and all laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building or structure if it does not comply.

**H. Expiration.**

If a permit has not been acted upon by the commencement of construction within six months from date of issuance and construction is not completed within 12 months, thereafter, such permit and all rights created thereby shall expire. Extension may be granted by presentation of valid reasons.

**§ 310-63. Certificate of Occupancy.**

**A. New Uses.**

- (1) No building, structure or land shall be occupied or used until such time as a certificate of occupancy is issued by the Construction Official. Such certificate shall be issued upon application by the owner, prospective occupant or purchaser only after the Zoning Officer determines that the facts represented on the application are correct and that the building, structure or use is in conformance with the provisions of this chapter.
- (2) No certificate of occupancy shall be issued until all landscaping and lighting approved as part of a site plan application shall be inspected and approved by the board approving the application.

**B. Existing uses.**

- (1) Permitted uses. Upon written request from the owner, tenant, occupant or purchaser under contract, the Construction Official shall, upon recommendation of the Zoning Officer, issue a certificate of occupancy for a use legally existing on the date this chapter is effective certifying the extent and kind of use and whether any such existing use conforms with the provisions of this chapter.

- (2) Nonconforming use. No change or extension of use and no alterations shall be made in a nonconforming use or premises without a certificate of occupancy having first been issued by the Construction Official upon recommendation of the Zoning Officer, stating that such change, extension or alteration is in conformity with the provisions of this chapter or that same has been permitted by action of the Board of Adjustment.

**C. Change of use.**

No person shall use or occupy any building, structure or land the use of which shall be changed without first procuring a certificate of occupancy.

**D. Temporary certificate of occupancy.**

Upon approval of the Borough Council, the Construction Official may issue a temporary certificate of occupancy for any building, structure, parking lot or impermeable surface if, due to seasonal or other special circumstances beyond the control of the applicant, the complete installation of all site construction work or landscape work or other requirements of the approved site plan have not been completed. Such a temporary certificate of occupancy shall set forth a time limit, not to exceed 90 days, except that a thirty- day extension may be granted by the Construction Official. Such a temporary certificate of occupancy shall require a cash escrow of 50% of the total cost of the uncompleted and remaining portion of the site work in an amount determined by the Construction Official and to be deposited with the Borough Clerk as a performance guaranty.

**E. Contents.**

The certificate of occupancy shall contain sufficient information as to the extent and kind of use, such that any future investigation of the premises would disclose the extent to which a use was altered. It shall also indicate whether such use is a permitted or nonconforming use and the extent to which the use does not conform to the provisions of this chapter.

**F. Reports.**

The Construction Official shall keep a record of all certificates of occupancies issued and denied.

**§ 310-64. Certificate as to Approval of Subdivision of Land.**

- A. The Zoning Officer shall issue within 15 days after receipt of a written application and fees therefor, to the prospective purchaser, prospective mortgagee or any other person interested in any land which forms part of a subdivision or which formed part of such a subdivision after 1971, a certificate certifying whether or not such subdivision has been approved by the Planning Board or Board of Adjustment. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
- B. Each such certificate shall be designated a "certificate as to approval of subdivision of land" and shall certify:

- (1) Whether there existed a planning board and subdivision ordinance at the time the subdivision was approved.
- (2) Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board or Board of Adjustment and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.
- (3) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirements of approval due to the failure of the Board to act within the prescribed time.

C. The Zoning Officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.

### **§ 310-65. Certification of Nonconforming Uses.**

The prospective purchaser, prospective mortgagee or any other person interested in any land upon which a nonconforming use or structure exists may apply, in writing, for the issuance of a certificate certifying that the use or structure existed before the adoption of the Zoning Ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Applications pursuant hereto may be made to the Zoning Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Board of Adjustment. Denial by the Zoning Officer may be appealed to the Board of Adjustment.

### **§ 310-66. Amendments.**

- A. All amendments to this Chapter and to the Zoning Map, which forms a part hereof, shall be adopted in accordance with the provisions of N.J.S.A. 40:55D-1 et seq.
- B. A protest against any proposed amendment or revision of this chapter may be filed with the Borough Clerk, signed by the owners of 20% or more, either of the area of the lots or land included in such proposed change or of the lots or land extending 200 feet in all directions therefrom inclusive of street space, whether within or without the Borough. Such amendment or revision shall not become effective following the filing of such protest except by the favorable vote of two-thirds (2/3) of all members of the Borough Council.

### **§ 310-67. Violations and Penalties.**

#### **A. Filing Complaints.**

- (1) Any person may file a complaint if such person has any reason to believe a violation of this chapter exists.
- (2) All such complaints shall be in writing and shall be filed with the Zoning Officer, who shall properly record and investigate such complaint.

**B. Abatement Procedure.**

In case any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or any ordinance or regulation made under authority conferred hereby, the Zoning Officer or other proper official or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

**C. Penalties.**

Any person violating any provision of this chapter shall, upon conviction, be punished by a fine not to exceed \$100 or be imprisoned in the county jail for a term not exceeding 30 days, or both, for each offense. Each day that a violation occurs or is committed shall constitute a separate offense.