

## **City of Trenton Land Development Ordinance**

**Revised Chapter XIX – Approved Per City of Trenton City Council Ordinance 10 - 32**

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## PREFACE

Trenton developed as an industrial City before the introduction of zoning or any kind of formal land use controls. The City's older neighborhoods, including most of the North Ward, South Trenton and Chambersberg, were densely built with housing and shopping in close proximity to factories where the majority of the population worked during the early and mid 20th century. The West Ward was developed with lower density housing typical of early suburban development patterns. Neighborhoods in this area such as Cadwalader Heights and Berkeley Square are primarily residential in contrast to the City's older mixed use neighborhoods.

Trenton's urban form has remained basically intact since its neighborhoods were developed and development patterns today largely consistent with those described in the City's first land use plan, which was published in 1972. However, urban renewal and public housing development have changed the scale and function of certain parts of the City such as the downtown. Trenton's industrial areas have also changed over time as obsolete factory buildings have been redeveloped with a mix of uses. With continuing reuse of former industrial properties and infill development in residential neighborhoods, the City's Zoning and Land Development Ordinance, commonly referred to as the Zoning Code, directly controls what types of development can occur where, how big buildings can be, and how close they can be to one another. The Code also provides standards for parking, landscaping, lighting and other components of development that have a significant impact on how neighborhoods look and function.

Trenton's first zoning code was adopted in 1967. Per New Jersey's Municipal Land Use Law, the purpose of the zoning code is to "guide the appropriate use or development of all lands...in a manner that will promote the public health, safety, morals and general welfare" (MLUL, Chapter 291, 40:55D). Since 1967 the code has been gradually revised in order to respond to changing needs within the City. In 2007 the City undertook a comprehensive examination of its code and revised the document to make it more user-friendly. The revised code maintains the overall framework of the previous code, but makes the City's zoning easier to understand and addresses modern zoning issues including green-friendly / sustainable development, and telecommunications towers.

## THE ZONING CODE

The City of Trenton's Zoning Code includes the following elements:

### **Zoning Text**

The zoning code consists of thirty articles, which enumerate the City's zoning regulations. The articles are divided into three sections as follows:

- Articles I-X: Administration of the Code
- Articles XI-XXI: Zoning Districts
- Articles XXII-XXX: Supplemental Regulations

## **Bulk and Area Schedules**

Appendix A of the zoning code provides bulk and area schedules for each of the City's zoning districts. These schedules present bulk and area regulations by district type (e.g. residential, mixed-use, business, and industrial) in a tabular format, providing a snapshot of basic regulations for each district and allowing for easy comparison of regulations across districts.

## **Application Checklists**

Appendices B, C, D, and E provide checklists that enumerate required items that must be included in minor subdivision/site plan, preliminary major subdivision/site plan, final subdivision/site plan, and variance applications.

## **Zoning Map**

The Zoning Map shows the location and boundaries of the City's zoning districts.

## **Historic Landmarks and Districts Map**

Historic landmarks and districts are subject to special protections under the City's zoning code. These landmarks and districts are shown on the City's Historic Landmarks and Districts Map and are governed by special provisions contained within the Zoning Code.

## **REDEVELOPMENT AREAS**

In addition to its zoning regulations, Trenton has over forty Redevelopment Area Plans that provide land use regulations for specific areas of the city. Each Redevelopment Area Plan provides a detailed land use plan for the designated redevelopment area, a proposal for redevelopment, and a map that shows the area's boundaries. The Redevelopment Areas Map, which is available in the City's Department of Housing and Economic Development, Division of Planning, shows the boundaries of all of the City's Redevelopment Areas.

## **ADMINISTRATION (Articles I-X)**

### **ARTICLE I General Provisions**

#### **§ 315-1. Scope.**

This chapter regulates and limits the uses of land and the uses and locations of buildings and structures; regulates and restricts the height and bulk of buildings and structures and determines the area of yards and other open spaces; regulates and restricts the density of population; divides the City of Trenton into districts for such purposes; adopts a map of the City showing boundaries and the classification of such districts; establishes rules, regulations and standards governing the subdivision and development of land within the City; establishes a Planning Board and a Zoning Board of Adjustment; and prescribes penalties for the violation of its provisions.

#### **§ 315-2. Title.**

The short form by which this chapter may be known shall be the "Zoning and Land Development Ordinance of the City of Trenton."

#### **§ 315-3. Purpose.**

This chapter is adopted pursuant to N.J.S.A. 40A:55D-1 et seq., in order to promote and protect the public health, safety, morals and general welfare, and in the furtherance of the following related and more specific objectives:

- A. Encourage action to guide the appropriate use or development of all lands in the City, in a manner which will promote the public health, safety, morals and general welfare.
- B. Secure safety from fire, flood, panic and other natural and man-made disasters.
- C. Provide adequate light, air and open space.
- D. Ensure that the development of Trenton does not conflict with the development and general welfare of neighboring municipalities.
- E. Promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods and the entire municipality as well as the preservation of the environment.
- F. Encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies.
- G. Provide sufficient space in appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements.
- H. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight.
- I. Promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- J. Promote the conservation of historic sites and districts, open space, energy resources and to prevent the degradation of the environment, including but not limited to the air, water and visual environment, through improper use of land.
- K. Encourage diverse types of housing construction.
- L. Establish orderly and uniform procedures relating to land use and development regulation.
- M. Promote utilization of renewable energy sources.

N. Promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste.

#### **§ 315-4. Interpretation of standards.**

The provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed and required by other provisions of law, or by other rules, regulations or resolutions, the provisions of this chapter shall control. Where other laws, rules, regulations or resolutions require greater restrictions than are imposed by this chapter, the provisions of such other laws, rules and regulations shall control.

#### **§ 315-5. Prohibited uses.**

All uses not expressly permitted in this chapter are prohibited.

#### **§ 315-6. Compliance.**

All applicable requirements shall be met at the first time of erection, enlargement, alteration, moving or change in use of a structure, and shall apply to the entire structure or structures, whether or not the entire structure or structures were involved in the erection, enlargement, alteration, moving or change in use. Moreover, no building or structure shall be erected, moved, altered, added to or enlarged unless in conformity with this chapter, and no building, structure or land shall be used for any purpose or in any manner other than as specified in this chapter. Nothing in this chapter shall be deemed to require a change in plans, construction or intended use of any buildings, structure or land on which actual construction or the application for a permit or preliminary plans were lawfully submitted to any governmental agency having applicable jurisdiction, and such actions were begun and diligently pursued before the adoption of this chapter.

#### **§ 315-7. Action to enjoin or remedy violations.**

In case any building or structure is erected, constructed, reconstructed, altered, moved or converted, or any building structure or land is used in violation of, or contrary to, the provisions of this chapter, or any building, structure or land is used in violation of, or contrary to, any approved site plan or subdivision, including any conditions made thereto, the City may institute any action to enjoin or any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use. However, nothing in this chapter shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

#### **§ 315-8. Violations and penalties.**

A. Any violation hereunder shall be considered an offense punishable as provided in Chapter 1, General Provisions, Article III. The following rules shall apply in determining responsibility for violations and penalties:

- (1) The owner, general agent, contractor or occupant, or any combination thereof, of a building, premises, or part thereof, where such a violation has been committed exists shall be guilty of such an offense.
- (2) Any agent, contractor, architect, engineer, builder, corporation or other person who commits, takes part or assists in such violation shall be guilty of such offense.

B. Each day that a violation continues after notification that it exists shall constitute a separate offense.

C. The imposition of penalties herein shall not preclude the City, or any other person, from instituting an action to prevent an unlawful construction, reconstruction, alteration, repair, conversion or use, or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

### **§ 315-9. Word usage.**

- A. For the purpose of the land use and development provisions, certain phrases and words are defined as herein set forth. In addition, the following rules of interpretation shall apply:
  - (1) Words used in the present tense include the future.
  - (2) Words used in the singular number include the plural number and vice versa.
  - (3) The word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased" or "intended to be used."
  - (4) The word "lot" includes the word "plot" and "premises."
  - (5) The word "building" includes the words "structure," "dwelling" or "residence."
  - (6) The word "shall" is mandatory and not discretionary.
- B. Any word or term not defined herein shall be used with a meaning as defined in Webster's Third New International Dictionary of the English Language, unabridged, or latest edition. Moreover, whenever a term is used in this chapter which is defined in N.J.S.A. 40:55D-1 et seq., such term is intended to have the meaning as defined in N.J.S.A. 40:55D-1 et seq., unless specifically defined to the contrary in this chapter.

### **§ 315-10. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated below. Definitions pertaining specifically to Article XXIII, Telecommunications Facilities are provided in §315-148 et seq. Definitions pertaining specifically to Article XXV, Signs, are provided in §315-191 et seq.

**ABUTTING** — Joining at the side, whether or not a street intervenes.

**ACCESSORY BUILDING, STRUCTURE OR USE** — A building, structure or use which is customarily associated with and is subordinate and incidental to the principal building, structure or use and which is located on the same lot therewith, including, but not limited to, garages, carports, kennels, sheds and nonportable swimming pools. Any accessory building attached to the principal building shall be considered part of the principal building.

**ADDITION** — An extension or an increase in floor area or height of a building structure.

**ADJOINING** — Touching or bounding at a point or line.

**ADMINISTRATIVE OFFICER** — The administrative officer of the City of Trenton, Mercer County, New Jersey, unless a different municipal official is designated by this chapter to administer certain of the responsibilities and authorities specified for the administrative officer in N.J.S.A. 40:55D-1 et seq.

**ALLEY** — A public thoroughfare having a right-of-way width of 20 feet or less.

**ALTERATIONS, STRUCTURAL** — Any change in or additions to the supporting members of a building, such as columns, walls, girders, beams or rafters.

**APPLICANT** — The landowner or the agent, optionee, contract purchaser or other person authorized to act for and acting for the landowner submitting an application under this chapter.

**APPLICATION FOR DEVELOPMENT** — The application or appeal forms, and all accompanying documents, required by this chapter for approval of a subdivision plat, site plan, conditional use, zoning variance or direction for issuance of a permit pursuant to N.J.S.A. 40A:55D-34 or N.J.S.A. 40:55D-36.

**APPURTENANT STRUCTURE** — A device or structure attached to the exterior or erected on the roof of a building designed to support service equipment or used in connection therewith, or to support advertising or display functions, or other similar uses.

**AUTOMOBILE SALES LOT** — Any outdoor area or space where more than three motor vehicles for sale to the public may be parked, stored or displayed.

**AWNING** — An awning is an extension from the building to shade or protect windows from sun and storm.

**BASEMENT** — That portion of a building which is partly or completely below grade.

**BEDROOM** — A room planned or used primarily for sleeping.

**BLOCK** — The length of a street between two street intersections.

**BLOCK FRONTRAGE** — The distance along any street line between the nearest streets intersecting it.

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

- A. A detached building is one with no party wall or walls.
- B. A semidetached building is one of two buildings with a single party wall common to both.
- C. An attached building is one with two or more party walls or one party wall in the case of a building at the end of a group of attached buildings.

**BUILDING HEIGHT** — The vertical distance measured to the highest point, exclusive of chimneys and similar features, from the mean elevation of the finished grade at the foundation along the side(s) of the building facing a street, or to the street line if the street line is within 10 feet distance from the foundation. In all cases where this chapter provides for height limitations by reference to a specified height and a specified number of stories, the intent is to limit height to the specified maximum footage and the specified number of stories within such footage.

**BUILDING LINE** — The line established by law, beyond which a building shall not extend, except as specifically provided by law.

**BUILDING SITE** — The area occupied by a building or structure, including the yards and courts required for light and ventilation, and such areas that are prescribed for access to the street.

**BUSINESS USE**- See "Commercial Use."

**CANOPY** — A canopy is an overhanging protective covering for an entrance extending from the main entrance of the building.

**CAPITAL IMPROVEMENT**- An acquisition of real property, major construction projects, or acquisition of expensive equipment expected to last a long time.

**CARPORT** — A one-level structure, open on three sides, for the storage or parking for automobiles.

**CARTWAY** — The hard or paved surface portion of a street customarily used for vehicles in the regular course of travel. Where there are curbs, the cartway is that portion between the curbs.

Where there are no curbs, the cartway is that portion between the edges of the paved or graded width.

**CENTER LINE OF STREET OR ROAD** — A line midway between and parallel to two street or road property lines, or as otherwise defined by the City Council.

**CERTIFICATE OF USE AND OCCUPANCY** — The certificate issued by the Construction Official which permits the use of a building in accordance with the approved plans and specifications and which certify compliance with the provisions of law for the use and occupancy of the building in its several parts, together with any special stipulations or conditions of the building permit.

**CHANGE OF USE** — Any use that substantially differs from the previous use of a building or land resulting in an increase or decrease in intensity of use, change in parking requirements, or means of ingress.

**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 shipment points.

**CITY** — The City of Trenton.

**CLUBHOUSE** — A building to house a club or social organization not conducted for profit and which is not adjunct to or operated by or in connection with a public tavern, cafe or other public place.

**COMMERCIAL USE** - A use that involves the sale of goods or services carried out for profit.

**COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED** — Any community residential facility licensed pursuant to P.L. 1977, C.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c.136 (C.26:2H-1 et al.).

In the case of such a community residence housing mentally ill persons, such residence must be approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services.

**COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE** — Any shelter approved for a purchase of a 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 (C.30:14-1 et seq.), providing food, shelter, medical care, legal assistance, personal guidance and other services to not more than 15 persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

**COMMUNITY RESIDENCE FOR PERSONS WITH HEAD INJURIES**- A community residential facility licensed pursuant to P.L.1977, c.448 (C.30:11B-1 et. seq.) providing food, shelter, and personal guidance, under such supervision as required, to no more than 15 persons with head injuries, who require assistance, temporarily or permanently in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c.136 (C.26:2J-1 et al.).

**COMMUNITY RESIDENCE FOR THE TERMINALLY ILL**- Any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services

under such supervision as required to not more than 15 terminally ill persons.

**COMPLETE APPLICATION** — An application form, completed as specified by this chapter and the rules and regulations for all accompanying documents required by the Planning Board or the Zoning Board of Adjustment pursuant to this chapter for approval of the application for development, including, where applicable, but not limited to, a site plan, provided that the Board may require such additional information not specified in such chapter, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Board. An application shall be certified as complete immediately upon the meeting of all requirements specified in the chapter and in the rules and regulations of the Board and shall be deemed complete as of the day it is so certified by the administrative officer for the commencement of the time period for action by the Board.

**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 the zoning provisions of this chapter, and upon the issuance of an authorization thereof by the Planning Board.

**CONDOMINIUM** — See "dwelling."

**CORNER LOTS** — See "lot, corner."

**COVERAGE, BUILDING** — The square footage or other area measurement by which all buildings occupy a lot as measured in a horizontal plane around the periphery of the foundation and including the area under any roof extending more than two feet beyond the foundation.

**COVERAGE, LOT** — The square footage of all areas of a lot that are covered by impervious surfaces, including buildings, parking areas, driveways, sidewalks and any other area of concrete, asphalt or similar material that does not allow natural runoff to percolate into the ground.

**DAY CARE/CHILD CARE CENTER** — Any facility outside of the caregiver's home that is maintained for the care, development or supervision of six or more children or elderly persons who attend the facility for less than 24 hours a day.

**DECK** — A raised platform structure without a permanent roof that is located in the rear yard of either a detached, semidetached or row house dwelling unit.

**DENSITY** — A number expressing dwelling units per gross land area.

**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 property 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 any other use of land or extension of use of land, for which permission may be required.

**DOWNTOWN DISTRICT** — A delineated business district located within the City's downtown having certain distinctive characteristics with regard to the design and controlled use of the thoroughfares and sidewalks upon which the commercial property and places of business are situated.

**DRAINAGE AND UTILITY RIGHT-OF-WAY** — The lands required for the installation and maintenance of stormwater and sanitary sewers, water pipes or drainage ditches and other utilities, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

**DRIVE-THROUGH ESTABLISHMENT** – Any establishment, building or structure where service is provided to the customer from an automobile service window with access provided by a drive through lane incorporated into the site design.

**DWELLING UNIT** — A room, or series of connected rooms, designed for permanent residency containing living, cooking, sleeping and sanitary facilities for one housekeeping unit. The dwelling unit shall be self-contained and shall not require passing through another dwelling unit or other indirect route(s) to get to any other portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.

**DWELLINGS**

- A. **APARTMENT BUILDING/MULTIFAMILY DWELLING STRUCTURE** — A residential dwelling structure that contains three or more dwelling units.
- B. **BOARDINGHOUSE** — Any building, or portion thereof, containing one or more units of dwelling space arranged or intended for single-room occupancy, exclusive of any unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, and as otherwise defined in N.J.S.A. 55:13B-1 et seq.
- C. **CONDOMINIUM** — The form of ownership of real property under a master deed providing for ownership by one or more owners of units of improvements together with an undivided interest in common elements appurtenant to each such unit.
- D. **COOPERATIVE** — A form of common ownership of real property with each owner having a share of the building and common elements appurtenant to all units.
- E. **DORMITORY** — A space in a building where group sleeping accommodations are provided for persons not members of the same family group in one room or in a series of closely associated rooms.
  
- F. **ROW HOUSE DWELLING UNIT** — A single-family dwelling attached to two or more single-family dwellings by common vertical walls.
- G. **SINGLE-FAMILY DETACHED DWELLING UNIT** — A free standing single-family dwelling that does not share a common vertical wall with any other dwelling unit on an adjoining zoning lot and where all sides of the structure are surrounded by yards or open areas within the zoning lot on which the unit is located.
- H. **SINGLE-FAMILY SEMI-DETACHED DWELLING UNIT** — A single-family dwelling attached to one other single-family dwelling by a common vertical wall, and each dwelling located on a separate lot.
- I.
- J. **TWO-FAMILY DWELLING STRUCTURE** — A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced ceiling and floor, except for a common stairwell exterior to both dwelling units.

**EASEMENT** — A use or burden imposed on real estate by deed or other legal means to permit the use of land by the municipality, the public, a corporation or particular persons for specific uses.

**FAMILY** —

A person living alone or any one of the following groups living together:

- A. Any number of people related by blood, marriage, civil union, adoption, guardianship, or other duly authorized custodial relationship; and
- B. One unrelated person per bedroom plus one additional unrelated person, not to exceed four persons. For persons who are unrelated and for purposes of this definition, a studio or efficiency dwelling unit shall be considered a one-bedroom dwelling unit. Therefore a studio, efficiency, or one-bedroom unit may have a maximum of two occupants, a two-bedroom unit may have a maximum of three occupants, and a three-bedroom unit may have a maximum four occupants. .
- C. The term "family" shall not refer to:
  - i. A community residence 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 care homes for elderly persons and physically disabled adults as defined and regulated by the State of New Jersey.
  - ii. Any society, club, fraternity, sorority, association, lodge or like organization.
  - iii. Any group of individuals whose association is temporary (less than 60 days) or seasonal in nature.
  - iv. Any group of individuals who are in a group living arrangement as a result of criminal offenses.

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

**FENCE** — See "structure."

**FINAL APPROVAL** — The official action of either the Planning Board or Zoning Board of Adjustment taken on a preliminarily approved site plan after all conditions, engineering plans and other requirements have been completed or fulfilled.

**FLOODPLAIN** — The relatively flat area adjoining a water channel which has been or may be covered by floodwaters of the channel, including the following components:

- A. **FLOOD FRINGE AREA** — That portion of the flood hazard area outside of the floodway.
- B. **FLOOD HAZARD AREA** — Land in the floodplain subject to a one-percent or greater chance of flood in any given year.
- C. **FLOODWAY** — The river or other watercourse and the adjacent land area that must be reserved in order to discharge the design flood without cumulatively increasing the water surface elevation more than one foot.

**FLOOR AREA, GROSS (GFA)** — The plan projection of all roofed areas on a lot multiplied by the number of full stories under each roof section measured from the exterior face of exterior walls or from the center line of a wall separating buildings. Basements which satisfy applicable construction definitions of habitable space are included in the GFA for residential uses.

**FLOOR AREA, NET HABITABLE (NHFA)** — Finished and heated area fully enclosed by the inside surfaces of walls, windows, doors and partitions and having a headroom of at least 6 1/2 feet, including working, living, eating, cooking, sleeping, stair, hall, service and storage areas, but excluding garages, carports, parking spaces, half-stories, unfinished attics and basements and common hallways and entrances.

**FLOOR AREA RATIO (FAR)** — The ratio of the gross floor area of a structure to the area of its zoning lot or tract.

**FRONT STREET** — The street upon which the majority of lots within a block are fronted, or any street so designated by the City Council.

**GARAGE, PARKING** — A structured garage with one or more levels used exclusively for parking passenger vehicles.

**GARAGE, PRIVATE** — A garage for four or fewer passenger motor vehicles without provision for repairing or servicing such vehicles for profit, and not conducted as a business or used for the storage of more than one commercial vehicle, which shall be owned by a person residing on the premises.

**GARAGE, SERVICE/REPAIR** — A garage conducted as a business in which provision is made for the care, repair or painting of motor vehicles. A repair garage shall include auto body and fender work and engine dismantling, and is not limited to minor repairs or engine tune-ups.

**GROSS LOT AREA** — The gross area within the lot lines of a lot, including any environmentally sensitive areas such as steep slopes or wetlands, and excluding any public rights-of-way.

**HEAVY INDUSTRY** — In general, the production of goods, such as steel, used in the production of other goods, and otherwise, industrial uses in conformance with the applicable performance standards of this chapter.

**HISTORIC DISTRICT** — A district that has been designated by the City as having a special character or special historic or aesthetic interest or value, and representing one or more periods or styles of architecture typical of one or more eras in the history of the City, state or nation, and by reason of such features to constitute a distinct section of the City.

**HISTORIC SITE** — Any building, structure, area or property that is significant in the history, architecture, archaeology or culture of this state, its communities or the nation, and has been so designated pursuant to this chapter.

**HOME OCCUPATION USE** — An occupation carried out in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

**HOTEL** — A commercial establishment providing temporary lodging accommodations containing 10 or more rooms with at least 75% of all rooms accessed by passing through the main lobby of the building, and containing additional services such as restaurants, meeting rooms and recreation facilities.

**IMPERVIOUS SURFACE AREA** — The sum of the area of coverage or footprint of all buildings, structures, paved areas, patios and other improved surfaces on a lot preventing natural runoff from percolating into the ground, measured in square feet. Areas paved with gravel, crushed stone and other pervious materials as well as open wood decks with spacing between floorboards shall not be considered impervious. Calculation of total impervious surface area on a site shall be based upon gross lot area, not the net developable area on a site.

**JUNKYARD AND RECYCLING CENTER** — Any space, whether inside or outside a building, used for:

- A. Any Class A or Class B recycling facility regulated by the State of New Jersey and/or the County of Mercer.
- B. The recycling, storage, keeping, processing or abandonment of:

- (1) Junk, including scrap metals, or other scrap materials.
- (2) Construction or demolition debris.
- (3) Bottles, cans or other recyclable materials.

C. The dismantling, demolition, salvage or abandonment of automobiles or other vehicles or machinery, or any parts thereof.

**LIGHT INDUSTRY** — In general, the production of goods and services for direct consumption by the consumer, and otherwise, industrial uses in conformance with the applicable performance standards of this chapter.

**LOADING SPACE** — An off-street parking space or berth on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading or unloading.

**LOT/ZONING LOT** — Any parcel of land separated from other parcels or options as by a subdivision plat or deed record, survey map or by metes and bounds, except that for purposes of this chapter, contiguous undersized lots under one ownership shall be considered one lot, and further that no portion of an existing public street shall be included in calculating a lot boundary or lot area.

**LOT AREA** — The area contained within the lot lines of a lot, not including any portion of a street right-of-way.

**LOT, CORNER** — A lot abutting two or more intersecting streets where the interior angle of intersection does not exceed 135°. Each corner lot shall have two front yards and two side yards.

**LOT, INTERIOR** — A lot other than a corner lot.

**LOT COVERAGE** — See "Coverage, Lot."

**LOT DEPTH** — The shortest horizontal distance between the front lot line and a line drawn parallel to the front lot line through the midpoint of the rear lot line.

**LOT FRONTRAGE** — The horizontal distance between the side lot lines measured along the street line. The minimum lot frontage shall be the same as the lot width. In the case of a corner lot, either street frontage which meets the required frontage for that zone may be considered the lot frontage.

**LOT LINE** — A line of record, as shown or described on a plat or deed, bounding a lot that divides one lot from another or from a public or private street or any other public space.

**LOT WIDTH** — The straight and horizontal distance between the side lot lines at setback points on each side lot line measured an equal distance from the street line. The minimum lot width shall be measured at the minimum required building setback line. When side lot lines are not parallel, the minimum lot width at the setback line shall not be less than 75% of the minimum lot frontage for the zoning district in which the lot is located.

**MARQUEE** — A marquee is an extension from the building of a flat type of construction to protect windows and doorways, or to ornament the building.

**MECHANICAL OR ELECTRONIC AMUSEMENT DEVICE** — Any machine, which upon the insertion of a coin, slug or token, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as pinball machines, skill ball, mechanical grab machines, mechanical bowling machines, video amusement devices and all games, operations or transactions similar thereto under whatever name they may be designated.

**MOTEL** — A commercial establishment providing transient lodging accommodations containing 10

or more rooms with at least 75% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

**MOTOR VEHICLE SERVICE STATION** — An area of land, including any structures thereon, used for the retail sale of gasoline, oil or other fuel for the propulsion of motor vehicles and incidental services, including facilities for lubrication, hand washing and the furnishing of minor motor vehicle accessories and repairs, but excluding an automobile car wash or repair garage.

**MULTISTORY BUILDING** — A building consisting of more than two stories, not including a basement.

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

**NONCONFORMING USE** — A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by means of such adoption, revision or amendments.

**OFF-SITE** — Located outside the lot lines of the property in question but within the property of which the lot is a part, which is the subject of a development application, or on a contiguous portion of the street right-of-way or drainage or utility easement.

**OFF-TRACT** — Not located on the property which is the subject of a development application, or a contiguous portion of a street right-of-way or drainage or utility easement.

**ON-SITE** — Located on the lot that is the subject of an application for development.

**OPEN SPACE** — Any parcel or area of land or water essentially undeveloped or unimproved and set aside, designated or reserved for public or private use or enjoyment; provided that such areas are improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural or landscaped area.

**PARKING SPACE** — An area either within a structure or in the open, for the parking of motor vehicles, exclusive of driveways, access drives, fire lanes and public rights-of-way.

**PERFORMANCE GUARANTEE** — Any security, including performance bonds, letters of credit, escrow agreements and other similar collateral or surety agreements in accordance with the requirements of this chapter, which may be accepted in lieu of a requirement that certain improvements be completed prior to final approval of a development application.

**PERFORMANCE STANDARD** — A minimum requirement or maximum allowable limit on noise, vibration, smoke, odor or other noxious effect of an industrial use.

**PERMITTED USE** — Any use of land or buildings as permitted by this chapter.

**PERSONAL CUSTOMER SERVICES** — Places of business which offer a nontangible commodity between individuals, such as banks, barbers, realtors, dry cleaners, tailors and travel and insurance agents, but in no instance shall automobile service stations or government and not-for-profit social service programs be considered personal customer services.

**PERVIOUS SURFACE AREA** — The sum of the gross lot area, which allows natural runoff to percolate into the ground, measured in square feet. Areas paved with gravel, crushed stone, or other pervious materials shall be considered pervious.

**PORCH** — A platform without enclosed walls that extends from a dwelling unit into the rear, front or side yard.

**PRINCIPAL USE** — The main purpose for which a lot or building is used.

**PROJECT SITE** – The portion of any lot, parcel, tract or combination thereof that encompasses all phases of a proposed project.

**PUBLIC FACILITY USE** — The use of land or buildings by the governing body of the City or any officially created authority or agency thereof.

**RECYCLING CENTER** — See "junkyard and recycling center."

**REDEVELOPMENT AREA** - An area that the City has determined is "in need of redevelopment" as defined by state statute (N.J.S. 40A:12A-7). Such areas are designated on the City's Redevelopment Area Map.

**REDEVELOPMENT AREA MAP**- An official City map that outlines the boundaries of designated redevelopment areas.

**REDEVELOPMENT PLAN**- A plan for revitalization of a designated redevelopment area that outlines the boundaries of the area and provides a land use plan and a proposal for redevelopment, including land acquisition and redeveloper's obligation. Land use regulations and the land use plan outlined in a Redevelopment Plan supersede the regulations of the underlying zoning district within which the redevelopment area is located.

**RESTAURANT** — Any establishment, however designated, at which food is sold primarily for consumption on the premises and within a building. However, a snack bar or refreshment stand at a public or community swimming pool, playground, playing field or park operated solely by the agency or group operating the recreational facility and for the convenience of patrons of the facility shall not be deemed a restaurant.

**RESTORATION PERMIT** — Formal approval from the City of Trenton Landmarks Commission to permit proposed development, restoration or alteration to designated historic property or property in a designated district.

**RESUBDIVISION** — The further division of a lot or the adjustment of a lot line or lot lines.

**RETAIL SALES** — A business selling tangible commodities, such as department stores, variety stores, apparel and accessory sales, furniture, appliance and antique stores where all sales are under one roof.

**RIGHT-OF-WAY** — Publicly dedicated land, including street, curb and sidewalk.

**SCHOOL** — A public or private nonprofit organization providing regular instruction for a normal school year, but not a school or college giving special or limited instruction, such as business, art, beauty, music, dancing or nursery school.

**SCHOOL, PROPRIETARY** — A person or corporation engaged in the instruction of children or adults for personal profit and not as an integral part of the public school system, of a college or similar institution of higher learning or of an established religious or charitable organization; a business use.

**SETBACK, AVERAGE** — The permitted setback line, for a particular lot or building, based on a calculation which totals the existing setback distances of existing principal structures, located on lots within 200 feet of the particular lot or building on each side of such building or lot and fronting on the same side of the street, divided by the number of existing setback distances utilized. If a lot within the specific calculation area does not contain a principal structure, the setback distance used in the calculation shall be the required setback distance for that lot.

**SETBACK** (see also "Yard")— A line drawn parallel with a street line or lot line that indicates the minimum distance allowed between a building and the front, rear and side lot lines on a zoning lot.

**SEXUALLY ORIENTED BUISNESS** - Sexually Oriented Business is defined as any of the uses, or any combination therefore as defined below.

**ADULT ARCADE**

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to one person per machine at any one time and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE or ADULT VIDEO STORE**

A commercial establishment which, as one of its principal business purposes, offers for sale or for rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed material or photographs, films, motion pictures, videocassettes or video reproductions Books, magazines, periodicals or other printed material or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
2. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

**ADULT CABARET**

A nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**ADULT MOTEL**

A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration and which:

1. Provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from a public right-of-way which advertises the availability of these adult types of photographic reproductions;
2. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

**ADULT MOTION-PICTURE THEATER**

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas. Adult motion-picture theaters shall meet the seating criteria established for adult theaters.

**ADULT THEATER**

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities. Seating shall be provided in a design consistent with traditional movie theaters. All sitting areas shall be visible and unobstructed.

**COMMERCIAL DISPLAY**

The exhibition to the senses of another person for valuable consideration, whether the valuable consideration is paid by the recipient of the exhibition or by another and whether the exhibition occurs at the exhibitor's place of business or elsewhere.

**NUDITY or A STATE OF NUDITY**

The appearance of a human bare buttocks, anus, male genitals, female genitals or female breasts.

**OBSCENE MATERIALS**

The definition of obscene materials set forth in P.L. 1978, c. 95, as amended by P.L. 1982, c. 211, § 1 (effective December 23, 1982, as N.J.S.A. 2C:34-2), as the same shall be from time to time amended or supplemented, as well as in accordance with and not more strictly than judicial interpretations thereof pursuant to the Constitutions of the United States and of the State of New Jersey finally concluded in courts of jurisdiction sufficient to render decisions on constitutional questions of general application.

**PERSON**

An individual, proprietorship, partnership, corporation, association or other legal entity.

**SEXUALLY ORIENTED BUSINESS**

An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater or adult theater.

**SPECIFIED ANATOMICAL AREAS**

1. Less than completely and opaquely covered by fabric or cloth, human genitals, pubic region, anus or female breasts below the point immediately above the top of the areola down to the bottom of the areola. The entire areola and nipple of the female breasts must be completely covered by opaque fabric or cloth as is shown on Exhibit "A" annexed hereto and made a part hereof
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**

Includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in Subsections (1) through (3) of this definition.

**SIGN** — A name, identification, description, display or illustration which is affixed to, or printed or

represented directly or indirectly upon a building, structure or parcel of land, and which directs attention to a person, institution, organization, activity, place, object, product or business; also, any structure, device, letter, word insignia or representation that is designed to be seen from outside a building advertising activities, goods, products, services or facilities available. This definition includes signs attached onto the facade of buildings, in windows or doors, on canopies, marquees and awnings, but does not include window displays of merchandise or signs incidental to the display, of merchandise. The display of official public notices or the flag, emblem or insignia of a nation, a political unit or temporary displays are not included in this definition;

- A. **BILLBOARD** — A sign that 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.
- B. **FREESTANDING SIGN** — Any sign designed to be seen from outside a building that advertises activities, goods, products, services or facilities available on-site that is not attached to a building and is supported by its own structure.
- C. **SIGN AREA** — The maximum projected area of the shape which encloses the sign, device or presentation. In the case of lettering attached to building facades, the sign area shall be the product of the maximum horizontal dimensions of all lettering and symbols which form the sign. The sign area shall be calculated including all decoration, but excluding supports, if any, unless the same are illuminated, as defined. Any neon tube, string of incandescent lights or similar device shall be considered as having a minimum dimension of three inches.
- D. **SIGN HEIGHT** — The distance measured in feet between the elevation at the nearest street right-of-way and the top of the sign, excluding any ornamentation which has a cross-sectional area of one square foot and a height of 12 inches.
- E. **SIGN WITH FLASHING, ANIMATED OR INTERMITTENT ILLUMINATION**. A sign upon which the illumination is not maintained at a constant or stationary intensity and/or color at all times when illuminated, or any revolving illuminated sign.

**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 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, screening devices.
- C. Any other information that may be reasonably required in order to make a determination concerning the adequacy of the plan in accordance with the requirements of this chapter.

**SITE PLAN, EXEMPT** — Individual lot applications for detached one- or two-dwelling unit buildings in conformance with district regulations, and additions under 1,000 square feet to existing buildings of a permitted use in a given district which complies with applicable district regulations.

**SITE PLAN, MAJOR** — All site plans not defined as minor or exempt plans.

**SITE PLAN, MINOR** — A development consisting of one or more lots which:

- A. Proposes new development within the scope of development specifically permitted by this chapter for a minor site plan.
- B. Does not involve a planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to this chapter.
- C. Contains the information reasonably required in order to make an informed determination as to

whether the requirements established by this chapter for approval of a minor site plan have been met.

- D. Is not situated within a flood hazard area.
- E. Will not contain more than four off-street parking spaces, as required by this chapter.
- F. Will contain a building or land area consisting of less than 3,000 square feet of gross floor area.

**SITE PLAN REVIEW** — The examination of the specific development plan for a lot or tract of land. Whenever the term "site plan approval" is used in this chapter, it shall be understood to mean a requirement that the site plan be reviewed and approved by the Planning Board or Zoning Board of Adjustment.

**STORY** — That portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is not a floor above it, then the surface between the floor and the ceiling next above it and including those basements used for primary use. For the purpose of this chapter, the interior of the roof shall not be considered a ceiling. A half story is the area under a pitched roof at the top of a building, the floor of which is at least four feet, but no more than six feet, below the plate.

**STREET** — Any road (other than a private road), highway, street, avenue, boulevard, , parkway, alley, viaduct, drive or other way:

- A. Which is an existing state, county or municipal roadway;
- B. Which is shown upon a plat heretofore approved pursuant to law;
- C. Which is approved by official action as provided by this chapter;
- D. Which is shown on a plat duly filed and recorded in the office of the county recording officer and includes the land between the street lines, whether improved or unimproved, pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines;
- E. A thoroughfare publicly or privately owned, open to general public use and having a right-of-way width greater than 20 feet.

**STREET LINE** — The edge of the existing or future street right-of-way, whichever may result in the widest right-of-way, as shown on the adopted Master Plan or Official Map, forming the dividing line between the street and a lot.

**STRUCTURE** — Anything constructed, assembled or erected which requires location on the ground or attachment to something having such location on or in the ground, including buildings, fences, masonry walls, tennis courts, tanks, signs, advertising devices and swimming pools.

#### SUBDIVISION-

- A. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development.
- B. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created:
  - (1) Divisions of property by testamentary or intestate provisions, provided that the division is in conformity with the applicable ordinance requirements.
  - (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 found and certified by the administrative officer to conform to all requirements of the municipal development regulations and which are shown and designated as separate lots, tracts or parcels on the Tax Map or atlas in the City.

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

**SUBDIVISION, MAJOR** — Any division of land not classified as a minor subdivision.

**SUBDIVISION, MINOR** — Any division of land containing an aggregate of not more than three lots, one new lot and the remaining parcel(s), each fronting on an existing street or streets, and:

- A. Not involving any new street or the installation of any street improvements or the extension of City facilities.
- B. Not involving any streets requiring additional right-of-way width as specified in the Master Plan or Official Map or the street requirements of this chapter, unless such additional right-of-way width, either along one or both sides of such street(s), as applicable, shall be deeded to the City or to the appropriate governmental authority prior to classification as a minor subdivision.
- C. Not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provisions of the Master Plan, Official Map or this chapter.
- D. Not being a further division of an original tract of land for which previous subdivision(s) have been approved by the City within the current calendar year and where the combination of the proposed and approved minor subdivision(s) constitute a major subdivision. The original tract of land shall be considered any tract in existence at the time of the adoption of the zoning provisions of this chapter as shown on the City Tax Maps. Any readjustment of lot lines resulting in no new lots shall be classified as a minor subdivision.
- E. Not being deficient in those details and specifications required of minor subdivisions as specified in this chapter.

**SUBDIVISION REVIEW** — The examination of the specific plat for a lot or tract for subdivision of land. Whenever the term "subdivision approval" is used within this chapter, it shall be understood to mean a requirement that the subdivision plat be reviewed and approved by the Planning Board or the Zoning Board of Adjustment in conjunction with a use variance.

**SURFACE PARKING LOT** — Any outdoor area or space conducted as a business, or rented or ancillary to any institution, business or residential use, where more than three motor vehicles may be parked or stored, excluding used car lots.

**SWIMMING POOL; PRIVATE, RESIDENTIAL** — Any artificially constructed swimming bathing pool or tank, above or below ground, whether permanently installed, portable, collapsible or otherwise, having either an inside structural depth in excess of 18 inches below the level of the surrounding ground, or in excess of 30 inches above the surface of the surrounding ground, or a surface area in excess of 120 square feet, or a capacity in excess of 1,400 gallons, constructed or maintained on any lot, as an accessory use, by any person for the use of themselves, or any member of their household, and guests. The term includes all buildings, structures, equipment and appurtenances thereto, subject to all requirements of this chapter.

**TOURIST/GUEST HOUSE** — A building occupied by a resident family and arranged or used for additional temporary lodging, with or without meals, for compensation, and containing up to 10 guest rooms.

**TRACT** — An area, parcel, site, piece of land, or property that is the subject of a development application.

**TRAFFIC IMPACT ANALYSIS** — A comprehensive and professional study which analyzes existing and future year traffic volumes and levels of service for off-tract intersections and roadways which

may be impacted by a proposed development, and includes recommendations for traffic improvement strategies.

**TRAILER or TRAILER CABIN** — A vehicle, with or without its own motive power, equipped or used for living purposes and mounted on wheels, or designed to be so mounted and transported.

**TRENTON DOWNTOWN ASSOCIATION (TDA)**- The City of Trenton downtown district management corporation.

**VARIANCE** — A departure from the terms of this chapter authorized by the appropriate municipal agency in accordance with N.J.S.A. 40:55D-1 et seq.

- A. **VARIANCE, BULK ("C" VARIANCE)** — A deviation from zoning district standards pertaining to yard setbacks, height (below a ten percent excess of permitted height), building massing, or other bulk provisions and parking restrictions.
- B. **VARIANCE, USE ("D VARIANCE")**— A deviation from zoning district standards pertaining to permitted uses, conditionally permitted uses, floor area ratio, permitted density, or height (in excess of ten percent above permitted height) provisions..

**YARD (see also "Setback")** — An open space that lies between the principal building or buildings and the nearest lot line.

- A. **FRONT YARD** — The space between the building line or front main wall of a building, excluding steps and open porches not exceeding eight feet and overhanging eaves, cornices and similar fixtures, and the front property line.
- B. **REAR YARD** — An open space on the same lot with a building between the rear wall of the building and the rear line of the lot, and unoccupied except for accessory buildings, decks and open porches which, in the aggregate, shall not occupy more than 50% of the area.
- C. **SIDE YARD** — An open, unobstructed space on the same lot with a building between the building and the side line of the lot, and extending through from the front or the rear yard, into which space there is no extension of building parts, other than eaves with an overhang of not more than one foot, rainwater leaders, window sills and other such fixtures, open steps for a distance not exceeding four feet and bay windows not more than 12 feet wide, at one floor level only, and for a distance not exceeding two feet.

**ZONING DISTRICT/ZONE**- A specifically delineated area or district within the city within which uniform regulations and requirements govern the use, placement, spacing and size of land and buildings.

**ZONING MAP**- An official City map that is a part of the City's Land Development Ordinances that delineates the boundaries of zoning districts.

**ZONING PERMIT** — A document signed by the Zoning Officer which is required by ordinance as a condition 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 zoning provisions of this chapter.

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## ARTICLE II Planning Board

### **§ 315-11. Establishment.**

A Planning Board is hereby created consisting of nine regular and two alternate members, consisting of the following four classes:

A. Regular members.

- (1) Class I: the Mayor, or the Mayor's designee in the absence of the Mayor. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (2) Class II: one of the officials of the City other than a member of the City Council, to be appointed by the Mayor.
- (3) Class III: a member of the City Council to be appointed by it.
- (4) Class IV: six other citizens of the City to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one such member may be a member of the Zoning Board of Adjustment and one Class IV member may be a member of the Board of Education. If there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member, unless there is among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member common to the Planning Board and the Environmental Commission shall be deemed a Class II member of the Planning Board. For the purpose of this section, membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

B. Alternate members.

- (1) Alternate members to the Board may be appointed only in Class IV. Alternate members shall be appointed by the Mayor and shall meet the qualifications of Class IV members of nine member Boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2."
- (2) Alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, "Alternate No. 1" shall vote.
- (3) Alternate members shall be City residents.

### **§ 315-12. Lack of quorum due to conflicts of interest.** *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited N.J.S.A. 40:55D-23 or the Local Government Ethics Law, N.J.S.A. 40A:9-22.1, et seq., from acting on a matter due to the member's personal or financial interests therein, regular members of the Zoning Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board in order of seniority of continuous service to the Zoning Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the Chair of the Zoning Board of Adjustment shall make the choice.

**§ 315-13. Terms.**

- A. Regular members. The term of the member composing Class I shall correspond with his/her official tenure or if the member is the mayor's designee in the absence of the mayor, the designee shall serve at the pleasure of the mayor during the mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year, or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class IV, or a Class II, member who is also a member of the Environmental Commission, shall be for three years, or terminate at the completion of his/her term as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Zoning Board of Adjustment or Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first. The term of each Class IV regular member shall be four years.
- B. Alternate members. The terms of the Class IV alternate members shall be two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years.
- C. Staggered terms. All present Class IV members of the Planning Board shall continue in office until the completion of the terms for which they were appointed. The terms of Class IV regular members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be evenly distributed over the first four years after their appointment, provided that the initial term shall not exceed four years.
- D. Commencement of term. All terms shall run from January 1 of the year in which the appointment is made.

**§ 315-14. Removal.**

Any member or alternate member, other than a Class I member, may be removed by the City Council for cause, but only after public hearing, if requested, and other requested procedural due process protection.

**§ 315-15. Vacancy.**

If a vacancy of any class member, including alternate members, shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

**§ 315-16. Organization of Board.**

The Planning Board shall organize annually by selecting from among its Class IV regular members a chairperson and a vice chairperson. The Board shall also select a secretary who may or may not be a member of the Board or an employee of the City. The Board may create and fill such other offices as established by ordinance. An alternate member shall not serve as chairman or vice chairman of the Planning Board..

**§ 315-17. Planning Board Attorney.**

The office of Planning Board Attorney is hereby created. The Planning Board may appoint to such office and fix compensation or rate of compensation of an attorney at law of New Jersey, other than the City Attorney.

**§ 315-18. Experts and staff.**

The Planning Board may also employ or contract for, and fix the compensation of, such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts, grants, or application and escrow fees, the amount appropriated by the City Council for its use.

**§ 315-19. Budget.**

The City Council, after giving due consideration to budget requests that may be submitted by the Planning Board, shall make provisions in its budget and appropriate funds for the expenses of the Planning Board.

**§ 315-20. Powers and duties.**

The Planning Board shall have the powers listed below, in addition to other powers established by law:

- A. To make, adopt and, from time to time, amend a Master Plan for the physical development of the City, including any areas outside its boundaries which, in the Board's judgment, bear essential relationship to the planning of the City.
- B. To administer the subdivision and site plan review provisions of this chapter in accordance with this chapter. In addition to the power to review and approve site plan and subdivision applications for development, the Planning Board's powers shall include the following:
  - (1) To grant subdivision or conditional use approval simultaneously with site plan approval.
  - (2) To grant variances pursuant to N.J.S.A. 40:55D-70c and subject to the same extent and restrictions of the Zoning Board of Adjustment when the Planning Board is reviewing applications for approval of subdivision plats, site plans or conditional uses. Whenever relief is requested pursuant to this subsection, public notice shall be given and shall include reference to the requested variances.
- C. To hear and decide applications for conditional uses in accordance with Article XXII(§ 315-132 et seq.) of this chapter.
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulation.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. Pursuant to the Business Administrator's assemblage and submission to the Planning Board of statements and estimates of the capital needs and projections of the several departments in the City, to prepare and transmit to the Mayor and Council, at such times as it may deem appropriate, a proposed capital improvement plan. The Board may hold public hearings on the proposed capital improvement plan on or before September 15 of each calendar year, and may transmit to the Mayor and Council its recommended plan. The plan shall set forth by major programs the Board's recommendations for capital improvements to be initiated during the ensuing six fiscal years, and previously authorized and uncompleted capital improvements, including reference to such capital improvements as may be planned or in progress, or proposed by the Board of Education, together with the estimated cost and method of financing each improvement.
- G. To consider and report to the City Council, within 35 days after referral, as to any proposed development regulation submitted to it, and also to pass upon other matters specifically referred to the Planning Board by the City Council.

- H. To perform such other advisory duties as are assigned to it by ordinance or resolution of the City Council for the aid and assistance of the City Council or other agencies and officers.
- I. To study and report on such other matters as may be referred to it by the Mayor or Council.
- J. To make recommendations to the City Council upon referral of the official map or any amendment thereto. The Planning Board shall be the custodian of the Official Map of the City, as such Official Map is established, changed or amended from time to time pursuant to law; and shall cause any change, amendment or addition thereto or deletion therefrom made by ordinance to be recorded on the map by appropriate revision and notation.

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## **ARTICLE III Zoning Board of Adjustment**

### **§ 315-21. Establishment.**

A Zoning Board of Adjustment is hereby created pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven members. The Zoning Board of Adjustment may have not more than two alternate members.

### **§ 315-22. Appointment; term; alternate members.**

- A. Members shall be residents of the City of Trenton, and shall be appointed by the City Council. The members of the heretofore created Zoning Board of Adjustment are hereby reappointed to serve their respective terms. The terms of the members first appointed under this section shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed evenly over the first four years after their appointment and, in the case of alternate members, evenly over the first two years after their appointment; provided, however, that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years and the term of each alternate member shall be two years.
- B. Alternate members shall be designated at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."
- C. Alternate members may participate in the discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate is to vote, "Alternate No. 1" shall vote.
- D. No member of the Zoning Board of Adjustment shall hold an elective office or position under the City of Trenton.

### **§ 315-23. Lack of quorum due to conflicts of interest.** Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

If the Zoning Board of Adjustment lacks a quorum because any of its regular or alternate members is prohibited by N.J.S.A. 40:55D-69 or the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. from acting on a matter due to the member's personal or financial interest therein, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Zoning Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service to the Planning Board until there are

any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the Chair of the Planning Board shall make the choice.

#### **§ 315-24. Vacancy.**

Any vacancy on the Board occurring other than by expiration of term shall be filled by appointment by the City Council for the unexpired term of the member whose term shall become vacant.

#### **§ 315-25. Removal.**

A member may be removed by the City Council for cause, but only after public hearing, if requested, and other requested procedural due process protections.

#### **§ 315-26. Organization of Board.**

The Zoning Board of Adjustment shall organize annually by selecting from among its regular members a Chairperson and a Vice Chairperson. The Board shall also select a Secretary who may or may not be a member of the Board or a City employee.

#### **§ 315-27. Zoning Board Attorney.**

The office of Zoning Board of Adjustment Attorney is hereby created. The Board may annually appoint to such office and fix the compensation or rate of compensation of an attorney at law of New Jersey, other than the City Attorney.

#### **§ 315-28. Experts and staff.**

The Zoning Board of Adjustment may also employ or contract for, and fix the compensation of, such experts and other staff and services as it may deem necessary. The Board, however, shall not authorize expenditures which exceed, exclusive of gifts, grants, or application and escrow fees, the amount appropriated by the City Council for its use.

#### **§ 315-29. Budget.**

The City Council, after giving due consideration to budget requests that may be submitted by the Zoning Board of Adjustment shall make provisions in its budget and appropriate funds for the expenses of the Zoning Board of Adjustment.

#### **§ 315-30. Powers and duties.**

The Zoning Board of Adjustment shall have the power to:

- A. Appeals. Hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement or decision, or refusal made by the Zoning Officer based on or made in the enforcement of the zoning provisions of this chapter.
- B. Interpretations. Hear and decide requests for interpretation of the Zoning Map or the zoning provisions of this chapter or for decisions upon special questions upon which the Board is authorized to pass by any zoning provisions of this chapter or by any duly adopted Official Map.

## C. General bulk variances.

- (1) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property; or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation of this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.
- (2) Where, in an application or appeal relating to a specific piece of property, the purposes of this chapter would be advanced by a deviation from the zoning requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such zoning requirements; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in Subsection D below shall be granted under this subsection; and provided further, that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to § 315-20B.

## D. Use variance, variances from conditional use standards and major specific bulk variances.

- (1) In particular cases and for special reasons, grant a variance to allow departure from the zoning provisions of this chapter to permit:
  - (a) A use or principal structure in a district restricted against such use or principal structures.
  - (b) An expansion of a nonconforming use.
  - (c) A deviation from a particular specification or standard set forth in this chapter as pertaining solely to a conditional use, N.J.S.A. 40:55D-67.
  - (d) An increase in the permitted floor area ratio as defined in § 315-10 of this chapter and in N.J.S.A. 40:55D-4.
  - (e) An increase in the permitted density as defined in § 315-10 and in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling unit buildings, which lot or lots are either an isolated undersize lot or lots resulting from a minor subdivision, in which event applications would be made pursuant to Subsection C above.
  - (f) A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.
- (2) A variance under this section shall be granted only by affirmative vote of at least five members of the Board.

## E. General provisions.

- (1) No variance or other relief may be granted by the Board under the terms of this section, including an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and the zoning provisions of this chapter.
- (2) In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to

that act, except upon issuance of a permit by the Commissioner of Transportation.

- (3) An application under this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

F. Other powers and duties. The Zoning Board of Adjustment shall have such other powers prescribed by law, including, but not limited to, the following:

- (1) The Zoning Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision, site plan or conditional use approval whenever the proposed development requires approval by the Zoning Board of Adjustment of a variance pursuant to Subsection D of this section. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon a grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and the zoning provisions of this chapter. The number of votes of Board members required to grant such subsequent approval shall be as otherwise provided in this section for the approval in question, and the special vote pursuant to Subsection D of this section shall not be required.
- (2) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to section 23 of this act; or
- (3) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
- (4) Temporary permits may be authorized by the Zoning Board of Adjustment for a period not to exceed one year for nonconforming uses incidental to housing and construction projects, and including such structures and uses as storage of materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided that such permits are issued only upon agreement by the owner to remove the structure or structures upon expiration of the temporary permit. Such permits may be renewable for a period not to exceed three years.
- (5) The Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment shall send copies of the report and resolution to the City Council and Planning Board.

### **§ 315-31. Appeals and applications.**

A. Appeals from administrative decisions. Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of an administrative officer of the City based on or made in the enforcement of the zoning provisions of this chapter or a duly adopted Official Map. Such appeal shall be taken within 20 days by filing a notice of appeal with the official from whom the appeal is taken, with three copies of the notice given to the Secretary of the Zoning Board of Adjustment. The notice shall specify the grounds for the appeal. The official from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

## B. Plans required.

- (1) All applications or appeals before the Board requesting change in lot area, signs, building coverage, building renovation, demolition or use change shall be accompanied by plans, in duplicate, drawn to scale, showing the shape and dimensions of the lot to be built upon, the exact size and location on the lot of any existing buildings and accessory buildings, and the lines within which the building shall be altered or erected, the existing and intended use and dimensions of rooms in floor plans for each story, the existing and intended use of each building or part of a building, location of off-street parking area and the number of families or dwelling units the building is designed to accommodate.
- (2) Applications for signs shall include scaled drawings of the sign and describe the materials of construction and the nature, location and function of the sign.

C. Decision of Board. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all powers of the City official from whom the appeal is taken.

D. Stay of proceedings. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the City official from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal shall have been filed with him/her, that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the City officer from whom the appeal is taken and due cause shown.

E. Direct application to Board. A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to a City Construction Official.

F. Time for decision. The Zoning Board of Adjustment shall act upon an appeal or any application for development within 120 days either from the date the appeal is taken from the decision of the City official or from the date the application is certified as a complete application, as the case may be, or within such further time as may be consented to by the applicant, except that when an applicant elects to submit separate consecutive applications for use variance approval and site plan, subdivision or conditional use approval, the one-hundred-twenty-day time period for action shall apply to the application for approval of the use variance, and the time period for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the Zoning Board of Adjustment to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the Zoning Board of Adjustment to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

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## **ARTICLE IV Provisions Applicable to Both Planning Board and Zoning Board of Adjustment**

### **§ 315-32. Conflicts of interest.**

No regular or alternate member of the Planning Board or Zoning Board of Adjustment shall act on

Whenever any such member shall disqualify himself/herself from acting on a particular matter, (s)he shall not continue to sit with the Board on the hearing of such particular matter, nor participate in any discussion by the Board or any decision relating thereto.

### **§ 315-33. Meetings.**

- A. Meetings of both the Planning Board and the Zoning Board of Adjustment shall be scheduled no less than once a month. Any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairperson or on the request of any two Board members, which meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present. A quorum shall be the majority of the full authorized membership of the Board.
- D. All actions shall be taken by majority vote of the members of the Board present at the meeting, except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq. A member of the Board who was absent for one or more of the meetings at which a hearing was held or was not a member of the municipal agency at that time shall be eligible to vote on a matter upon which the hearing was conducted, notwithstanding such absence from one or more of the meetings, provided that such Board member has available to him/her the transcript or recording of all of the hearings from which (s)he was absent and certifies, in writing, to the Board that (s)he has read such transcripts or listened to such recordings.
- E. All regular meetings and all special meetings shall be open to the public, except as provided in the Open Public Meeting Law, N.J.S.A. 10:4-6. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Law.
- F. An executive session for the purpose of discussing and studying any matters to come before the Board shall not be deemed a regular or special meeting within the meaning of this section.

### **§ 315-34. Hearings.**

- A. The municipal agency shall hold a hearing on each application for development, adoption, revision or amendment of the master plan, each application for approval of an outdoor advertising sign submitted to the municipal agency as required pursuant to an ordinance adopted under N.J.S.A. 40:55D-39 or any review undertaken by the Planning Board pursuant to N.J.S.A. 40:55D-31. Each Board shall make rules governing such hearings.
- B. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Department of Housing and Economic Development. The applicant may produce any documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- C. The officer presiding at the hearings, or such persons as (s)he may designate, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply.
- D. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer. The right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and reasonable limitations as to time and

number of witnesses.

E. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

**§ 315-35. Notice of hearing.**

A. Public notice of a hearing shall be given for the following applications for development:

- (1) An extension of approvals for five or more years under N.J.S.A. 40:55D-49 and N.J.S.A. 40:55D-52.
- (2) Modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice.
- (3) Any request for a variance.
- (4) Any request for conditional use approval.
- (5) Any request for preliminary and final approval of a subdivision or site plan.
- .
- (6) Any request for certification of a nonconforming use.
- (7) Any request for relief N.J.S.A. 40:55D-60 or N.J.S.A. 40:55D-76 as part of an application for development otherwise excepted herein from public notice.
- (8) Any request by a public entity seeking to erect an outdoor advertising sign on land owned or controlled by a public entity as required pursuant to N.J.S.A. 40:55D-31.

B. The Secretary of the Planning Board or the Zoning Board of Adjustment, as the case may be, shall notify the applicant at least two weeks prior to the public hearing at which the application will be discussed. Notice of a hearing requiring public notice shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice shall be given at least 10 days prior to the date of the hearing in the following manner:

- (1) Publication in the official newspaper of the City, if there be one, or in a newspaper of general circulation in the City.
- (2) Notification by personal service or certified mail to the following. An affidavit of proof of the giving of the required notice shall be filed by the applicant with the Board at or prior to the hearing. It is not required that a return receipt be obtained. Notice is deemed complete upon mailing (N.J.S.A. 40:55D-14):
  - (a) To all owners of real property, as shown on the current tax duplicate, located in the state and within 200 feet in all directions of the property which is the subject of the hearing, provided that this requirement shall be deemed satisfied by notice to the condominium association, in the case of any unit owner whose unit has a unit above or below it, or to the horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (i) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (ii) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.
    - [1] Notice to a partnership owner may be made by service upon any partner.
    - [2] Notice to a corporate owner may be made by service upon its president, a

vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

[3] Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners or homeowners on account of such common elements or areas.

- (b) To the Clerk of any adjoining municipality or municipalities when the property involved is located within 200 feet of such adjoining municipality or municipalities.
- (c) To the Mercer County Planning Board when the application for development involves property adjacent to an existing county road or proposed road as shown on the County Official Map or County Master Plan, adjoining other county land or situated within 200 feet of a municipal boundary.
- (d) To the Commissioner of Transportation of the State of New Jersey when the property abuts a state highway.
- (e) To the State Planning Commission when the hearing involves an application for the development of property which exceeds 150 acres or 500 dwelling units, in which case the notice shall include a copy of any maps or documents required to be filed with the City.
- (f) Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection A. of this section shall be given: (1) in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with N.J.S.A. 40:55D-12.1, by (i) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (ii) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form; (2) in the case of a military facility which has registered with the municipality and which is situated within 3,000 feet in all directions of the property which is the subject of the hearing, by (i) serving a copy of the notice on the military facility commander whose name appears on the registration form or (ii) mailing a copy thereof by certified mail to the military facility commander at the address shown on that form.

C. Notification by personal service or certified mail notice shall be required for the initial public hearing on all applications requiring notice pursuant to §315-35.A., including the public hearings for both preliminary and final applications. If an application is continued to a subsequent hearing on a date certain, an announcement of such continuation and the date thereof shall be made at the time of continuation and re-notification by personal service or certified mail shall not be required.

D. Upon the written request of an applicant, the City Engineer's office shall, within seven days, make and certify a list from current tax duplicates of the names and addresses of owners within the City to whom the applicant is required to give notice. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice. The applicant shall be charged a fee as provided in § 315-70F for this list and shall be entitled to rely upon the information contained therein. Failure to give

notice to any lot owner, to any public utility, cable television company, or local utility or to any military facility commander not on the list shall not invalidate any hearing or proceeding. Additionally, the applicant shall be responsible for giving proper notice to all property owners pursuant to Subsection B(2) above, who do not reside within the City. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- E.. Notices required by this section shall state the date, time and place of the hearing, and shall include a capsulated statement of the nature and purpose of matters to be considered, an identification for the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the City Tax Assessor's office, and the location and times at which any maps and documents for which approval is sought are available.

### **§ 315-36. Records.**

- A. Minutes of every regular or special meeting shall be kept and shall include the names and addresses of the persons appearing and addressing the Board, and of any persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Department of Housing and Economic Development. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party shall be charged a reasonable fee for the reproduction of the minutes.
- B. A verbatim recording shall be made of every hearing on an application for development submitted to the City. The recording of the proceedings shall be made either by stenographer, mechanical or electronic means. The City shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his/her expense, provided that the charge for a transcript shall not exceed the maximum permitted by N.J.S.A. 2B:7-4. Each transcript shall be certified, in writing, by the transcriber to be accurate.

### **§ 315-37. Decisions.**

- A. Each decision on any application for development shall be reduced to writing by the Board and shall include findings of facts and conclusions thereon.
- B. The Board shall provide the findings and conclusions through:
  - (1) A resolution adopted at a meeting held within the time period provided in this chapter for action by the Board on the application for development; or
  - (2) A memorializing resolution adopted at a meeting held no later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member. An action pursuant to N.J.S.A. 40:55D-9, resulting from the failure of a motion to approve an application, shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution.
- C. The vote on any memorializing resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required in § 315-46.
- D. If the Board fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order

compelling the Board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the City.

### **§ 315-38. Conditional approvals.**

- A. Conditions precedent. Whenever any application for development is approved by the Board subject to specified conditions intended to be fulfilled before the approval becomes effective, such approval shall lapse and become null and void unless all specified conditions are fulfilled within 190 days of the date the approval was granted by the Board.
- B. Conditions subsequent. Whenever any application for development is approved by the Board subject to conditions which are not required to be fulfilled before the approval becomes effective and are not guaranteed pursuant to § 315-72, then the failure to fulfill any such condition within six months from the date of the approval of the application for development shall be grounds for the issuance of a stop-work order by the enforcing official and the withholding of any zoning permit, construction permit, certificate of occupancy or any other approval until such condition is fulfilled.
- C. Time limit for fulfilling condition. Nothing herein contained shall be construed as preventing the Board from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, upon an ex parte application, an extension of time for fulfilling a condition, for good cause shown.
- D. Notice of fulfillment. The fulfillment of all conditions, precedent or subsequent, shall be reported, in writing, to the Board, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision plat or site plan be signed or any required zoning permit, construction permit, occupancy permit or other approval be issued.

### **§ 315-38.1. Training in Land Use Law and Planning**

- A. Except as otherwise provided in § 315-38.1D, a person shall not be seated as a first-term member or alternate member of the Planning Board or Zoning Board of Adjustment unless the person agrees to take the basic course in land use law and planning required to be offered under N.J.S.A. 40:55D-23.3, which the person shall successfully complete within 18 months of assuming board membership in order to retain board membership.
- B. Except as otherwise provided in § 315-38.1D, any person who is serving as a regular or alternate member of the Planning Board or Zoning Board of Adjustment on the first date on which a course in land use law and planning is offered pursuant to N.J.S.A. 40:55D-23.3 shall be required to complete that course within 18 months of the date upon which the course is first offered in order to retain membership on that board.
- C. A hearing or proceeding held, or decision or recommendation made, by the Planning Board or Zoning Board of Adjustment shall not be invalidated if a member has participated in the hearing or proceeding or in the decision making or recommendation and that member is subsequently found not to have completed the basic course in land use law and planning required pursuant to N.J.S.A. 40:55D-23.3.
- D. The following persons shall be exempt from the educational requirements established pursuant to N.J.S.A. 40:55D-23.3:
  - 1. The mayor or person designated to serve on a planning board in the absence of a mayor who serves as a Class I member pursuant to N.J.S.A. 40:55D-23 and § 315-11.
  - 2. A member of the governing body serving as a Class III member pursuant to N.J.S.A. 40:55D-

23 and § 315-11.

3. Any person who is licensed as a professional planner and maintains a certificate of license issued pursuant to chapter 14A of Title 45 of the Revised Statutes which is current as of the date upon which that person would otherwise be required to demonstrate compliance with the provisions of N.J.S.A. 40:55D-23.3.
4. Any person who offers proof of having completed a more extensive course in land use law and planning than that required by N.J.S.A. 40:55D-23.3 and § 315-38.1 within 12 months of the date upon which that person would otherwise be required to demonstrate compliance with the provisions of N.J.S.A. 40:55D-23.3 and § 315-38.1 and which, in the determination of the commissioner, is equivalent to or more extensive than that course offered pursuant to N.J.S.A. 40:55D-23.3 and § 315-38.1.

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## **ARTICLE V Appeal of Zoning Board of Adjustment Decisions**

### **§ 315-39. Appeal to City Council or court.**

Any interested party may appeal to the City Council any final decision of the Zoning Board of Adjustment approving an application for a use variance pursuant to N.J.S.A. 40:55D-70d and § 315-30D. Notwithstanding the aforesaid right of appeal to the City Council, any party has the right to obtain a review of such Zoning Board of Adjustment decision by any court of competent jurisdiction according to law.

### **§ 315-40. Time for appeal; notice.**

Any appeal to the City Council shall be made within 10 days of the date of publication of such final decision pursuant to § 315-46. The appeal to the City Council shall be made serving the City Clerk, in person or by certified mail, with a notice of appeal specifying the ground thereof and the name and address of his/her attorney, if represented.

### **§ 315-41. Fees; transcript.**

- A. The applicant shall pay an application fee of \$100, and either:
  - (1) Within five days of serving the notice of the appeal, arrange for a transcript for use by the City Council and pay a deposit of \$50 or the estimated cost for such transcription, whichever is less, provided that the charge by the City to the applicant for the transcript shall not exceed the maximum permitted by N.J.S.A. 2B:7-4; or
  - (2) Within 35 days of serving the notice of the appeal, submit a transcript to the City Clerk for use by the City Council.
- B. Should the appellant neither arrange for nor submit a transcript, as provided hereinabove, the City Council may dismiss the appeal for failure to prosecute. All transcripts shall be certified, in writing, by the transcriber to be accurate.

### **§ 315-42. Notice of hearing; basis for decision.**

Notice of the meeting to review the record below shall be given by the City Clerk, by personal service or certified mail, to the appellant, to those entitled to notice of a decision pursuant to § 315-46, and to the Zoning Board of Adjustment at least 10 days prior to the date of the meeting. The appeal shall be

decided by the City Council only upon the record established by the Zoning Board of Adjustment. The parties may submit oral and written arguments on the record at the City Council meeting, and the City Council shall provide and pay for verbatim recording and transcripts of such meeting.

#### **§ 315-43. Time for decision.**

The City Council shall conclude a review of the record below not later than 95 days from the publication of the notice of the subject decision of the Zoning Board of Adjustment, unless the appellant consents, in writing, to an extension of such time period. Failure of the City Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period without such written consent of the appellant shall constitute a decision affirming the action of the Zoning Board of Adjustment.

#### **§ 315-44. Decision; vote necessary.**

The City Council may reverse, remand or affirm, with or without conditions, the final decision of the Zoning Board of Adjustment being appealed. The affirmative vote of a majority of the full authorized membership of City Council shall be necessary to reverse, remand or modify any final action of the Zoning Board of Adjustment. In the event that an affirmative vote of a majority of the fully authorized membership of the City Council is not obtained, the aforesaid final decision shall be deemed affirmed without charge.

#### **§ 315-45. Stay of proceedings.**

An appeal to the City Council shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Zoning Board of Adjustment certifies to the City Council, after the appeal has been filed, that, by reasons of facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by an order of the Superior Court, on application, upon notice to the Zoning Board of Adjustment, and on good cause shown.

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## **ARTICLE VI Notice of Decisions; Minimum Requirements**

#### **§ 315-46. Notice of decisions.**

Any decision of the Planning Board or the Zoning Board of Adjustment when acting upon an application for development and any decision of the City Council when acting upon an appeal shall be given notice in the following manner:

- A. Copy to applicant, interested parties. A copy of the decision shall be mailed by the appropriate City authority within 10 days of the date of decision to the applicant or appellant, or, if represented, then to his/her attorney, without separate charge. A copy of the decision shall also be mailed within 10 days to any interested party who has requested it and who has paid the designated fee.
- B. Newspaper notice. A brief notice of every final decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the City of Trenton. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if he so desires. The municipal agency may make a reasonable charge for its publication. The notice shall be sent to an official

newspaper for publication within 10 days of the date of any such decision.

C. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the municipality or the applicant.

### **§ 315-47. Minimum requirements.**

The rules, regulations and standards contained in this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the City of Trenton. Any action taken by the City under the terms of this chapter shall give primary consideration to the abovementioned matters and to the welfare of the entire City. Moreover, if an applicant can clearly demonstrate that, because of peculiar conditions pertaining to his/her land, the literal enforcement of one or more of the regulations within or referred to within § 315-10, Article IX (§ 315-56 et seq.) or Articles XXIV (§ 315-178 et seq.), XXV (§ 315-193 et seq.) and XXVI (§ 315-208 et seq.) is impracticable or will exact undue hardship, the appropriate Board may permit such exceptions as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter.

## **ARTICLE VII Enforcement**

### **§ 315-48. Compliance required.**

No structure or land shall be used in violation of this chapter and/or any approved site plan.

### **§ 315-49. Duties of Zoning Officer.**

A. It shall be the duty of the Zoning Officer to administer and enforce the provisions of this chapter. The City Zoning Officer shall inspect the structures and land in the City and order the owner, in writing, to remedy any condition found to exist in violation of any provision of this chapter and/or any site plan approved by the Planning Board or the Zoning Board of Adjustment, as the case may be, including any conditions of approval written in the approval resolution.

B. The Zoning Officer is hereby authorized to investigate any violation or alleged violation of the provisions of this chapter, whether by complaint of third persons or from their own personal knowledge or observation. When any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of any provision of this chapter, it shall be the duty of the Zoning Officer to proceed with the enforcement of said provision and the penalties provided for hereunder. Such enforcement may include the issuance of summons requiring an appearance in Municipal Court. The Zoning Officer may also pursue such other statutory method or methods, heretofore or hereafter provided, as may be available.

C. In the enforcement of the provisions of this chapter, the Zoning Officer may apply to the Municipal Court for a warrant to search and inspect the properties and premises upon which he/she has reason to believe any violation of said article has taken or is taking place, and upon probable cause shown, the Municipal Court Judge may issue such a warrant, and the information obtained pursuant thereto shall be admissible as evidence in any court of competent jurisdiction for the purpose of proving any case brought for violation of this chapter

### **§ 315-50. Notification of violation; hazardous conditions response.**

A. The Zoning Officer shall notify the owner of any structure or land found to exist in violation of any provision of this chapter and/or any approved site plan of such violation(s), in writing by certified

mail. Such notice shall specify that the owner will have 15 days thereafter to respond to the Zoning Officer as to such violation(s) and the remedies to be taken. A copy of the notice and response shall be immediately filed in the Office of Inspections.

- B. If the violation creates hazardous conditions, the Zoning Officer may require a response or correction within 24 to 48 hours.

#### **§ 315-51. Certificate of occupancy revocation.**

Upon notice being served of any condition found to exist in violation of any provision of this chapter and/or any approved site plan with respect to any land use, the certificate of occupancy for such use thereupon, without further notice, shall be null and void, and a new certificate of occupancy shall be required for any further use of such structure or land.

#### **§ 315-52. Report to City Attorney; filing of summons.**

- A. Within 15 days following the mailing of the notice to the owner, the owner shall respond to the Zoning Officer as to the violation(s) and the remedies to be taken. A lack of response from the owner shall result in an automatic filing of a summons in Municipal Court.
- B. 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, the proper local authorities, as contained herein, or an interested party 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 said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Each and every day such violation continues after the expiration of an abatement notice or after initial construction, as the case may be, shall be deemed a separate and distinct violation.

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## **ARTICLE VIII Permits and Certificates**

#### **§ 315-53. Construction permits.**

- A. Construction Official. It shall be the duty of the Construction Official to monitor the construction of any building or structure in the City.
- B. Permit plans; survey required.
  - (1) No new building addition or structure, and no improvement to the interior of any existing structure, including that which is exempt from site plan review, shall be undertaken until detailed site and drainage plans and a survey are submitted to the Construction Official and a construction permit is obtained from such official.
  - (2) For all new construction involving footings and foundations, a second site survey shall be submitted to the Construction Official after installation of footings and foundations in order to detail actual building location.
  - (3) Construction permits shall be required as provided by the State Uniform Construction Code, its subcodes and regulations promulgated pursuant thereto. Fees for construction permits shall be in accordance with the applicable ordinance of the City. *Editor's Note: See Ch. 42, Building Construction.*

**§ 315-54. Zoning permit.**

No land shall be used, no use shall be commenced and no structure shall be erected, constructed, reconstructed, altered, converted, and no land, use or structure shall be changed from an existing use to a new use until a zoning permit is issued by the Zoning Officer, stating the use, structure or building conforms and complies with the provisions of this chapter or that a variance has been granted from the appropriate provisions of this chapter by a Board of competent jurisdiction.

**§ 315-55. Certificates of occupancy.**

- A. Required. It should be unlawful to use or permit the use of any structure or part(s) thereof, either occupied by a new use or occupant or hereafter erected, altered, converted or enlarged wholly or in part, until a certificate of occupancy shall have been issued by the Construction Official, as stipulated by the Uniform Construction Code. *Editor's Note: See Ch. 42, Building Construction.*
- B. Application. Upon the completion of any building, structure or alteration in compliance with this chapter or any other ordinance, rule or regulation, the owner or his/her agent, may apply to the Construction Official, in writing, for the issuance of a certificate of occupancy for such structure, building or alteration pursuant to the provisions of this section.
- C. Fee. Every application for a certificate of occupancy shall be accompanied by payment of the fee in accordance with the applicable ordinance of the City.
- D. Site plans. With respect to any finally approved site plan, or section thereof, a certificate of occupancy shall be issued only upon the completion of the following improvements as such improvements may be required as part of site plan approval:
  - (1) Curbs, sidewalks and driveway aprons.
  - (2) All utilities.
  - (3) Water supply and sewerage treatment facilities, which shall be functioning and servicing the property in question.
  - (4) Storm drainage facilities.
  - (5) Rough grading of the property.
  - (6) Base course of the street or streets serving the property.
  - (7) Base course of driveways and parking areas.
  - (8) Regulatory signs and numbers.
  - (9) Open space plan and improvements.
- E. Copy at premises. A copy of any issued certificate of occupancy shall be kept on file at the premises affected and shall be shown to the Construction Official upon request.
- F. Prohibited uses prior to issuance. The following shall be unlawful until a certificate of occupancy is issued by the Construction Official:
  - (1) Occupancy and use of a structure erected, constructed, restored, altered or moved, or any changes in use of an existing structure.
  - (2) Occupancy, use or change in use of vacant land.
  - (3) Any change in the use of a nonconforming use.
  - (4) Occupancy and use of any enlargement to an existing structure.

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## **ARTICLE IX Development Application and Review Procedures**

### **§ 315-56. Overlapping powers of Planning Board and Zoning Board of Adjustment.**

The Planning Board and the Zoning Board of Adjustment have certain overlapping powers to expedite the review process. Their respective responsibilities are outlined below.

#### **§ 315-57. Jurisdiction of Planning Board.**

- A. The Planning Board shall have the power to grant subdivision or conditional use approval simultaneously with site plan approval.
- B. The Planning Board shall have the power to grant Bulk Variances/“C” variances pursuant to N.J.S.A. 40:55D-70c in lieu of the Zoning Board of Adjustment and subject to the same extent and restrictions of the Zoning Board of Adjustment when the Planning Board is reviewing applications for approval of subdivisions, site plans or conditional uses. Whenever relief is requested pursuant to this subsection, public notice shall be given and shall include reference to the requested variance(s).

#### **§ 315-58. Jurisdiction of Zoning Board of Adjustment.**

The Zoning Board of Adjustment shall have the power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision, site plan or conditional use approval when a Use Variance/“D” variance is also requested by an applicant pursuant to N.J.S.A. 40:55D-70d.

#### **§ 315-59. Review of all subdivisions required.**

All subdivisions, as defined under § 315-10, are subject to the review procedures specified herein, for the purpose of preventing the creation of undersized lots so as to maintain the character and integrity of the City's neighborhoods.

#### **§ 315-60. Site plan review.**

No construction permit shall be issued for any new structure, for any modification to an existing structure or for any addition to an existing structure, and no certificate of occupancy shall be issued for any change of use of an existing structure until the site plan has been reviewed and approved by the City, except that a construction permit for additions to any existing building of 1,000 square feet or less of floor area, or a single-family detached dwelling unit or a two-family dwelling unit, or their accessory building(s) on a lot, shall not require site plan approval. Applications for a conditional use permit may require site plan review and approval, per §315-63 et seq. of this code. The Planning Board may waive site plan review and approval for a change of use if the change of use will not result in an increase in the intensity of land use on the site.

#### **§ 315-61. Other approvals.**

In the event that an application for development requires an approval by a governmental agency other than the Board, the Board shall, in appropriate circumstances, condition approval upon the subsequent approval of such governmental agency, provided that the City shall make a decision on any application for development within the time period provided in this chapter, or within an extension of such period as has been agreed to by the applicant, unless the City agency is prevented or relieved from so acting by operation of law.

### **§ 315-62. Variance applications.**

All applications for variance relief to the Zoning Board of Adjustment not involving any related site plan, subdivision or conditional use approval shall be filed at least 15 days prior to the next regularly scheduled monthly meeting of the Board. The filing shall include 10 copies of any maps and related material; five completed copies of the appropriate application form(s), which includes the checklist for variances pursuant to N.J.S.A. 40:55D-10.3 attached to this chapter; and the fee in accordance with § 315-71. The Board shall act upon the application as stipulated by law.

### **§ 315-63. Conditional use; standards for review; time for decision.**

- A. All applications for conditional use shall be granted or denied by the Planning Board pursuant to Article XXII (§ 315-132 et seq.).
- B. The review by the Planning Board of a conditional use application shall include site plan review. In cases where a conditional use application does not include alteration of the exterior of a building and will not have an impact on parking requirements, the Planning Board may waive site plan submission requirements as provided for in § 315-65B. The time period for action by the Board on conditional use applications shall apply to such site plan review.
- C. If the development requiring conditional use approval deviates from a conditional use specification or standard, thereby requiring approval by the Zoning Board of Adjustment of a variance to allow such deviation, the Zoning Board of Adjustment shall, in lieu of the Planning Board, grant or deny the application.
- D. The Planning Board shall grant or deny an application for a conditional use within 95 days of submission of a complete application to the administrative officer of the Board, or within such further time as may be consented to by the applicant.

### **§ 315-64. Informal review**

- A. At the request of the developer, the City's Division of Planning staff or the Planning Board shall grant one informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development.
- B. The developer shall not be required to submit any fees for the one informal review by the Planning Board; however, no professional review(s) will be undertaken of any concept plat or concept plan.
- C. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.
- D. A developer desiring to have a concept plan informally reviewed by the City's Division of Planning Staff or by the Planning Board shall so notify the administrative officer at least 14 days prior to the next regularly scheduled monthly meeting of the Planning Board. The administrative officer shall thereafter notify the developer of the time and place of the informal review which has been scheduled by Planning staff or the Planning Board.

### **§ 315-65. Waiver of subdivision or site plan regulations; simultaneous review and approval.**

- A. The Planning Board, when acting upon applications for preliminary or minor subdivision approval, shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

- B. The Planning Board, when acting upon applications for preliminary site plan approval, including site plan approval related to conditional use applications, shall have the power to grant exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.
- C. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the Planning Board, or the Planning Board being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this subsection, notice of the hearing on the plat shall include reference to the request for such conditional use.

**§ 315-66. Minor Subdivision plat and minor site plan applications.****A. Procedure.**

- (1) For all minor subdivision plat and minor site plan applications, an applicant shall submit to the administrative officer, at least 30 days prior to the first regularly scheduled monthly meeting of the Planning Board or the Zoning Board of Adjustment, as the case may be:
  - (a) 5 completed copies of the appropriate application form(s), which includes the checklist(s), attached to this chapter as Appendices A and B, and the items of information required therein pursuant to N.J.S.A. 40:55D-10.3.
  - (b) 10 copies of the minor or preliminary major plat and/or plan at a scale of not less than one inch equals 50 feet, printed on one of the following standard sheet sizes: 8 1/2 x 13, 15 x 21, 24 x 36, 30 x 42. The plat and/or plan must be signed and sealed by a New Jersey licensed professional engineer, or other representative deemed acceptable by the City's Division of Planning staff and folded into eights with the title block revealed.
  - (c) 1 reduced-scale copy of the plat or plan printed on 11 x 17 sized paper.
  - (d) 5 copies of protective covenant or deed restrictions affecting the property, as applicable.
  - (e) Application fee in accordance with Article X (§315-70 et seq.).
- (2) The application shall contain an acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon subdivision plats and agrees to be bound by it. The application shall also contain certification that the applicant is the owner of the land or the properly authorized agent of the owner, or that the owner has consented to the application under an option agreement. The administrative officer shall process the application and shall issue an application number, which number shall be communicated to the applicant. Once an application has been assigned a number, such number shall appear on all papers, maps, plats or plans and other documents for processing in conjunction with the application.
- (3) Major subdivision and major site plan applications, as defined in § 315-10, shall be subject to both a preliminary and a final hearing.
- (4) Prior to any subdivision of property, any existing lots to be included in the proposed subdivision must be consolidated.

**B. Details required for minor/preliminary major subdivision plat and minor/preliminary major site plan applications.**

- (1) Each plat shall be drawn from a field survey by a professional engineer or land surveyor licensed to practice in the State of New Jersey, and shall bear the signature, seal, license number and telephone number of such professional engineer or land surveyor. All engineering data shall be signed and sealed by a professional engineer, and all surveying data shall be signed and sealed by a professional land surveyor.
- (2) Each submission shall be drawn at an appropriate scale of not less than one inch equals 50 feet and shall be submitted on one of the following standard sheet sizes: 8 1/2 inches by 13 inches; 15 inches by 21 inches; 24 inches by 36 inches; or 30 inches by 42 inches.
- (3) If one sheet is not sufficient to contain the entire project site, the property may be divided into sections to be shown on separate sheets of equal sizes, with reference on each sheet to the adjoining sheets. Each subdivision plat and site plan shall show the following information, as applicable:

- (a) A key map showing the entire project site and its relation to the surrounding area, at a scale of one inch equals not more than 2,000 feet.
- (b) A title block in accordance with the rules governing title blocks for professional engineers, N.J.A.C. 13:4-8.2, including:
  - [1] The name of the subdivision or development and City of Trenton and Mercer County.
  - [2] The name, title, address and telephone number of the applicant.
  - [3] The name, title, address and license number of the professional or professionals who prepared the plat or plan.
  - [4] The name, title and address of the owner(s) of record.
  - [5] The scale, in written and graphic form.
  - [6] The date of original preparation and of each subsequent revision thereof, and a list of the specific revisions entered on each sheet.
- (c) North arrow.
- (d) For both subdivisions and site plans- the square footage or acreage of the project site to the nearest hundredth of an acre, not including areas within public rights-of-way. For site plans- a computation of the area of the project site to be disturbed.
- (e) Approval signature lines for:
  - [1] The Planning and/or Zoning Board of Adjustment Chairperson.
  - [2] The Planning and/or Zoning Board Secretary.
  - [3] The Director of the Division of Planning.
- (f) The existing tax sheet number(s) and existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the City Tax Map, and proposed block and lot numbers, as provided by the City Tax Assessor upon written request.
- (h) The subdivision or development boundary line must be shown as a heavy solid line.
- (i) The location of existing and proposed:
  - [1] Property lines, with bearings and distances;
  - [2] Streets, alleys, structures with their numerical dimensions and an indication as to whether existing structures will be retained or removed;
  - [3] Parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, and drainpipes;
  - [4] Any natural features, such as wetlands and trees; and
  - [5] Any historic landmarked areas or sites, as indicated on the Historic Landmarks and Districts Map attached to this chapter. *Editor's Note: This map is on file in the City Clerk's office.*
  - [6] Any redevelopment areas, as indicated on the City's Redevelopment Areas Map. *Editor's Note: This map is on file in the City Clerk's office.*
- (j) The location and width of all existing and proposed utility easements.
- (k) Zoning districts on and adjacent to the project site, including district names and requirements, with proposed variance requests.
- (l) Proposed buffer and landscaped areas.
- (m) Delineation of floodplains, including both floodway and flood fringe areas.

- (n) Contours, as shown on the USGS topographic maps.
- (4) The names and lot and block numbers of all property owners within 200 feet of the extreme limits of the project site, as shown on the most recent tax list prepared by the City Engineer's office.
- (5) A certificate from the City Tax Collector that all taxes and assessments are paid to date shall be provided with the application.
- (6) No subdivision involving any street(s) requiring additional right-of-way or cartway width, as specified in the Master Plan or Official Map and the street requirements of this chapter, shall be approved unless such additional right-of-way, either along one or both sides of such streets, as applicable, shall be granted to the City or other appropriate governmental agency.
- (7) No subdivision involving any corner lot shall be approved unless a sight triangle shall be granted as specified in this chapter.
- (8) Deed descriptions, including metes and bounds, easements, covenants, restrictions and roadway and sight triangle dedications, shall be submitted for approval prior to filing with the county recording officer.

**§ 315-67. Preliminary major subdivision plat and preliminary major site plan applications.**

- A. All preliminary major subdivision plat and preliminary major site plan applications shall include all documents and details enumerated in § 315-66 et seq. of this chapter.
- B. Additional requirements for preliminary major site plan applications.
  - (1) Enumeration of requirements.
    - (a) The location and species associations of all existing individual trees or groups of trees having a caliper of eight inches or more measured three feet above the ground level on portion(s) of the site that are proposed to be disturbed. The proposed location of all proposed plantings shall be indicated and a legend provided listing the botanical and common names, the sizes at time of planting, the total quantity of each plant, and the location of each plant keyed to the plan or plat.
    - (b) All existing and proposed bridges, culverts, drainage swales, and watercourses both on the project site and within 200 feet of its boundaries shall be shown. Cross sections of the watercourses and/or drainage swales must be provided at an appropriate scale showing the extent of the floodplain, top of bank, normal water levels and bottom elevations.
    - (c) Existing and proposed contours with intervals of five feet. All contour information shall refer to a known datum. Existing contours shall be shown as a dashed line; finished grades shall be shown as a solid line.
    - (d) A soil erosion and sediment control plan as required by N.J.S.A. 4:24-39 et seq.
    - (e) Locations of all existing structures, showing existing and proposed front, rear and side yard setback distances, an indication of whether the existing structures and uses will be retained or removed, and any landmark areas or

sites as indicated on the City's Historic Landmarks and Districts Map.

(f) The size, height and location of all proposed buildings, structures, signs and lighting facilities.

(g) A zoning compliance table demonstrating conformity to the requirements of the zoning district(s) in which the property is located. Information to be shown on this table must include, but is not limited to lot size, lot coverage, building setbacks, building height, floor area ratio, and parking requirements, as well as whether or not any variances are being requested. All tract and lot sizes shall be expressed in square feet and shall include bearings and distances.

(h) Architectural drawings, which shall include:

- [1] Proposed floor plans
- [2] Proposed elevations
- [3] Indication of room sizes and building height of proposed/existing structures on both floor plans and elevations.
- [4] Materials and manufacturers of building details including windows and siding.
- [5] Color palette for proposed structures, including but not limited to façade, trim, and roof.
- [6] Proposed façade details including, but not limited to doors, shutters, and cornices.
- [7] Materials, sizes and treatments for all porches, stoop areas, garden walls, planters and stair railings, as well as landscaping in accordance with § 315-210.
- [8] Height, size, boundaries and entry/gate locations for all fencing.
- [9] Locations, type and character of all proposed wall mounted light fixtures, mail boxes and any other exterior building features.
- [10] Proposed paving patterns and brick work for sidewalks, driveways and parking areas.
- [11] Size, color, materials for any proposed building signage, unless already included on engineering drawings, as well as scaled representations on elevations including verbiage and font style.
- [12] Design and location of any proposed freestanding signs including size and materials to be used.

(i) The proposed location, direction of illumination, power and type of proposed outdoor lighting, including details of lighting poles, luminaries and hours of operation in accordance with Article XXVI (§ 315-208 et seq.). This information shall be provided in both textual form and shown on the plat.

(j) A proposed landscaping, screening, buffering and open space plan in accordance with Article XXVI (§ 315-208 et seq.) and Article XXVII (§ 315-211, et seq.).

(k) The location and design of any off-street parking area, showing size and location of parking spaces, aisles and barriers. Landscaping in parking areas shall be provided in accordance with the provisions of § 315-210.

(l) Proposed public art and location of such art to be provided by the Applicant as part of the proposed project per § 315-215, as applicable.

(m) All means of vehicular access and egress to and from the site onto public streets and alleys showing the site and the location of driveways, cartways

and curb cuts, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, sight triangle easements, additional width and other proposed devices necessary to prevent vehicular conflicts. Curb cuts are discouraged on major arteries unless no alternate practicable means to access the site are available. All curb cuts are subject to review and approval by the City's Department of Public Works.

At the discretion of the Planning Board and/or Zoning Board of Adjustment, a traffic impact study may be required to assess the traffic impacts that are expected to result from a proposed development. In the event that a traffic impact study is required, sufficient escrow must be provided by the Applicant to cover the costs of professional review services for the study, per §315-71.

- (n) The application shall include plans and computations for any storm drainage system(s) in order to demonstrate compliance with the provisions of this chapter, and Chapter 254: Stormwater Management of the City Code, including but not limited to the following:
  - [1] All existing or proposed storm lines within or adjacent to the tract showing size and slope of the lines, direction of flow and the location of each catch basin, inlet, manhole, culvert and headwall in plan and profile.
  - [2] A map drawn to scale, minimum scale one inch equals 50 feet, showing the contributing area to each inlet or cross drain.
- (o) The location of existing infrastructure such as water and sewer mains, utility structures, gas transmission lines and high tension power lines on the project site and within 200 feet of its boundaries.
- (p) Plans of proposed infrastructure improvements and utility layouts, including sewers, storm drains and waterlines and feasible connections to gas, telephone and electrical utility systems.
- (q) Plans for proposed streets including typical cross sections and construction details, horizontal and vertical alignments of the center line of all proposed streets and of all existing streets abutting the project site. The vertical alignments shall be based on USGS vertical datum and shall include curbing, sidewalks, storm drains, drainage structures and cross sections every half and full station of all proposed streets and of all existing streets abutting the project site. Sight triangles, the radius of curblines and street sign locations shall be clearly indicated at all intersections.
- (r) Any protective covenants or deed restrictions applying to the land being developed shall be indicated on the submitted subdivision plat or site plan.
- (s) Any proposed permanent monuments shall be shown, in accordance with the Map Filing Act, N.J.S.A. 46:23-9.9 et seq.
- (t) The Applicant shall provide proof of review and approval from the New Jersey State Delaware and Raritan Canal Commission, where applicable.
- (u) The Applicant shall submit a copy of the site plan application to the City of Trenton Historic Landmark Commission for advisory review, where applicable.
- (v) The Applicant shall submit a subdivision application to the Mercer County Planning Board for review and approval.

(w) The Applicant shall submit a recycling plan to the Mercer County Improvement Authority, as set forth in the county recycling plan, for any new development of 50 or more single-family units, 25 multifamily units and 1,000 square feet or more of lot area for commercial or industrial use.

(2) Consideration of Built Context.

In addition to the above requirements, the Planning Board shall consider the relation of proposed structures to the surrounding built environment in its review of site plan applications. Proposed structures shall be related harmoniously to themselves and to existing topography, buildings and roads in the vicinity of the project site. The achievement of a harmonious relationship may include the creation of focal points with respect to public views of the site, surrounding terrain and other buildings. Proposed structures shall be sited so as to minimize any adverse impact upon the surrounding area and particularly upon any nearby residences by reason of:

- (a) Building location, height, bulk and shadows.
- (b) Location, intensity, direction and times of use of outdoor lighting.
- (c) Likelihood of nuisances.
- (d) Other similar considerations.

Appropriate natural or artificial screening may be required to minimize any potential adverse impacts.

(3) The City and the Planning Board and/or Zoning Board of Appeals reserve the right to require additional information before granting a preliminary subdivision and/or site plan hearing or approval when, in their judgment, such additional information is required in order for the relevant Board to make an informed decision or when unique circumstances affect the project site or when the application for development poses special problems for the project site and the surrounding area. Such information shall include, but not be limited to, drainage calculations and traffic impact analyses or engineering studies.

#### C. Sustainable Design Incentives.

(1) The City of Trenton shall promote sustainable/ "green" design practices for site planning and building design in accordance with the following sustainable design guidelines or any official sustainable design guidelines adopted by the State of New Jersey. Applications for *development* are encouraged but not required to comply with these sustainable design guidelines. As part of all site plan applications, applicants must indicate what efforts they have made to incorporate these guidelines into their site plans.

##### Sustainable Design Guidelines:

- (a) Improve Energy and Water Efficiency (thereby reducing energy costs).
  - [1] Orient buildings to the south.
  - [2] Site taller buildings to minimize shadows on open space and other buildings.
  - [3] Orient open space to maximize winter solar exposure.
  - [4] Provide tree canopy cover and reduce hardscape in areas with high summer solar exposure.
  - [5] Provide opportunities for vegetated screening, awnings, overhangs, and adjustable shade structures on buildings with high summer solar exposure.
  - [6] Use roof-top gardens to reduce solar gain in summer and insulate in winter.
  - [7] Utilize ENERGY STAR appliances, compact fluorescent light bulbs (CFLs), low flow toilets and shower heads or other similar energy-saving and/or water-saving fixtures.
- (b) Incorporate sustainable site design.

- [1] Minimize disturbed areas by limiting clearing and grading to a carefully described development envelope.
- [2] Recycle construction and demolition materials.
- [3] Increase the extent of on-site landscaping beyond the minimum required by this chapter.
- [4].
- [5] Minimize the need for fertilization and pesticides while reducing the need for watering by encouraging the growth of native and well adapted species .
- [6] Reduce soil erosion.
- [7] Promote natural recharge and infiltration without the threat of surface contamination.
- [8] Reduce runoff volumes and peak runoff rates.
- [9] Use sustainable stormwater systems including bioswales/rain gardens, permeable surfaces, grey water systems, retention and detention facilities, and continuous trenching.
- [10] Use recycled materials on site.
- [11]Provide safe public access to waterways via pathways and boardwalks.
- [12] Orient buildings to gather wind for dispersion of air pollutants.

(2) Applications proposing to incorporate sustainable/"green" design practices for site planning and building design as described herein *above*:

- (a) Shall be expedited by the City's Department of Planning and Economic Development by receiving priority *review* and consideration before other applications.
- (b) May, at the discretion of the Planning Board, be eligible for an increase in development density on-site of up to 15%, provided that documentation is prepared by a licensed engineer, demonstrating:
  - [1] An increase in energy efficiency.
  - [2] An increase in water efficiency.
  - [3] A reduction in the rate and quantity of stormwater runoff levels from *predevelopment* conditions.

The Planning Board shall grant or deny this density bonus as part of preliminary site plan review. In each zoning district, a 15% increase in the number of housing units, or a 15% increase in the square footage of non-residential uses to include a 15% increase in FAR which ever is applicable, is allowed as a matter of right if the requirements of this section are met. Bonusable units or square footage shall reflect the same general unit mix and design as the non bonusable units.

### **§ 315-68. Final subdivision plat and final site plan applications.**

A. Procedure. A final plat or final plan shall be submitted to the administrative officer within three years after the date of preliminary approval, or any authorized extension thereof. The applicant shall submit to the administrative officer, at least 30 days prior to the first regularly scheduled meeting of the Planning Board or the Zoning Board of Adjustment, as the case may be:

- (1) three (3) completed copies of the appropriate application(s), which includes the checklist(s) pursuant to N.J.S.A. 40:55D-10.3 and the items of information required therein, attached to this chapter as Appendix C.
- (2) six (6) copies of the final subdivision plat and/or site plan at a scale of not less than one inch equals 50 feet, printed on one of the following standard sheet sizes: 8 1/2 x 13, 15 x 21, 24 x 36, 30 x 42. The plat and/or plan must be signed and sealed by a New Jersey professional engineer and folded into eights with the title block revealed.
- (3) 1 reduced-scale copy of the plat or plan printed on 11 x 17 sized paper
- (4) A fee in accordance with Article X (§ 315-71 et seq.).
- (5) An acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon final site plans and final subdivisions, and agrees to be bound by it.

B. Details required for final site plans.

- (1) All details stipulated in § 315-66B and § 315-67 et seq.
- (2) All additional details required at the time of preliminary approval.
- (3) Detailed architectural and engineering data including:
  - (a) An architect's third angle projection drawing, with total envelope dimensions, of each structure and sign or of a typical structure and/or sign, showing front, side and rear elevations.
  - (b) Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including center line geometry and horizontal alignments with bearings, radii and tangents.
  - (c) Plans and profiles of all storm and sanitary sewers and water mains.
  - (d) Satisfaction of City of Trenton art requirement, where applicable.
- (4) The final submission shall be accompanied by a certificate from the City Tax Collector that all taxes and assessments are paid to date.

### **§ 315-69. Action by City.**

A. Reviewing completeness of applications. The Division of Planning shall review any of the aforesaid applications for the purpose of determining, within 45 days of its submission, whether such application is complete.

- (1) If the application is found to contain all of the information required by the checklist, the Division of Planning shall certify that the application is complete. *Editor's Note: The checklist is included at the end of this chapter.*
- (2) If the application is found to lack some of the information required by the checklist, the Division of Planning shall either:

- (a) Cause the applicant to be notified, in writing, that the application is incomplete, specifying the deficiencies in the application; or
- (b) If the Division reasonably concludes that the missing items of information are necessary to make an informed decision on the application, but are not of such significance to cause the application to be deemed incomplete, the Division may declare the application complete, conditioned upon the submission of the missing items of information to the administrative officer within 10 days; or
- (c) If the Division reasonably concludes that the missing items of information are not necessary for it to make an informed decision on the application, the Division may waive the requirement that such items be supplied as a prerequisite for completeness and certify that the application is complete, notwithstanding the missing items.

- (3) An applicant who has been notified that his/her application is incomplete may request a waiver of one or more of the submission requirements set forth in the relevant sections of this chapter. Such request shall be granted or denied by the Board within 45 days thereafter.
- (4) In the event the Division of Planning fails to act pursuant to Subsection A(1) and (2)(a) and (b) above within 45 days of the date of submission of the application, the application shall be deemed complete as of the 46th day following its submission.

B. Determination of completeness. On the date the application is certified complete, or on the 46th day following the submission of the application in the event the Division of Planning fails to make a determination of completeness, as the case may be, the applicable time period within which the Board must act upon the application shall commence. In any case, the applicant is obliged to prove that (s)he is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error, may require submission of additional information not specified in this chapter, or may require revisions in the application documents as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met, provided that the application shall not be deemed incomplete for lack of any such additional information or revisions.

C. Distribution of application. Promptly after certification of completeness, the application documents shall be distributed by the administrative officer to the following:

- (1) The Planning Board or the Zoning Board of Adjustment, as the case may be, seven copies of the preliminary and final plat or plan and seven copies of the application.
- (2) The Division of Planning, two copies each of the preliminary and final plat plan and the application.
- (3) The Planning Board or Zoning Board of Adjustment attorney, as the case may be, one copy each of the preliminary and final plat or plan and the application.
- (4) The Construction Official, one copy of the preliminary and final plat or plan.
- (5) The Zoning Officer, one copy of the preliminary and final plat or plan.
- (6) The Planning Board or Zoning Board of Adjustment Secretary, as the case may be, one copy of each of the preliminary and final plat or plan and the application.
- (7) At the direction of the Planning Board or the Zoning Board of Adjustment, as the case may be, additional copies of the preliminary and final plat or plan shall be sent to other city, county or state agencies and officials, including a subdivision or site plan committee as may be designated by the Board.

D. Planning Staff Review. Planning Staff shall read any written report submitted concerning the application and shall itself review the submission to ascertain its conformity with the requirements of this chapter. Planning Staff shall hold meetings on the application and shall maintain minutes of the meetings, such minutes to be made a part of the record of the Board. Planning Staff shall offer

its recommendations to the Board.

- E. Public notice of hearing. All hearings held on any applications for subdivision approval and site plan approval shall require public notice of the hearing, unless such requirement is waived by the Planning Board for a minor application. The Division of Planning shall set the date, time and place for the public hearing and shall inform the applicant of this at least 14 days prior to such hearing date. Notice of the hearing in accordance with the requirements of § 315-35B shall be given by the applicant at least 10 days prior to the date of the hearing.
- F. Time for action by the Board. The Board shall take action on any site plan and any subdivision application within 45 days after the application has been certified complete or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application, except in the case of the following circumstances:
  - (1) Any preliminary site plan or subdivision application which includes any request variance relief pursuant to N.J.S.A. 40:55D-60 and § 315-57B of this chapter shall be acted upon within 120 days, or within such further time as may be consented to by the applicant.
  - (2) Any preliminary site plan application involving more than 10 acres of land, more than 10 dwellings or a preliminary subdivision application involving more than 10 lots shall be acted upon within 95 days after the application has been certified complete, or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application, provided that any preliminary site plan or preliminary subdivision application which includes any request variance relief pursuant to N.J.S.A. 40:55D-60 and § 315-57B shall be acted upon within 120 days, or within such further time as may be consented to by the applicant.
  - (3) The Planning Board shall take action on a preliminary site plan application or subdivision application under its jurisdiction unless the preliminary site plan or subdivision application is being considered by the Zoning Board of Adjustment simultaneously with an application for an use variance in accordance with N.J.S.A. 40:55D-70d and § 315-30D of this chapter, in which case the Zoning Board of Adjustment shall act on all aspects of the application within 120 days after the application has been certified complete by the Zoning Board of Adjustment, or within such further time as may be consented to by the applicant. Failure of the Board to act within the prescribed time period shall constitute approval of the application.

G. Approval conditioned on revision.

- (1) Should minor revisions or additions to the plat or plan be deemed necessary, the Board may grant preliminary approval subject to specified conditions and receipt of revised plans within 60 days from the date of such approval. Should major revisions be deemed necessary, the Board shall require that an amended plat or plan be submitted and acted upon as in the case of the original application.
- (2) Any proposed subdivision or development determined by the Board to be creating, imposing, aggravating or leading to the possibility of an adverse effect upon either the property in question or upon any adjacent properties may be required to be revised to remove any adverse effect(s) prior to further review, classification or approval by the Board.
- (3) Where the remaining portion of the original tract is sufficient to be subdivided or developed further, the applicant may be required to submit a sketch of the entire remaining portion of the tract to indicate a feasible plan whereby the applied for subdivision or development, together with subsequent subdivision(s) or development(s), may be submitted that will not create, impose, aggravate or lead to any adverse effect.

H. Minor technical changes to approved plans; administrative review.

- (1) Should a minor technical change to an approved plat or plan be required as a result of field conditions related to code or health and safety issues, the Planning Board may defer

consideration and approval of such minor technical changes to the Director of the Division of Planning.

I. Considerations by Board.

- (1) The recommendations of those agencies and officials to whom the plat or plan was submitted shall be given careful consideration in the final decision on the development application. If the County Planning Board approves the submission, such approval shall be noted on the plat or plan. If the Board acts favorably on the final plat or plan, the Director of the Division of Planning and the Chairperson and Secretary of the Board, or the Acting Chairperson or Secretary where either or both may be absent, shall affix their signatures to at least seven paper copies of the plat or plan, with the notification that it has been approved.
- (2) If the Board, after consideration and discussion of the preliminary plat or plan determines that it is unacceptable, a notation shall be made by the Chairperson of the Board to that effect on the plat or plan, and a resolution shall be adopted in accordance with § 315-37 setting forth the reasons for such rejection. One copy of the plat or plan and such resolution shall be returned to the applicant within 10 days of the adoption of such resolution.

**§ 315-70. Effect of approvals.**

A. Subdivision approval.

- (1) When a subdivision is approved by the Board, a notation to that effect, including the date of approval, shall be made on a master copy. At least 10 prints of the plat or plan and any related deed descriptions to be filed with the county recording officer by the applicant shall be signed by the Director of the Division of Planning and the Chairperson and Secretary of the Board, or the Acting Chairperson or Secretary where either or both may be absent. No further approval of the application shall be required and the Secretary of the Board, within 10 days of the date of approval, shall notify the applicant of the Board's action. Additionally, the Secretary of the Board shall forward to the applicant a copy of the approval resolution, adopted in accordance with § 315-37, within 10 days of its adoption by the Board.
- (2) When a subdivision is disapproved by the Board, the Secretary of the Board, within 10 days of such action, shall notify the applicant of such disapproval. Additionally, the Secretary of the Board shall forward the applicant a copy of the disapproval resolution, adopted in accordance with § 315-37, within 10 days of its adoption by the Board, setting forth the reasons for the disapproval.
- (3) Within 190 days from the date of approval by the Board of a minor subdivision, a plat map drawn in compliance with the approval and the Map Filing Act, N.J.S.A. 46:23-9.9 et seq., or deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the municipal engineer and the municipal tax assessor. Any such plat or deed accepted for such filing shall have been signed by the Chairperson and Secretary of the Board, or the Acting Chairperson or Secretary where either or both may be absent. Unless filed within 190 days, the approval shall expire and will require new Board approval as in the first instance.
- (4) The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two years after the date of minor subdivision approval by the Board, provided that the approved minor subdivision shall have been duly recorded.
- (5) Within 95 days of approval by the Board of a final subdivision plat, the subdivider shall file a copy of same with the Mercer County Clerk. In the event of failure to file within 95 days, the approval of the major subdivision shall expire and any further proceedings shall require the

filings of a new application as in the first instance. The Board, for good cause shown, may extend the filing for an additional 95 days.

B. Effect of preliminary approval. Preliminary approval shall confer upon the applicant the following rights for a three-year period from the date of preliminary approval:

- (1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including, but not limited to, use requirements, layout and design standards for streets, curbs and sidewalks, lot size, yard dimensions and off-tract improvements;
- (2) That the applicant may submit for final approval, on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary plat or plan; and
- (3) That the applicant may apply for, and the Board may grant, extensions on such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.

C. Effect of final approval. Final approval of a subdivision or site plan shall confer upon the applicant the following rights for a period of two years from the date of final approval:

- (1) The zoning requirements applicable to the final approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed.
- (2) If the developer has followed the standards prescribed for final approval, the Board may extend the period of protection for extensions of one year each, not exceeding three such extensions.

D. Effective term of use variance approval. Approval of a use variance granted by the Zoning Board of Adjustment shall expire after two years from the date of granting of the variance if no construction, alteration or conversion has commenced within such time.

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## **ARTICLE X Fees, Guarantees and Off-Tract Improvements**

### **§ 315-71. Application fees and escrow fees for professional review services.**

#### **Authorized by Ordinance 09-043**

Every application for development is subject to an application fee, professional development fee, escrow fee for professional review services and administrative fees. These fees must be paid upon submission of any development application to the City of Trenton and must be provided in four separate checks payable to the City of Trenton.

#### **A. Application fee.**

Each application for development shall be accompanied by payment of a non-refundable application fee as set forth in §315-70C. There shall be a separate fee required for preliminary and final site plan applications as well as subdivision and conditional use applications.

#### **B. Professional development fee.**

Per (N.J.S.A. 40:55D-8(b), development applications are subject to a professional development fee to defray the cost of tuition for those persons required to take the course in land use law and planning in the municipality as required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et seq.). All site plan and subdivision

applications shall be accompanied by payment of a non-refundable professional development fee as set forth in §315-70C.

### C. Fee Schedule

<u>Type of Application</u>	<u>Application Fee</u>	<u>Professional Development Fee</u>
Site Plan/Subdivision		
Preliminary Site Plan <sup>1</sup>		
Up to 1,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40
Final Site Plan <sup>1</sup>		
Up to 10,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40
Preliminary Subdivision		
Up to 10,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40
Final Subdivision		
Up to 10,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40
Conditional Use Permit	\$200	n/a
Variance	\$200	n/a
Designation of Redevelopment Area & Creation of Redevelopment Area Plan	\$2,500	n/a
Amendment to Redevelopment Plan	\$1,500	n/a

<sup>1</sup> For preliminary and final site plan review there is an additional fee of \$100 for every 50,000 square feet of floor area, or fraction thereof, in excess of the first 50,000 square feet of any development.

D. Escrow fees for professional review services.

(1) Each application for development shall be accompanied by payment of an escrow fee in addition to the nonrefundable application fee set forth above, to be deposited with the City. The amount of the escrow fee shall be as set forth in the schedule below:

Type of Application	Escrow Fee
Site Plan Review	\$300 +  Residential Non-Residential \$100 per dwelling unit \$425 per 1,000 gsf
Subdivision Review	\$300+ \$100 per lot If a subdivision includes the dedication of public roads, the fee shall be \$150 per lot.
Conditional Use Permit Review <sup>1</sup>	\$300 <sup>2</sup>

<sup>1</sup> This fee is applicable to conditional use permit applications that do not require submission of a full site plan, per 315-63B. When a full site plan review is required as part of a conditional use permit application, the site plan review escrow fees shown in the above chart shall apply.

<sup>2</sup> With the exception of conditional use permit applications for telecommunications facilities. Escrow fees applicable to conditional use permit applications for telecommunications facilities are enumerated in Article XXIII, § 315-159.

(2) Performance standard review required under §315-165: \$300.

(3) Waiver of escrow requirement. A waiver of all or part of the escrow fee requirement for performance standard review applications or site plan applications containing 10 or fewer residential units, or 20,000 or fewer gross square feet of nonresidential space, may be granted at the sole discretion of the Planning Board, after receiving a staff recommendation. The granting of a full or partial waiver shall be based upon review of a completed application and a finding that the nature of the application and its potential impacts are such that no substantial technical or professional review is required.

(4) Use of escrow funds. Escrow fees shall be utilized to cover the cost of professional services required for the review of application materials, the conduct of hearings on the application, and necessary follow-up activities arising from approval of an application, including, but not limited to, engineering, professional planning, environmental analysis, historic preservation, urban design, and traffic analysis.

(5) Escrow agreement. The applicant shall execute an escrow agreement with the City to authorize payment of such expenses. Sums not utilized by the City in the review process shall be returned to

the applicant within a reasonable time after adoption of a resolution of memorialization by the Planning Board or Zoning Board of Adjustment disposing of the pending application, except with respect to matters where either Board approves an application subject to outstanding conditions requiring action, monitoring or analysis by the City or the applicant subsequent to such action. In such cases, escrow funds shall be retained until such time that all outstanding conditions have been satisfied.

- (6) Additional escrow. If the Planning Board or Zoning Board of Adjustment finds that the initial escrow fee deposit is inadequate and that additional funds are deemed necessary to continue processing an application, the applicant shall be notified of the additional amount required, and shall add to his/her escrow fee deposit such additional amount. The Planning Board or Zoning Board of Adjustment may withhold final action on any application until all required escrow fees are paid.
- (7) Issuance of building permit or certificate of occupancy upon payment; lien for payment. No building permit or certificate of occupancy shall be issued until all escrow fee deposits have been made. All charges which are due and owing shall become a lien upon the premises with respect to which such charges are required, and shall remain until paid. The City shall have the same remedies for the collection thereof, with interest, costs and penalties, as it has by law for the collection of taxes upon real estate. All escrow fee deposits shall be administered by the City in accordance with the provisions of N.J.S.A. 40:55D-53.1.

#### E. Attorney, Secretary and Planning staff administrative fees

All applications for development shall be charged an additional processing fee for the time that the Attorney, the Planning Board/Zoning Board secretary, stenographer and the Planning Board Planning Staff expend reviewing the application and considering the application for development at the public hearing and any other meetings required.

The applicant shall be assessed the processing fee in quarter hour increments at the following rates:

- a. Attorney \$150/hr
- b. Planning Board/Zoning Board secretary \$30/hr
- c. Stenographer \$275/meeting
- d. Planning Staff
  - 1. Director- \$75/hr.
  - 2. Supervising Planner- \$60/hr.
  - 3. Senior Planner- \$40/hr.

An initial escrow deposit of \$530 shall be submitted to the City Treasurer in an amount of \$530 for one hour of the attorney and Planning Board secretary's rate and two hours of the Planning staff reviewer's rates. Any unexpended escrow funds for the administrative review shall be returned to the applicant within 30 days after the applicant has secured a certificate of occupancy.

If additional funds are needed from the applicant to pay for the administrative review, the City shall notify the applicant and the applicant shall submit payment to the City within 15 days. The Division of Planning Staff will not sign off on the certificate of occupancy until all administrative fees have been paid to the City.

#### Other Administrative Fees

## F.

- (1) Certified list of property owners (see §315-35C): \$0.25 per name or \$10, whichever is greater.
- (2) Copy of minutes, transcripts or decisions (see §315-36 and §315-46, per page): \$0.50
- (3) Court reporter. If an applicant desires a court reporter, the cost for taking testimony, transcribing it and providing a copy of the transcript to the City shall be at the expense of the applicant, who shall arrange for the reporter's attendance.

### **§ 315-72. Guarantees.**

#### A. Performance guarantee estimate.

- (1) In cases of an application for development involving large-scale public improvements to be carried out by the developer, the Planning Board or the Zoning Board of Adjustment may require that an applicant file a performance guarantee with the City Department of Public Works, pursuant to N.J.S.A. 40:55D-53, to insure the installation of such public improvement on or before a specified date, or before a specified phase of the development project.
- (2) A required performance guarantee estimate shall be prepared by the applicant's engineer and submitted to the Department of Public Works for review and approval, setting forth all requirements for improvements, as fixed by the Board, and their estimated cost. Prior to final approval by the Board of the application for development, the City Council shall pass a resolution either approving or adjusting this performance guarantee.

### **§ 315-73. Off-tract improvements.**

#### A. Required improvements. As a condition for approval of a subdivision, site plan or conditional use, the applicant may be required to pay his/her pro rata share of the cost of providing reasonable and necessary street improvements or water, sewerage and drainage facility improvements, and any necessary easements therefore located outside the property limits of the subject premises, but indicated in the City Master Plan and necessitated or required by the construction or improvements within such subdivision or development. Such improvements must be consistent with the City's Stormwater Management Ordinance, Chapter 254 of the City Code. The following criteria shall be utilized in determining the developer's proportionate pro rata monetary share for the necessary off-tract developments:

- (1) Improvements to be constructed at the expense of the developer. In cases where the need for an off-tract improvement is created by the proposed subdivision or development and where no other property owners receive a special benefit thereby, as opposed to a mere incidental benefit, the applicant may be required, as a condition of approval and at the applicant's sole expense, to acquire or improve lands outside the tract and dedicate such lands to the City of Trenton or County of Mercer, or, in lieu thereof, require the subdivider or developer to deposit with the City a sum of money sufficient to allow the City to acquire or improve such lands, on conditions it may deem appropriate under the circumstances.
- (2) General standards for other improvements. In cases where the need for any off-tract improvement to be implemented now or in the future is necessitated by the proposed development application, and where it is determined that properties outside the development

will also be benefited by the improvement, the following criteria, together with the provisions or rules and regulations of the City or any department thereof, may be utilized in determining the developer's proportionate share of such improvements:

(a) Sanitary sewers. For distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate share shall be computed as follows:

[1] The capacity and the design of the sanitary sewer system shall be based on the rules and regulations for the preparation and submission of plans for sewerage systems, New Jersey State Department of Environmental Protection and City sewer design standards, including infiltration standards.

[2] Developer's pro rata share:

[a] The capacity of the existing system to serve the entire improved drainage area shall be computed. If the system is able to carry the total development drainage basin, no improvement or enlargement cost will be assigned to the developer although some charges, including, but not limited to, capacity charges, may be imposed. If the existing system does not have adequate capacity for the total development drainage basin, the prorated enlargement or improvement share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total enlargement or improvement cost}} = \frac{\text{Development gpd}}{\text{Total tributary gpd}}$$

$$\frac{\text{Developer's cost}}{\text{Total project cost}} = \frac{\text{Development tributary gpd}}{\text{Total tributary gpd to new system}}$$

[b] If it is necessary to construct a new system in order to develop the subdivision or development, the prorated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total project cost}} = \frac{\text{Development tributary gpd}}{\text{Total tributary gpd to new system}}$$

[3] The plans for the improved system or the extended system shall be prepared by the developer's engineer. All work shall be calculated by the developer and approved by the City Engineer.

(b) Roadways. For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements uncovered elsewhere, the construction or reconstruction of new or existing streets, and other associated street or traffic improvements the applicant's proportionate cost shall be determined as follows:

[1] The applicant's engineer shall provide the Department of Public Works and the Department of Traffic with the existing and anticipated peak-hour volumes which impact the off-tract acres in question, which volumes shall analyze pedestrian, bicycle and motor vehicle traffic.

[2] The applicant shall furnish a plan for the proposed off-tract improvements, which shall include the estimated peak-hour traffic generated by the proposed development. The ratio of the peak-hour traffic generated by the proposed development to the future peak-hour traffic shall form the basis of the proportionate share. The prorated share shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total cost of roadway improvement and/or extension}} = \frac{\text{Additional peak-hour traffic generated by the development}}{\text{Future total peak-hour traffic}}$$

$$\frac{\text{Developer's cost}}{\text{Total cost of roadway improvement and/or extension}} = \frac{\text{Additional peak-hour traffic generated by the development}}{\text{Future total peak-hour traffic}}$$

(c) Drainage improvements. For the stormwater and drainage improvements, including the installation, relocation of storm drains, culverts, catch basins, manholes, riprap, or improved drainage ditches and appurtenances thereto, and the relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:

[1] The capacity and design of the drainage system to accommodate stormwater runoff shall be based on a method described in Urban Hydrology for Small Watershed, Technical Release 55, Soil Conservation Service USDA, January 1975, as amended, and shall be computed by the developer's engineer and approved by the City Engineer.

[2] The capacity of the enlarged, extended or improved system required for the subdivision or development and areas outside of the subdivision or development shall be computed by the developer's engineer and be subject to the approval of the Department of Public Works. The plans for the improved system shall be prepared by the developer's engineer, and the estimated cost of the enlarged system shall be calculated by the Department of Public Works. The prorated share for the proposed development shall be computed as follows:

$$\frac{\text{Developer's cost}}{\text{Total enlargement or improvement cost of drainage facilities}} = \frac{\text{Development cfs}}{\text{Total tributary cfs}}$$

$$\frac{\text{Total enlargement or improvement cost of drainage facilities}}{\text{Total tributary cfs}} = \frac{\text{Development cfs}}{\text{Total tributary cfs}}$$

B. Escrow accounts. Where the proposed off-tract improvement is to be undertaken at a future date, funds required for the improvement shall be deposited to the credit of the City in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developers may present irrevocable letters of credit for the term required, in a form acceptable to the City Attorney. If the off-tract improvement is not begun within 10 years of the deposit, all monies and interest shall be returned to the applicant or the letter of credit, as the case may be, surrendered. An off-tract improvement shall be considered "begun" if the City has taken legal steps to provide for the design and financing of such improvements.

C. Implementation of off-tract improvements.

(1) In all cases, developers shall be required to enter into an agreement or agreements with the City in regard to off-tract improvements, in accordance with this chapter and any other ordinances, policies, rules and regulations of the City of Trenton, County of Mercer and State of New Jersey, and any departments, authorities or agencies thereto.

(2) Where properties outside the subject tract will be benefited by the improvements, the City Council may require the applicant to escrow sufficient funds, in accordance with Subsection B, Escrow accounts, above, to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.

(3) Where properties outside the subject tract will benefit by the improvements, the City Council may determine that the improvement or improvements are to be installed by the City as a general improvement, the cost of which is to be borne as a general expense.

(a) If the City Council shall determine that the improvement or improvements shall be constructed or installed as a general improvement, the City Council may direct the Planning Board to estimate, with the aid of the Department of Public Works, or such other persons who have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the subject tract, will be specifically benefited thereby, and the subdivider or developer shall be liable to the City for such expense.

(4) If the City Council shall determine that the improvement or improvements shall be constructed or installed as a local improvement, all or a part of the cost of which is to be

assessed against properties benefited thereby in proportion to the benefits conferred by the improvements, in accordance with N.J.S.A. 40:56-1 et seq., the developer may be required to sign an agreement acknowledging and agreeing to this procedure and, in addition, the City Council may require that the developer shall be liable to the City, in addition to the amount of any special assessments against the subject property for benefits conferred by the improvement or improvements, for the difference between the cost actually incurred and the total amount by which all properties, including the subject tract, are specially benefited by the improvement, as the same may be determined by the Board of Improvement Assessors.

- (5) If the City Council shall determine that the improvements are to be constructed or installed by the applicant, such agreement may contain provisions, consistent with the standard in this chapter and any other rules, regulations or policies of the City of Trenton, County of Mercer and State of New Jersey, and any departments, authorities or agencies thereof with jurisdiction therein, whereby the applicant shall be reimbursed by the City, or otherwise, as a result of any participation fees, connection charges, charges paid in regard to developer's agreements with other applicants and the like, all in accordance with an agreement between the City Council and the applicant.
- (6) In determining the procedures to be followed in the event of the submission of a list and request from the Planning Board, the City Council shall be guided by the following standards and considerations:
  - (a) The local trends in regard to the probability of development within the drainage or circulation area in question and the intensity of such development.
  - (b) The risk and exposure that neighboring areas are subject to in the event that the improvements to be required are delayed.
  - (c) The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off-tract improvement and the likelihood that larger regional or subregional facilities will be required in the future to serve the development tract and the general area of the City in which the same is located.
  - (d) The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement.

## **§ 315-74. Radio communication airways.**

### **A. Findings.**

- (1) Any structure exceeding four stories in height above the ground is a potential cause of interference, interruption or severe degradation to the City's public safety and municipal communications systems.
- (2) The City has invested considerable funds to implement and operate the communications system, which is paramount to the provisions of police, fire, medical and other public services for those who work, reside or own property in the City.
- (3) It is imperative that these communication networks and systems be protected from interference, interruption or degradation by the construction or modification of any building or structure within the City.

### **B. Escrow fees.** An applicant of any preliminary or final site plan application for a structure exceeding four stories or 40 feet in height above ground shall be required to submit double the required professional services escrow fee at the time of application submission (refer to § 315-72 for fee calculations) in order to cover the cost of hiring a radio communication expert to determine whether the proposed new construction is likely to interfere with the City's radio communications system. The applicant shall be required to replenish the escrow account on an as-needed basis in

accordance with § 315-72.

C. Regulations. In the event that it is determined by the City's radio communications expert that the construction or modification of such structure may result in interference, interruption or degradation of the City's communications system, approval of the site plan application shall be conditioned upon the applicant providing the following facilities, services and/or financial relief as determined necessary by the City under advisement by its consulting radio communications expert:

- (1) The applicant shall be required to provide sufficient space, up to 1,000 square feet, in the new or modified building to install radio transmitting and receiving equipment as may be necessary to correct all radio system degradation or interference resulting directly or indirectly from the construction or modification. Such space shall be required to overcome the negative or potential effect of the structure on the City's communications systems.
- (2) The applicant shall provide power, including that provided by an emergency electric power generator, adequate to operate all radio and ancillary equipment installed by the City in the proposed facility. Such power sources shall be secure and free from the possibility of disconnection, by accident or otherwise, by maintenance or other persons.
- (3) The applicant shall provide antenna-mounting space and antenna cable paths as necessary to permit the erection of transmitting and receiving antennas in a manner consistent with the radio system's operational and coverage needs.
- (4) The applicant shall provide free and easy access to the radio equipment, antenna systems and power sources, 24 hours per day, seven days per week, without exception. Such access shall not require any City radio system management or its authorized maintenance personnel to wait more than 10 minutes for such access after arriving at the site. Parking and loading facilities shall be provided and conveniently located. Stickers, keys or cards necessary to access these areas will be provided in quantities as needed and at no cost to the City.
- (5) The applicant shall provide such space, power and other services and access without charge or fee to the City, except that the electric service may be provided with a meter that causes a bill for such electric power to be issued directly to the City by the power utility company.
- (6) The City shall be responsible for the maintenance and cleaning of the interior equipment room areas it uses in accordance with these requirements. The building or structure owner shall be responsible for the maintenance and access to these areas and for all roof areas.
- (7) The City shall have the right to install and maintain such security devices as it deems necessary for the protection of its equipment. Such devices shall include, but not be limited to, door locks, intrusion alarms, fire and smoke alarms, sprinkler systems and fire extinguishers. Where appropriate in the City's view, fire and smoke alarms may be interconnected with other building fire and smoke alarms to assure maximum protection and safety to those working in or occupying the building.
- (8) Applicant shall be responsible for the cost of all necessary coverage and operational capacities when the proposed construction or modification of the structure is determined to potentially cause interference or degradation to the City's radio systems, and the structure, such as a monument, is not physically adaptable to supporting radio communications equipments. Such costs shall include leasing, purchasing or otherwise acquiring space in other buildings, erecting radio towers, acquiring building equipment shelters and for doing all other work deemed necessary to restore and secure communications or radio services. The applicant shall also pay the costs of radio control wire lines and other circuits leased from the telephone company that are necessary for the control and operation of the radio equipment at this site. The applicant shall be obligated to pay such recurring costs for leased sites and/or equipment for a period of not less than 10 years or until such time as the City vacates the premises, whichever occurs first.

- (9) The applicant shall provide, install and maintain signal distribution and/or other communication facilities that will assure portable radio coverage throughout the structure and between the inside of the structure and the outside free air. Such facilities will be at the expense of the applicant when determined by the City to preserve life and property, including that of the building owner, those who work in the building and/or those public safety personnel who may have to provide services within the building.

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## **ZONING DISTRICTS (Articles XI-XXI)**

### **ARTICLE XI Zoning Districts, Zoning Map, and Redevelopment Areas**

#### **§ 315-75. Zoning districts.**

For the purpose of this chapter, the City of Trenton is hereby divided into 10 districts as follows:

RA Residential BA Business  
RB Residential BB Business  
RB-1 Residential DD Downtown District  
RB-2 Residential IA Industrial  
MU Mixed Used IB Industrial

#### **§ 315-76. Redevelopment areas.**

Redevelopment areas, as shown on the Redevelopment Areas Map, dated July 2007, have been so designated by the City Council under N.J.S.A. 40A:12A-1 et seq., and are subject to the specific regulations as adopted by the City Council for the particular redevelopment area. These specific regulations take precedence over the underlying zone district regulations. The applicable regulations for each redevelopment area may be obtained from the office of the City Clerk or the Department of Housing and Economic Development.

#### **§ 315-77. Historic Districts and sites.**

Historic districts and sites, as shown on the City's Historic Landmarks and Districts Map, *Editor's Note: The map is on file in the City Clerk's office.* dated December 1985, and listed in § 315-229, are subject to the regulations of the zone district or districts in which they are located, and are also subject to the additional requirements of Article XXIX (§ 315-218 et seq.).

#### **§ 315-78. Zoning Map.**

- A. The boundaries of the zoning districts are established on the map entitled "Zoning Map of the City of Trenton," dated June 1988, revised 2007, which accompanies and is hereby made part of this chapter. *Editor's Note: The Zoning Map is on file in the City Clerk's office.*

#### **§ 315-79. Interpretation of boundaries.**

- A. Zoning district boundary lines are intended to follow street center lines, railroad rights-of-way, streams and lot or property lines as they exist on lots of record at the time of enactment of this chapter, unless otherwise indicated by dimensions on the Zoning Map.
- B. Any dimensions shown on the Zoning Map are measured horizontally and from the street right-of-way line, even if the center line of that street is used for the location of the zoning district line.
- C. The exact location of any disputed zoning district boundary line shall be determined by the Zoning

Board of Adjustment.

D. The zoning standards, controls and designations apply to every structure, lot and use within each district, and the district lines extend vertically in both directions from ground level.

**§ 315-80. Location of retail and commercial establishments near residential areas.**

Any retail or commercial establishment within 100 feet of any residential area is subject to the business hour restrictions as provided for in Article V of Chapter 146, Licensing.

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**ARTICLE XII General District Regulations**

**§ 315-81. Compliance with chapter.**

No buildings shall hereafter be used, erected, altered, converted, enlarged, added to, moved or reduced, wholly or in part, nor shall any land be designed, used or physically altered for any purpose in any manner except in conformity with this chapter.

**§ 315-82. Existing buildings.**

When a lot is formed from part of a lot already occupied by a building, any subdivision shall be effected in such a manner as not to impair any of the requirements of this chapter with respect to the existing building.

**§ 315-83. Combining open space.**

No open space provided around any principal building for the purpose of complying with front, side or rear yard provisions of this chapter shall be considered as providing the yard provisions for another principal building.

**§ 315-84. Supplementary provisions.**

See Article XXX (§ 315-230 et seq.) of this chapter for supplementary provisions.

**§ 315-85. Certain use permitted in all districts. [Added 9-5-2002 by Ord. No. 02-80]**

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, adult family care homes for elderly persons and physically disabled adults, and family day care homes shall be permitted uses in all residential districts of the City of Trenton, and the requirements thereof shall be the same as for single-family dwelling units located within such districts. In accordance with N.J.S.A. 40:55D-66.5b, in condominiums, cooperatives and horizontal property regimes that represent themselves as being primarily for retirees or elderly persons, or which impose a minimum age limit tending to attract persons who are near retirement age, deed restrictions or bylaws may prohibit family day care homes from being a permitted use. Day care/child care centers for which a license is required from the Department of Human Services pursuant to P.L. 1983, c.492 (C.30:5B-1 et seq.), shall be a permitted use in all nonresidential districts of the City of Trenton.

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## ARTICLE XIII Residence A and Residence B-1 Districts

### § 315-86. Principal permitted uses.

Detached single-family dwelling units.

### § 315-87. Permitted accessory buildings and uses.

- A. Private residential swimming pools and tennis courts in accordance with § 315-238.
- B. Private residential greenhouses, storage sheds and private garages, in accordance with § 315-233.
- C. Attached and detached private garages and carports, not to exceed spaces for three vehicles.
- D. Satellite communications dish receiving antennas, provided that the dish antenna is located only in a rear yard area and does not exceed 15 feet in height, measured from the ground level at the installation location. Roof installations may be permitted only if the dish antenna is not visible from the street frontage.
- E. Animal shelters for domestic pets, provided that the total area of the shelter does not exceed 24 square feet.
- F. Signs in accordance with Article XXV (§ 315-191 et seq.).
- G. Unroofed exterior accessory uses customarily incidental to permitted residential uses, such as, but not limited to, patios, decks and child play facilities, in accordance with Article XXX (§ 315-230 et seq.).

### § 315-88. Permitted conditional uses.

[Refer to Article XXII, Conditional Uses, (§ 315-132 et seq.)].

A. Churches

### B. Telecommunications facilities. § 315-89. Lot size, area, yard and building requirements.

#### Residence A and B-1 Districts

	Residence A Zone	Residence B-1 Zone
Min. lot area (square feet)	6,000 sf	4,000 sf
Min. yards (feet) <sup>1</sup>		
Front	Avg. setback or 30' <sup>2</sup>	Avg. setback or 25' <sup>3</sup>
Rear	35'	35'
Side:		
One	6'	6'
Both	16'	14'
Min. lot width (feet)	50'	40'
Min. building width (feet)	25'	20'
Max. building height (stories/feet)	2 1/2 /35'	2 1/2 /35'

Max. lot coverage	45%	45%
Min. net habitable floor area (square feet)	1,500 sf	1,200 sf

## NOTES:

<sup>1</sup> See §315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 30 feet.

<sup>3</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 25 feet.

### **§ 315-90. General requirements.**

- A. Not more than one principal residential structure shall be located on a lot.
- B. Two off-street parking spaces shall be provided for each dwelling unit. Other permitted uses shall comply with the parking requirements of Article XXIV (§ 315-178 et seq.), or other applicable sections.
- C. The parking of vehicles on front or side yards in front of the front building line is prohibited, except in enclosed garages, and must comply with the requirements of § 315-180.
- D. The exterior storage of vehicles, trucks and boats shall comply with the requirements of § 315-234.
- E. Fences and masonry walls shall not be permitted in front yards in front of the building line. Otherwise, fences and masonry walls behind the front building line shall comply with the requirements of § 315-236.
- F. When a residential structure is proposed to be built on a vacant parcel of land, the building design of the proposed dwelling unit shall be similar to other residential structures within a radius of 200 feet, with respect to:
  - (1) Building height.

- (2) Roof shape.
- (3) Wall siding materials.
- (4) Window and door type, size and number.
- (5) Street orientation.

G. When a garage door is proposed to be located on the front façade of a residential structure, the residential structure must be at least 20 feet wide and the garage door must not comprise more than 40 percent of the front façade. Such door must be incorporated into the ground floor façade in such a manner as to provide the appearance of residential living space on the ground floor level.

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## **ARTICLE XIV Residence B-2 District**

### **§ 315-91. Principal permitted uses.**

- A. Detached single-family dwelling units.
- B. Semidetached single-family dwelling units.

### **§ 315-92. Permitted accessory buildings and uses.**

Same as Residence B District. Refer to §315-97.

### **§ 315-93. Permitted conditional uses.**

Same as Residence B District. Refer to §315-98.

### **§ 315-94. Lot size, area, yard and building requirements.**

Same as Residence B District. Refer to §315-99.

### **§ 315-95. General requirements.**

Same as Residence B District. Refer to §315-100.

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## **ARTICLE XV Residence B District**

### **§ 315-96. Principal permitted uses.**

- A. Detached single-family dwelling units.
- B. Semidetached single-family dwelling units.
- C. Row house dwelling units.

**§ 315-97. Permitted accessory buildings and uses.**

- A. Private residential swimming pools and tennis courts, in accordance with § 315-238 and § 315-239.
- B. Private residential greenhouses, storage sheds and private garages, in accordance with § 315-233.
- C. Attached and detached private garages and carports.
- D. Home occupation use, provided that such use is conducted only in the principal dwelling structure, only by the residents of such structure, does not occupy more than one room or 25% of the gross floor area of the dwelling structure, there is no exterior evidence of such use, i.e., no exterior display, no exterior storage of materials and no exterior change in the residential character of the principal building, and no sounds, vibrations, fumes, odors, generation of traffic or other such nuisances shall be discernible outside the dwelling structure. No more than one client, customer or pupil may be on the premises at any one time, and no stock in trade or commodity shall be sold upon the premises as in a sales outlet.
- E. Family day care homes, in accordance with § 315-241.
- F. Animal shelters for domestic pets, provided that the total area of the shelter does not exceed 24 square feet.
- G. Signs, in accordance with Article XXV (§ 315-191 et seq.).
- H. Unroofed exterior accessory uses customarily incidental to permitted residential uses, such as, but not limited to, patios, child play facilities and decks, in accordance with Article XXX (§ 315-230 et seq.).
- I. Satellite communications dish receiving antennas, provided that the dish antenna is located only in a rear yard area and does not exceed 15 feet in height, measured from the ground level at the installation location. Roof installations may be permitted only if the dish antenna is not visible from the street frontage.

**§ 315-98. Permitted conditional uses. [Amended 9-5-2002 by Ord. No. 02-80]**

[Refer to Article XXII (§315-132 et seq.)]

- A. Public utility use.
- B. Schools.
- C. Churches.
- D. Parking lot.
- E. Day-care/Child care center.
- F. Nursing home.
- G. Telecommunications facilities

**§ 315-99. Lot size, area, yard and building requirements.****Residence B District**

	<b>Detached Unit</b>	<b>Semidetached Unit</b>	<b>Row House Structure</b>
Minimum lot area (square feet)	4,000	2,500/unit	1,500/unit

Minimum yards <sup>1</sup>			
Front <sup>2</sup>	Average setback or 20	Average setback or 20	Average setback or 20
Rear	35	35	35
Side:			
One	6 <sup>3</sup>	6	---
Both	14	---	---
Minimum lot width (feet)	40	25/unit	15/unit
Maximum building height (stories/feet)	3/35	3/35	3/35
Maximum lot coverage	45%	50%	50%
Minimum. net habitable floor area (square feet)	1,200	1,000/unit	900/unit

## NOTES:

<sup>1</sup> See §315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 20 feet.

<sup>3</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

## § 315-100. General requirements.

- A. Not more than one principal residential structure shall be located on a lot.
- B. Two off-street parking spaces shall be provided for each single-family dwelling unit (including detached, semi-detached, and rowhouse units). Other permitted uses shall comply with the parking requirements of Article XXIV (§ 315-178 et seq.), or other applicable sections.
- C. The parking of vehicles on front or side yards in front of the front building line is prohibited, including parking provided except in enclosed garages. Permitted parking must comply with the requirements of § 315-180.
- D. The exterior storage of vehicles, trucks and boats shall comply with the requirements of § 315-234.
- E. Fences and masonry walls shall comply with the requirements of § 315-236.
- F. When a residential structure is proposed to be built on a vacant parcel of land, the building design

of the proposed dwelling unit shall be similar to other residential structures within a radius of 200 feet, with respect to:

- (1) Building height.
- (2) Roof shape.
- (3) Wall siding materials.
- (4) Window and door type, size and number.
- (5) Street orientation.
- (6) Housing type, detached, semidetached or row.

G. When a garage door is proposed to be located on the front façade of a residential structure, the residential structure must be at least 20 feet wide and the garage door must not comprise more than 40 percent of the front façade. Such door must be incorporated into the ground floor façade in such a manner as to provide the appearance of residential living space on the ground floor level.

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## **ARTICLE XVI Mixed Use MU District**

### **§ 315-101. Principal permitted uses.**

- A. Detached single-family dwelling units.
- B. Semidetached single-family dwelling units.
- C. Two-family dwelling structures.
- D. Row house dwelling units.
- E. Multifamily dwelling structures, and dwelling units located over permitted nonresidential uses, in accordance with multifamily dwelling structure regulations.
- F. Public facilities of the City of Trenton.
- G. The office of a doctor, lawyer or other licensed professional office buildings for business and professional purposes and medical clinics.
- H. The offices or headquarters of a nonprofit or service organization, such as the Red Cross, Chamber of Commerce or generally similar leagues or associations not organized for pecuniary profit.
- I. Mixed use structures.

### **§ 315-102. Permitted accessory buildings and uses.**

- A. Private residential swimming pools and tennis courts, in accordance with § 315-238 and § 315-239.
- B. Private residential greenhouses, storage sheds and private garages, in accordance with § 315-233.
- C. Attached and detached private garages and carports.
- D. Home occupation use, provided that such use is conducted only in the principal dwelling structure, only by the residents of such structure, does not occupy more than one room or 25% of the gross floor area of the dwelling structure, there is no exterior evidence of such use, i.e., no

exterior display, no exterior storage of materials and no exterior change in the residential character of the principal building, and no sounds, vibrations, fumes, odors, generation of traffic or other such nuisances shall be discernible outside the dwelling structure. No more than one client, customer or pupil may be on the premises at any one time, and no stock in trade or commodity shall be sold upon the premises as in a sales outlet.

- E. Family day care homes, in accordance with § 315-241.
- F. Accessory parking for uses permitted in the MU District.
- G. Satellite communications dish receiving antennas, provided the dish antenna is located only in a rear yard area and does not exceed 15 feet in height, measured from the ground level at the installation location. Roof installations may be permitted only if the dish antenna is not visible from the street frontage.
- H. Animal shelters for domestic pets, provided the total area of the shelter does not exceed 24 square feet.
- I. Signs, in accordance with Article XXV (§ 315-191 et seq.).
- J. Unroofed exterior accessory uses customarily incidental to permitted residential uses, such as, but not limited to, patios, decks and child play facilities, in accordance with Article XXX (§ 315-230 et seq.).

**§ 315-103. Permitted conditional uses. [Amended 9-5-2002 by Ord. No. 02-80]**

[Refer to Article XXII (§ 315-132 et seq.)]

- A. Public utility uses.
- B. Health care facility.
- C. Schools.
- D. Churches.
- E. Parking lot.
- F. Funeral parlor.
- G. Nursing home.
- H. Restaurant, retail and personal services uses.
- I. Telecommunications facilities.

**§ 315-104. Lot size, area, yard and building requirements.**

**Mixed Use District**

	Detached unit	Semi-detached unit	Two-family structure	Rowhouse structure	Multi-family dwelling structure	Offices	Mixed Use Structures
Min. lot area (sf)	4,000	2,500/unit	2,500/ unit	1,500/ unit	2,000/ unit (first 2 units) 500/ unit (add'l units)	5,000	4,000
Min. yards <sup>1</sup>							
Front <sup>2</sup>	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20
Rear	35	35	35	35	35	35	35
Side							
One	6	6	6	---	6	10	10
Both	14	---	14	---	14	20	20
Min. lot width (ft)	40	25	40	15/unit	40	50	40
Max. bldg. height (stories/feet)	3/35	3/35	3/35	3/35	3/35	3/35	3/35
Max. lot coverage	45%	50%	50%	60%	60%	60%	60%
Min. net habitable area (sf)	1,200	1,000/unit	650/unit	900/unit	650/unit	---	Residential: 650/unit Business: 400/ business use

NOTES:

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing building on a block, the front yard setback for a new structure shall be 20'.

<sup>3</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

**§ 315-105. General requirements.**

- A. Permitted uses shall comply with the parking requirements of Article XXIV (§ 315-178 et seq.)
- B. The parking of vehicles on front or side yards in front of the front building line is prohibited, except in enclosed garages, and in compliance with the requirements of § 315-180.
- C. When a garage door is proposed to be located on the front façade of a residential structure,

such door must be incorporated into the ground floor façade in such a manner as to provide for the appearance of residential living space on the ground floor level of the residential structure.

- D. The exterior storage of vehicles, trucks and boats shall comply with the requirements of § 315-234.
- E. Fences and masonry wall shall comply with the requirements of § 315-236.
- F. When a garage door is proposed to be located on the front façade of a residential structure, the residential structure must be at least 20 feet wide and the garage door must not comprise more than 40 percent of the front façade. Such door must be incorporated into the ground floor façade in such a manner as to provide the appearance of residential living space on the ground floor level.

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## **ARTICLE XVII Business A District**

### **§ 315-106. Principal permitted uses.**

- A. Business A Districts generally comprise the central shopping areas and are primarily designed for the conduct of retail trade and general business. More than one use may be designed to occupy one building. Buildings and other structures and uses permitted therein are all those permitted in the Residence and Mixed Use Zone Districts, retail sales and services, professional and business offices, restaurants, hotels of 100 rooms or more, theaters and multistory parking garages and related uses, except the following which are specifically prohibited:
  - (1) Any process of manufacture, assembly or treatment which is not clearly incidental to a retail business conducted on the premises, or which normally constitutes a nuisance by reason of odor, noise, dust or smoke, and any use prohibited in the industrial zone districts.
  - (2) Laundromats.
  - (3) Warehousing, lumber and outdoor storage yards.
  - (4) Motor vehicle service stations, car washes and motor vehicle repair shops.
  - (5) Drive through establishments.
  - (6) Billiard parlors and pool halls.
  - (7) Bowling alleys utilizing street frontage.
  - (8) Business establishments having more than three pinball machines or mechanical or electronic amusement devices, exclusive of establishments licensed under the provisions of the Alcoholic Beverage Act (N.J.S.A. 33:1-1 et seq.).
  - (9) Animal pounds and kennels.
  - (10) Surface parking lots.
  - (11) Auto sales and services.
  - (12) Motels.

### **§ 315-107. Permitted accessory buildings and uses.**

- A. Signs, in accordance with Article XXV (§ 315-191 et seq.).
- B. Accessory surface parking lots not exceeding two spaces, or up to five spaces if screened from street view.

C. Accessory uses customarily incidental to permitted principal uses.

**§ 315-108. Permitted conditional uses.**

[Refer to Article XXII (§ 315-132 et seq.)]

- A. Churches.
- B. Clubhouse.
- C. Funeral parlor.
- D. Telecommunications facilities.

**§ 315-109. Lot size, area, yard and building requirements.**

**Business A District**

	<b>Business Uses</b>	<b>Detached Unit</b>	<b>Semi- detached unit</b>	<b>Two- family structure</b>	<b>Rowhouse structure</b>	<b>Multifamily dwelling structure</b>	<b>Mixed Use structure</b>
Min. lot area (sf)	2,000	4,000	2,500/unit	2,500/unit	1,500/unit	2,000/ unit (first 2 units) 500/unit (add'l units)	4,000
Min. yards <sup>1</sup> Front <sup>2</sup>	Avg. or 0	Avg. or 0	Avg. or 0	Avg. or 0	Avg. or 0	Avg. or 0	Avg. or 0
Rear <sup>3</sup>	20	20	20	20	20	20	20
Side One Both	0 <sup>5</sup> 0 <sup>5</sup>	6 14	6 --	6 14	--- <sup>4</sup>	0 0	0 <sup>5</sup> 0 <sup>5</sup>
Min. lot width (ft)	20	40	25	40	15/unit	20	40
Max. bldg. height (stories/feet)	--- <sup>6</sup>	3/35	3/35	3/35	3/35	--- <sup>6</sup>	--- <sup>6</sup>
Max. lot coverage	60%	45%	50%	50%	60%	60%	60%
Min. net habitable area (sf)	800/ business use	1,000/unit	1,000/unit	650/unit	900/unit	500/unit	Residential: 500/unit Business: 800/business

use

## NOTES

<sup>1</sup> See §315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 0'.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

<sup>5</sup> When a building designed wholly or partially for the conduct of business or other non-dwelling purposes adjoins a lot in a residence district at the side, a 6 foot setback shall be provided on the residential side of the business lot.

<sup>6</sup> Refer to Capital City Renaissance plan for height limitations. The Planning Board may further restrict building height by taking into consideration the average height of buildings in the same block as the proposed building site and, where the proposed site is a corner, the height of buildings on other corners of the same intersection. In Historic Districts, the number of stories of any proposed new building must be consistent with adjacent historic buildings.

### **§ 315-110. General requirements.**

There is no parking requirement unless an office or residential development exceeds 5,000 square feet of gross floor area. [See Article XXIV (§ 315-178 et seq.).]

## **ARTICLE XVIII Downtown District**

### **§ 315-111. Principal permitted uses.**

The designation Downtown District shall apply to an area which has been designated on the City's Zoning Map as a Downtown District. Except as provided herein below, the permitted uses, yard and height requirements, and bulk standards within the Downtown District (DD) are all of those permitted within Business A Districts. In addition to design standards which apply to this district, street level use in the Downtown District is restricted to retail sales, restaurants and personal customer services. Residential uses may be located above such street level uses in the Downtown district.

### **§ 315-112. Permitted accessory buildings and uses.**

Accessory uses customarily incidental to permitted principal uses.

### **§ 315-113. Permitted conditional uses.**

[Refer to Article XXII (§ 315-132 et seq.)]

A. Telecommunications facilities.

**§ 315-114. Lot size, area, yard and building requirements.**

**Downtown District**

	<b>Business Uses</b>	<b>Mixed Use Structure with Residential Uses Above Business Uses</b>
Minimum lot area (square feet)	2,000	2,000
Minimum yards (feet) <sup>1</sup>		
Front <sup>2</sup>	0	0
Rear <sup>3</sup>	20	20
Side: <sup>4</sup>		
One	0	0
Both	0	0
Minimum lot width (feet)	20	20
Maximum building height (stories/feet)	14/210	14/210
Minimum net habitable floor area (square feet)	800/ business use	Residential: 500/ unit Business: 800/business use

**NOTES:**

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> No front yard setback shall be required except when a Downtown District frontage extends part way into a block, the remainder of which is in a residence district, the same front yard shall be required for the business frontage as the adjoining residential frontage.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> When a building designed wholly or partially for the conduct of business or other non-dwelling purposes adjoins a lot in a residence district at the side, a 6 foot setback shall be provided on the residential side of the business lot.

**§ 315-115. General design guidelines.**

A. Purpose. It is the intention of this section to encourage property owners to maintain their properties in such a manner as to create within the Downtown District a coordinated and aesthetically attractive composition of building facades.

B. Building line. The existing building line, at the street line, should be maintained, unless a

proposed setback is part of a larger development plan or is part of a functional open space plan acceptable to the Planning Board at site plan review.

- C. Storefront treatment. If several storefronts are located in one building, they should be unified in design treatment; i.e., design of windows and door openings, signage, use of materials and color. All storefronts shall include display windows with a sill height not more than two feet from grade.
- D. Facade renovations.
  - (1) Facade renovations should not destroy or cover original details on a building. Brick and stone facades should not be covered in artificial siding or panels.
  - (2) Natural, unpainted brick should be retained. Already painted brick, if weathered and losing its paint finish, can be stripped using chemical solutions.
  - (3) Roof cornices should be retained, repaired or replaced. When replacing windows on a facade, windows and window trim of the same size and character as the original should be used.
  - (4) Building materials should be compatible with the predominant materials of adjacent buildings. Facade renovations should include as few new or different materials as possible.
  - (5) Roof shape should remain original and construction materials should be architecturally compatible with the rest of the building and should reflect the area pattern.
- E. Paint and metal finish.
  - (1) No bare metal is permitted. Metal may be bronzed, iodized or painted with the recommended color to be approved by the Trenton Downtown Association (TDA), the downtown district management corporation of the City.
  - (2) Only approved colors for exterior paints may be used. Accent or complimentary colors harmonizing with the main color may be used for trim or awnings.
- F. Awnings and canopies.
  - (1) Awnings and canopies should be solid or striped canvas in colors recommended for exterior paints. Solid colored awnings and canopies may include lettering on the portion parallel to the street.
  - (2) No awning or canopy shall extend more than five feet over the building line.
  - (3) No awning or canopy shall be less than eight feet above the sidewalk.
  - (4) No awning or canopy shall be closer than one foot to the bottom sill of windows above the first floor, nor higher than the bottom of the cornice trim at the first floor level.
  - (5) All awnings and canopies shall be constructed and installed so that the frame and fabric are of integral design. No supports shall extend to the ground in the public right-of-way.
- G. Marquees.
  - (1) All marquees shall be installed so that the method of installation is concealed or made an integral part of the design of the canopy. No supports for the marquee shall extend to the ground in the public right-of-way.
  - (2) No marquee shall extend more than five feet over the front building line.
  - (3) No part of the marquee shall be less than 10 feet above the sidewalk, or closer than one foot to the top of the sill of the first level of windows above the first floor, nor higher than the bottom of the cornice trim at the first floor level.
  - (4) The marquee shall not extend beyond the width of the property nor exceed 18 inches in vertical overall construction.
- H. Signage.

- (1) The only signs permitted in the Downtown District will be signs attached to buildings. Freestanding signs are prohibited.
- (2) A hanging sign projecting more than 12 inches from the wall surface must be made of wood, have a maximum five-foot projection from the wall surface and measure a maximum of 12 square feet in total area. The sign must be well maintained and professionally prepared.
- (3) All other signs may be of wood, metal, plastic or painted lettering on glass, and must be installed flush to the wall surface. The preferred signable area is the horizontal length between the first and second floors of the building.
- (4) Installation of a sign by individual letters or devices cut into or securely fastened to the exterior wall of a building is permitted, provided that such letters have a minimum depth or projection of 1/4 inch.
- (5) Sign lighting should be indirect or external to the sign, except in the case of interior backlit signs. No flashing, blinking or colored lights are permitted.
- (6) The bottom of a sign attached to the building must be no closer than one foot to the top of the ground floor window and its top must extend no higher than whichever of the following is the lowest:
  - (a) Eighteen feet aboveground.
  - (b) One foot below the top of the sill of the first level of windows above the first floor.
  - (c) The cornice line of the building.
- (7) No sign or billboard shall be on top of a building.
- (8) No window sign may exceed 30% of the total glass area of the window or door.
- (9) All signs attached to the building and all signs in a ground floor window shall not be, individually or in the aggregate, larger in square footage than the square footage derived by multiplying 2 1/2 times the width of the frontage occupied by the business, with a maximum of 2 1/2 feet in height.
- (10) All rectangular signs shall be of a proportion with the width greater than the height.
- (11) No product/brand sign shall be attached to, or project from, the building unless this trademark represents the principal business conducted.
- (12) Regulations for temporary construction signs and other related sign issues not dealt with specifically in this section are listed in Article XXV (§ 315-191 et seq.).

I. Review of general design guidelines.

- (1) Preliminary site plan, variance, conditional use or other applications for the Downtown District shall be presented to the Trenton Downtown Association (TDA) for design review and recommendations to either the Planning Board or the Zoning Board of Adjustment, before the public hearing.
- (2) Those Downtown District applications to the Building Inspector not requiring either Planning Board or Zoning Board of Adjustment review shall be presented to TDA for design review. If TDA approves the application, the Building Inspector shall proceed as usual. In the case of a denial of an application for approval by TDA and the applicant's rejection of TDA's recommendations, the applicant shall be entitled to exercise his/her rights to apply to the Zoning Board of Adjustment for a variance and to reapply to the Building Inspector on the basis of a new application.
- (3) An applicant shall be entitled to seek relief from the strict application of any standard or requirement imposed by this subsection, provided that:

- (a) An exemption from the strict application of any such standard is necessary to avoid hardship relating to expense associated with structural alterations or other building modifications necessary to achieve compliance with such standards; or
- (b) The exemption relates to a fixture regulated by this subsection, the design or location of which constitutes an element of an overall plan or proposal for the design or redesign of the structure or facade thereof; or
- (c) The relaxation or modification of the standards would not subvert the intent and purpose of this subsection by substantially detracting from the aesthetic design and composition among the properties within the Downtown District which is intended to be coordinated, maintained and preserved by this subsection.

**§ 315-116. General requirements.**

A.

Permitted uses shall comply with the parking requirements enumerated in Article XXIV (§315-178 et. seq.)

B. Merchandise displays are limited to an extension of three feet from the building line. In the case of large displays, a permit from TDA is required.

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**ARTICLE XVIX Business B District****§ 315-117. Principal permitted uses.**

A. Business B Districts generally comprise retail and personal service shopping areas and are primarily designed for neighborhood shopping and business convenience. Principal buildings and other structures and uses permitted and prohibited therein shall be the same as for Business A Districts, except for the following uses which are prohibited in a Business A zoned district but shall be permitted in the Business B zoned district:

- (1) Surface parking lots.
- (2) Dance halls and skating rinks.
- (3) Bowling alleys.
- (4) Laundromats, self-service or with service attendants.

B. The following uses are specifically prohibited:

- (1) Any process of manufacture, assembly or treatment which is not clearly incidental to a retail business conducted on the premises, or which normally constitutes a nuisance by reason of odor, noise, dust or smoke, and any use prohibited in the industrial zone district.
- (2) Animal pounds and kennels.
- (3) Warehousing, lumber and outdoor storage yards.
- (4) Motor vehicle service stations, car washes and motor vehicle repair shops.
- (5) Drive through establishments.
- (6) Billiard parlors and pool halls.
- (7) Auto sales and services.

- (8) Motels.
- (9) Business establishments having more than three pinball machines or mechanical or electronic amusement devices, exclusive of City licensing or Alcoholic Beverage Control Board.
- (10) Convenience food stores over 2,000 gross square feet.

**§ 315-118. Permitted accessory buildings and uses.**

- A. Signs, in accordance with Article XXV (§ 315-191 et seq.).
- B. Accessory uses customarily incidental to permitted principal uses.

**§ 315-119. Permitted conditional uses.**

[Refer to Article XXII (§ 315-132 et seq.)]

- A. Churches.
- B. Clubhouse.
- C. Funeral parlor.
- D. Schools.
- E. Health care facility.
- F. Telecommunications facilities.

## § 315-120. Lot size, area, yard and building requirements.

**Business B District**

	<b>Business Uses</b>	<b>Detached Unit</b>	<b>Semi- detached unit</b>	<b>Two- family structure</b>	<b>Rowhouse structure</b>	<b>Multifamily dwelling structure</b>	<b>Mixed use structure</b>
Min. lot area (sf)	2,000	4,000	2,500/unit	2,500/unit	1,500/unit	2,000/unit (1 <sup>st</sup> 2 units) 500/unit (add'l units)	4,000
Min. yards <sup>1</sup> Front <sup>2,3</sup>	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20	Avg. or 20
Rear	20	20	20	20	20	20	20
Side (one) (both)	0 <sup>4</sup> 0 <sup>4</sup>	6 14	6 --	6 14	--- <sup>5</sup>	0 0	0 <sup>4</sup> 0 <sup>4</sup>
Min. lot width (ft)	20	40	25	40	15/unit	20	40
Max. bldg. height (stories/feet)	4/50	3/35	3/35	3/35	3/35	4/50	4/50
Max. lot coverage	60%	45%	50%	50%	60%	60%	60%
Min. net habitable area (sf)	800/ business use	1,000/unit	1,000/unit	650/unit	900/unit	500/unit	Residential: 500/unit Business: 800/business use

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 20'.

<sup>3</sup> If a property abuts a residence district, the front yard setback shall be the same as for the abutting residence district. If abutted by more than one residence district, the front yard requirements of the least restrictive residential district shall apply.

<sup>4</sup> When a building designed wholly or partially for the conduct of business or other non-dwelling purposes adjoins a lot in a residence district at the side, a 6 foot setback shall be provided on the residential side of the business lot.

<sup>5</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

**§ 315-121. General requirements.**

Accessory off-street parking spaces, open or enclosed, shall be provided for all new construction or additions, as required in Article XXIV (§ 315-178).

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**ARTICLE XX Industrial A District****§ 315-122. Principal permitted uses.**

A. The Industrial A (IA) District is for light manufacturing and heavy commercial usage. The following uses are permitted in the IA District:

- (1) Commercial warehouses.
- (2) Lumber and building material storage yards.
- (3) Repair and machine shops.
- (4) Bottling works and bakeries.
- (5) Wholesale markets.
- (6) Processes of assembly, manufacture or treatment.

B. The following uses are specifically prohibited:

- (1) Any residential building or use; provided, however, that a single residential dwelling unit shall be permitted within an industrial building, where such dwelling is incident to the existing industrial use of the building. A dwelling unit is incident to the existing industrial use if the dwelling is occupied by the owner of the building, by a member of the owner's family or by an employee of the owner whose presence on the premises is necessary for the operation or security at the building.
- (2) Coal yards.
- (3) Laundries, institutional.
- (4) Cleaning and dye works.
- (5) Storage of autos and trucks, except as ancillary to a permitted use.
- (6) Trucking terminals and motor freight stations.
- (7) Servicing and repairing of motor vehicles, except as ancillary to a permitted use.
- (8) Any process of assembly, manufacture or treatment constituting a nuisance by reason of smoke, odor, dust or noise and including, but not limited to, such things as the manufacture or refining of asphalt, blast furnaces, the manufacturing or processing of fertilizer, glue or gelatin, the tanning and storage of raw hides and skins, and the manufacture of paint, oil and varnish.
- (9) Any process of assembly, manufacture or treatment constituting a hazardous use including, but not limited to, such things as the manufacture or storage of fireworks, explosives or poisonous gas, and the storage of any gas, except as may be incidental and essential to a permitted industrial process conducted on the premises.
- (10) Stockyards and slaughterhouses.
- (11) Foundries, forge shops and boiler works.

- (12) Junkyards and automobile disassembly plants, storage of wrecked cars and auto salvage parts and the storage of used materials for resale or recycling.
- (13) Fossil fuel generation of power, except when it may be incidental and essential to a permitted industrial process conducted on the premises.
- (14) The storage of crude oil or any of its volatile products or other flammable liquids in aboveground tanks with unit capacity greater than 10,000 gallons, and in aboveground tanks with unit capacity greater than 500 gallons closer than 50 feet to any property line.

### **§ 315-123. Permitted accessory buildings and uses.**

- A. Signs, in accordance with Article XXV (§ 315-191 et seq.).
- B. Accessory uses customarily incidental to permitted principal uses.

### **§ 315-124. Permitted conditional uses.**

[Refer to Article XXII (§ 315-132 et seq.)]

- A. Telecommunications facilities.
- B. Billboards, where the advertising area, including any trim, exceeds 300 square feet and is no more than 672 square feet.

### **§ 315-125. Lot size, area, yard and building requirements.**

#### **Industrial A District**

<b>Requirement</b>	<b>Permitted Uses</b>
Minimum lot area (sq. ft.)	10,000
Minimum yards (feet) <sup>1</sup>	
Front	Average setback or 20 <sup>2</sup>
Rear	10 <sup>3</sup>
Side:	
One	0 <sup>3,4</sup>
Both	0 <sup>3,4</sup>
Minimum floor area ratio, not including parking, loading or staging areas	0.4
Maximum floor area ratio, not including parking, loading or staging areas	1.5
Maximum building height, stories/feet	3/50

#### **NOTES:**

<sup>1</sup> See § 315-195, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall

be 20'.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> When a property adjoins a residence or business district to the rear or side, the same rear and side yard setback shall be required as for the most restrictive adjoining residence or business district.

#### **§ 315-126. General requirements.**

- A. In Industrial A Districts, accessory off-street parking spaces, open or enclosed, shall be provided for all new construction or additions, as provided for in Article XXIV (§315-178 et seq.).
- B. Front yards of all properties must be landscaped, including trees, bushes and grass in accordance with § 315-210.
- C. In Industrial A Districts, it shall be the obligation of prospective users to demonstrate, if required, that the applicable performance standards of this chapter can be met. (Refer to § 315-216.)

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### **ARTICLE XXI Industrial B District**

#### **§ 315-127. Principal permitted uses.**

The Industrial B Districts are for heavy industrial uses. Principal buildings and other structures and uses permitted therein are all those permitted in the Industrial A Districts, and all similar uses, except for the following, which are specifically prohibited:

- A. Any process of assembly, manufacture or treatment constituting a nuisance by reason of smoke, odor, dust or noise and including, but not limited to, such things as the manufacture or refining of asphalt, blast furnaces, the manufacturing or processing of fertilizer, glue or gelatin, the tanning and storage of rawhides and skins, slaughterhouses and the manufacture of paint, oil and varnish.
- B. Any process of assembly, manufacture or treatment constituting a hazardous use, including, but not limited to, such things as the manufacture or storage of fireworks and explosives and the manufacture or storage of gas or poisonous gases, except as may be necessary and incidental to a permitted industrial process.
- C. The storage of crude oil or any of its volatile products or other flammable liquids in aboveground tanks with a unit capacity greater than 10,000 gallons, and in aboveground tanks with a unit capacity greater than 500 gallons closer than 50 feet to any property lines.
- D. Junkyards, automobile disassembly plants, storage of wrecked vehicles, auto salvage parts and the storage of used materials for resale or recycling.
- E. Residential buildings and uses; provided, however, that a single residential dwelling unit shall be permitted within an industrial building, where such dwelling is incident to the existing industrial use of the building. A dwelling unit is incident to the existing industrial use if the dwelling is occupied by the owner of the building, by a member of the owner's family or by an employee of the owner

whose presence on the premises is necessary for the operation or security at the building.

F. Servicing, storage and repairing of motor vehicles, except as ancillary to a permitted use.

### **§ 315-128. Permitted accessory buildings and uses.**

Accessory uses customarily incidental to permitted principal uses.

### **§ 315-129. Permitted conditional uses.**

[Refer to Article XXVII XXII (§ 315-132 et seq.)]

- A. Telecommunications facilities.
- B. Sexually Oriented Business.
- C. Billboards, where the advertising area, including any trim, exceeds 300 square feet and is no more than 672 square feet.

### **§ 315-130. Lot size, area, yard and building requirements.**

#### **Industrial B District**

<b>Requirement</b>	<b>Permitted Uses</b>
Minimum lot area (square feet)	25,000
Minimum yards (feet) <sup>1</sup>	
Front	Average setback or 20 <sup>2</sup>
Rear	10 <sup>3, 4</sup>
Side:	
One	0 <sup>4</sup>
Both	0 <sup>4</sup>
Minimum floor area ratio, not including parking, loading, or staging areas	0.2
Maximum floor area ratio, not including parking, loading, or staging areas	0.5
Maximum building height, stories/feet	3/50

#### **NOTES:**

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be 20'.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> When a property adjoins a residence or business district to the rear or side, the same rear and side yard setback shall be required as for the most restrictive adjoining residence or business district.

**§ 315-131. General requirements.**

- A. In Industrial B Districts, accessory off-street parking spaces, open or enclosed, shall be provided for all new construction or additions, as provided for in Article XXIV (§ 315-178 et seq.).
- B. In Industrial B Districts, it shall be the obligation of the prospective user to demonstrate, if required, that the applicable performance standards of this chapter can be met. (Refer to § 315-216.)
- C. Front yards of all properties must be landscaped, including trees, bushes and grass in accordance with § 315-210.

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## **SUPPLEMENTAL REGULATIONS (Articles XXII-XXX)**

### **ARTICLE XXII Conditional Uses**

#### **§ 315-132. Purpose and scope.**

- A. The purpose of this article is to set forth the requirements and procedures applicable to conditional uses, in accordance with N.J.S.A. 40:55D-67. A conditional use shall not be approved on any site unless such use is specifically permitted as a conditional use in the zone for which it is proposed.
- B. Before a construction permit or certificate of occupancy shall be issued for any conditional use, as permitted by this chapter, application shall be made to the Planning Board. The review by the Planning Board of a conditional use shall include any required site plan review.

#### **§ 315-133. Guiding principles.**

In making its decision on an application for a conditional use, the Board shall take no action which will be detrimental to the public welfare or which will substantially impair the intent or purpose of this chapter. The Board may attach such terms and conditions to an approval of such applicant if, in its judgment, it will preserve the public welfare or such intent or purpose and shall be guided by the following principles:

- A. The proposed use will not be detrimental to the character of the neighborhood.
- B. The proposed use does not affect adversely the general plans for the physical development of the City, as embodied in this chapter and in any Master Plan, or portion thereof.
- C. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.
- D. The proposed use will not be affected adversely by the existing uses.
- E. Suitability of the use and/or proposed structure to its environment and location considering the general use of the structure, neighboring land uses, the surrounding open space and treatment of adjacent properties.
- F. Adequacy of provisions of off-street automobile parking, storage of loading space, and adequacy of neighboring street capacity relating to increased traffic and congestion due to proposed use.
- G. That the use will not be contrary to the general character of the neighborhood or public interest, and will not materially increase fire hazards or other danger, nor be injurious to the health, morals or general welfare of the neighboring communities.

**§ 315-134. Compliance required.**

Notwithstanding anything in this chapter to the contrary, the Planning Board shall not approve an application for a conditional use unless the requirements for the particular use, as set forth below, shall have been met. All other applicable regulations for the zone district in which the conditional use is permitted must also be met.

**§ 315-135. Sexually Oriented Business.**

Intent and purpose. In the development and execution of this article, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics. It has been determined that strict control and regulation of these uses is required to ensure their operation is maintained in compliance with the law for the preservation of the public peace, health, safety, morals and general welfare of the people of Trenton and to prevent their contributing to the blighting and downgrading of the surrounding neighborhoods.

For the purposes of this chapter, the term "Sexually Oriented Business" shall be defined as set forth in Article I, § 315-10 et seq.

- A. This use shall not be located within 1,000 feet of the boundaries of the site of an existing adult establishment.
- B. This use shall not be located within 1,000 feet of a residential or MU District, church school, school bus stop, municipal or county playground, place of public resort and recreation, hospital, child care center or public building.
- D. Every adult establishment shall be surrounded by a perimeter buffer of at least 50 feet in width with plantings, fence or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises on which the business is located.
- E. No adult establishment shall display more than two exterior signs, consisting of one identification sign and one sign giving notice that the premises is off limits to minors. The identification sign shall be no more than 40 square feet in size.

**§ 315-136. Billboards**

- A. For the purposes of this chapter, a billboard is a conditional use if:

- (1) Its advertising area, including any trim, exceeds 300 square feet and is no more than 672 square feet in size; or
  - (2) It is located within 500 feet from a residential or mixed use district.

- B. For billboards where the advertising area, including any trim, exceeds 300 feet and is no more than 672 square feet, the following conditions shall apply:

- (1) Such billboard shall be located to show only to a limited access highway, per NJ DOT outdoor advertising standards.
- (2) The maximum vertical length of the billboard shall not exceed 14 feet.
- (3) The maximum horizontal length of the billboard shall not exceed 48 feet.
- (4) Billboards shall be spaced no less than 1,500 feet apart.
- (5) Such billboard shall not exceed 30 feet in height.
- (6) Such billboard shall be located a minimum of 300 feet from residential or mixed use districts.
- (7) A landscape buffer plan must be provided.

### **§ 315-137. Churches.**

- A. For the purpose of this chapter, the term "churches" shall include any religious institution serving a congregation or membership.
- B. Permitted accessory uses include:
  - (1) Staff residences.
  - (2) Off-street parking.
  - (3) Religious classes.
- C. The proposed use shall comply with the bulk requirements for the zone in which it is located, with the exception of building height, which may, at the discretion of the Planning Board, be increased to allow for a church steeple or bell tower. Allowable height shall be determined based on an analysis of viewsheds and shadows to be provided by the applicant. Such church steeple or bell tower shall not exceed 15% of the total floor area of the structure.
- D. All off-street parking shall be provided at the rate of one space for each four seats, or equivalent, plus spaces for permitted accessory uses, as determined at the time of site plan review. These requirements may be reduced upon submission by the applicant of acceptable proofs as to specific need requirements.

### **§ 315-138. Clubhouse.**

- A. For the purposes of this chapter, the term "clubhouse" shall include a social club, meeting hall or community center, not organized or conducted for profit, and which is not an adjunct to or operated by or in conjunction with a public tavern, cafe or other place of business.
- B. The proposed use shall comply with the bulk requirements for the zone in which it is to be located.
- C. Off-street parking for new construction or for expansion of existing facilities shall be provided at the rate of one space for each 250 square feet of gross floor area. The above requirements may be reduced upon submission by the applicant of acceptable proof as to specific need requirements.
- D. A clubhouse shall have the following permitted hours of operation:
  - (1) Sunday through Thursday: 9:00 a.m. to 11:00 p.m.

(2) Friday and Saturday: 9:00 a.m. to 1:00 a.m. Editor's Note: Original Subsection 4 of Section 19-28.1c, Community Residences (RB, MU Districts), was repealed 9-5-2002 by Ord. No. 02-80.

### **§ 315-139. Day-care/child care center.**

- A. For the purposes of this chapter, the term "day-care/child care center" is defined as a state licensed facility providing for the care of six or more preschool children or elderly persons, without provision of overnight facilities.
- B. Submission of proof of compliance with applicable state agency requirements, and compliance with all provisions of applicable health and construction codes shall be required.
- C. A safe outdoor play area for children must be provided for by the day-care/child care center, with a fence between property lines and a planted buffer between neighboring residential uses.
- D. When located in a residential zone the following additional requirements shall be met:
  - (1) The day-care/child care center shall maintain a residential appearance and shall be substantially similar to existing surrounding residential development.
  - (2) When located in or abutting a residential zone, a minimum five-foot planted buffer around the perimeter of the children's play area shall be provided.
- E. Off-street parking shall be provided, as determined by the Planning Board during site plan review based on applicant testimony as to specific need requirements.
- F. Adequate provision for the safe loading and unloading of elderly persons or children must be provided for, as determined by the Planning Board during site plan review.

### **§ 315-140. Funeral homes.**

- A. For the purposes of this chapter, the term "funeral home" shall include a building used for the preparation of the deceased for burial and for ceremonies prior to burial.
- B. All zoning requirements of the zone in which the funeral home is to be located shall be met.
- C. Funeral homes in residential zones shall maintain a residential appearance and shall be substantially similar to existing surrounding residential development.
- D. Submission of proof of licensing by the applicable state agency and compliance with all provisions of applicable health codes shall be met.
- E. One parking space for each four seats of capacity, plus one parking space for each resident family, and one parking space for each funeral vehicle shall be provided. These requirements may be reduced upon submission by the applicant of acceptable proofs as to specific need requirements.

### **§ 315-141. Health care facility.**

- A. For the purposes of this chapter, the term "health care facility" shall include hospitals, clinics, health maintenance organizations (HMO's) and other public or private institutions, offices or facilities principally engaged in providing services for health maintenance, counseling, diagnosis or treatment of human disease, pain, injury, deformity or physical condition. Excluded from this definition are nursing homes, animal research facilities, drug or alcoholic rehabilitation centers, and the joint offices of physicians numbering five physicians or fewer.
- B. Permitted accessory uses include:

- (1) Labs incidental to permitted use.
- (2) Out-patient departments.
- (3) Training facilities.
- (4) Management offices.
- (5) Medical staff residences.
- (6) Off-street parking.
- (7) Staff recreational facilities.

C. Bulk standards for new construction shall correspond to the zoning district in which the proposed use is located.

D. A landscaped buffer of at least 10 feet in width shall be provided within all minimum property line setback areas.

E. Off-street parking shall be provided in accordance with Article XXIV § 315-178, et seq.

F. Loading space requirements shall be determined at time of site plan review.

G. All other applicable requirements of this chapter shall be met.

### **§ 315-142. Nursing home.**

- A. For the purposes of this chapter, the term "nursing home" shall include public or private institutions or facilities principally engaged in providing full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.
- B. Bulk standards shall conform to zone requirements.
- C. All construction shall maintain a residential appearance.
- D. Off-street parking shall be provided as determined by the Planning Board during site plan review, based on applicant testimony as to specific need requirements.

### **§ 315-143. Parking lot.**

- A. For the purposes of this chapter, the term "parking lot" shall include any automobile surface parking lot located on land directly adjoining a business or industrial district and extending continuously not more than 200 feet therefrom.
- B. No occupied portion of such parking lot shall extend into a required front yard or extend closer to a residential side or rear property line than 10 feet.
- C. Where directly abutting upon a residential property or properties, the borders of such parking lot shall provide a densely planted landscape screen for a depth of not less than 10 feet.
- D. All parking lots shall be paved and drained in accordance with City standards.
- E. The demolition of a structurally sound residential structure to create a parking lot under this section is prohibited.
- F. Shade trees shall be provided in the ratio of one tree for each 10 spaces.
- G. A wall, fence or planting, or combination thereof, between three and four feet in height, shall be provided between the parking lot and any street front right-of-way line, except where a building intervenes.

### **§ 315-144. Public utility uses.**

- A. For the purposes of this chapter, the term "public utility uses" shall include such uses as telephone dial equipment centers, power substations and other utilities serving the public, but shall exclude dumps, sanitary landfills, sewage treatment plants and service or storage yards.
- B. The proposed installation in a specific location must be reasonably necessary for the satisfactory provision of service by the utility to the neighborhood or area in which the particular use is located.
- C. The design of any building in connection with such facilities must not adversely affect the safe, comfortable enjoyment of property rights in the surrounding area and shall not create a visual intrusion.
- D. Adequate fences and other safety devices must be provided as may be required. Fences, when used to enclose public utility facilities such as electrical power substations, shall be built in accordance with the applicable requirements of the New Jersey Board of Public Utility Commissioners and the National Electrical Code in effect and the time of construction.
- E. Landscaping requirements shall be determined at the time of the site plan review and at minimum shall provide for appropriate screening.
- F. Off-street parking shall be provided as determined by the Planning Board during site plan review, based on applicant testimony as to specific need requirements.

### **§ 315-145. Restaurant and retail trade uses.**

- A. For the purposes of this chapter, the term "restaurant and retail trade uses" shall include restaurants which do not provide food items for off-premises consumption, and retail establishments engaged primarily in selling merchandise for personal or household use, and barbershops and beauty parlors, but excluding the sale of intoxicating liquors.
- B. Restaurant and retail trade uses may only be located on the ground floor of a multistory building which is primarily residential or office use, based on total gross floor area.
- C. All external aspects of restaurant and retail trade uses, such as, but not limited to, access, parking, signage and lighting, shall be designed to be compatible with adjoining residential uses.
- D. Off-street parking shall be provided for all building uses in accordance with the standards of Article XXIV (§ 315-178 et seq.).
- E. All other applicable requirements of this chapter shall be met.

### **§ 315-146. Schools.**

- A. For purposes of this section, the term "schools" shall include institutions of higher learning, which are not conducted as a business, and may include living and dining facilities for faculty and students.
- B. Bulk standards shall correspond to the zoning district in which the proposed use is located.
- C. Sufficient open space shall be provided for recreational use by students.
- D. A landscaped buffer and fencing shall be provided where school property borders on adjacent residential use.
- E. Off-street parking shall be provided in accordance with Article XXIV (§ 315-134 et seq.).

### **§ 315-147. Telecommunications Facilities.**

Refer to Article XXIII (§315-148, et seq.) for conditional use permit requirements for telecommunications facilities.

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## **ARTICLE XXIII Telecommunications Facilities**

### **§ 315-148. Purpose and legislative intent.**

The Telecommunications Act of 1996 affirmed the City of Trenton's authority concerning the placement, construction and modification of wireless telecommunications facilities. The City Council finds that wireless telecommunications facilities and related equipment may pose unique impacts upon the public health, safety and welfare and environment of the City and its inhabitants and may have other adverse impacts, visual and otherwise, upon the community, its character and thus the quality of life in the City. The intent of this article is to ensure that the placement, construction or modification of wireless telecommunications facilities and related equipment is consistent with the City's land use policies and ordinances; to minimize the negative and adverse visual impact of wireless telecommunications facilities; to assure a comprehensive review of environmental impacts of such facilities; to protect the health, safety and welfare of the City of Trenton; and to encourage shared use of wireless telecommunications facilities.

### **§ 315-149. Definitions and word usage.**

For purposes of this Article, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this section.

**ACCESSORY FACILITY OR STRUCTURE** — A facility or structure serving or being used in conjunction with a telecommunications facility and located on the same property or lot as the telecommunications facility, including, but not limited to, utility or transmission equipment storage sheds or cabinets.

**APPLICATION** — The form approved by the Planning Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a conditional use permit for a telecommunications facility.

**ANTENNA** — A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

**APPLIED WIRELESS TELECOMMUNICATIONS FACILITY** — An antenna array that is applied or attached to a building or structure with any accompanying pole or device that attaches the antenna array to the building or structure and connection cables.

**BREAK POINT** — The location on a telecommunications tower which, in the event of a failure of the tower, would result in the tower falling or collapsing within the boundaries of the property on which the tower is placed.

**CITY** — The City of Trenton, NJ.

**COLOCATION** — The use of the same structure or telecommunications tower to carry two or more antennas for the provision of wireless services by two or more persons or entities.

**COMMERCIAL IMPRACTICABILITY OR COMMERCIALLY IMPRACTICABLE** — Shall have the meaning in this article and any conditional use permit granted hereunder as is defined and applied under the United States Uniform Commercial Code (UCC).

**FAA** — The Federal Aviation Administration, or its duly designated and authorized successor

agency.

FCC — The Federal Communications Commission, or its duly designated and authorized successor agency.

FREESTANDING TOWER — Any structure that is specifically designed for the purpose of supporting a wireless telecommunications device. This definition shall include monopoles and self-supporting and guyed towers.

HEIGHT — When referring to a tower or structure, the distance measured from the grade level existing prior to construction of a tower or, if an existing structure, the grade level existing prior to application to place a wireless telecommunications antenna to the highest point on the tower or structure, even if said highest point is an antenna.

NIER — Nonionizing electromagnetic radiation.

PERSON — Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest, or governmental entity.

PERSONAL WIRELESS FACILITY — See definition for "wireless telecommunications facility."

PERSONAL WIRELESS SERVICES (PWS) OR PERSONAL TELECOMMUNICATIONS SERVICE (PCS) (OR ANY FUNCTIONALLY EQUIVALENT SERVICE OR TECHNOLOGY THAT MAY BE DEVELOPED IN THE FUTURE) — Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

SITE — See definition for "wireless telecommunications facility."

CONDITIONAL USE PERMIT — The official document or permit by which an applicant is allowed to construct and use a wireless telecommunications facility as granted or issued by the City.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

TELECOMMUNICATIONS STRUCTURE — Any structure used in, associated with or necessary for the provision of wireless services and as described in the definition of "wireless telecommunications facility."

TEMPORARY — In relation to all aspects and components of this article, fewer than 90 days.

WIRELESS TELECOMMUNICATIONS FACILITY, TOWER, SITE OR PERSONAL WIRELESS FACILITY (OR ANY FUNCTIONALLY EQUIVALENT SERVICE OR TECHNOLOGY THAT MAY BE DEVELOPED IN THE FUTURE) — A structure or location designed or intended to be used or used to support antennas. It includes, without limit, antennas applied to the facade of a building or roof-mounted antennas, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology, and including, but not limited to, structures such as a church steeple, water tower, flagpole, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a facility or structure intended for transmitting and/or receiving radio, television, cellular, paging or personal telecommunications services or microwave telecommunications, but excluding those used exclusively for fire, police and other dispatch telecommunications or exclusively for private radio and television reception and private citizens bands, amateur radios and other similar telecommunications.

### **§ 315-150. Overall policy and desired goals for conditional use permit.**

- A. In order to ensure that the placement, construction and modification of wireless telecommunications facilities conforms to the City's purpose and intent of this article, the City Council creates a conditional use permit for a wireless telecommunications facility. It shall be a violation of this article to erect, construct, replace or modify a wireless telecommunications facility within the City of Trenton without first obtaining a conditional use permit.

B. Any conditional use permit for a wireless telecommunications facility issued shall, to the greatest extent possible, conform to the following goals:

- (1) Establish a policy for examining an application for and issuing a conditional use permit for a wireless telecommunications facility that is both fair and consistent.
- (2) Establish reasonable time frames for granting or not granting a conditional use permit for a wireless telecommunications facility or recertifying or revoking the conditional use permit granted under this article.
- (3) Promote and encourage, wherever possible, the sharing and/or colocation of a wireless telecommunications facility among service providers.
- (4) Promote and encourage, wherever possible, the placement of a wireless telecommunications facility in such a manner as to cause minimal disruption to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such a wireless telecommunications facility and to minimize adverse aesthetic impacts to the community.

#### **§ 315-151. Conditional use permit application and other requirements.**

- A. All applicants for a conditional use permit for a wireless telecommunications facility or any modification of such facility shall comply with the requirements set forth in this section.
- B. All applicants for a conditional use permit for a wireless telecommunications facility shall submit an application to the Department of Housing and Economic Development's Planning Division on forms prepared by the City of Trenton. An application for a wireless telecommunications facility, as defined in this section, shall be directed by the Planning Staff to the Planning Board for review and approval.
- C. An application for a conditional use permit for a wireless telecommunications facility shall be made by the person or entity which will own the wireless telecommunications facility and shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different from the applicant, shall also sign the application. At the discretion of the Planning Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
- D. Applications not meeting the requirements stated herein, or which are otherwise incomplete, shall be rejected by the Planning Board.
- E. The applicant shall include a statement, in writing:
  - (1) That the applicant's proposed wireless telecommunications facility will be maintained in a safe manner and in compliance with all conditions of the conditional use permit, without exception, unless specifically granted relief by the Planning Board, in writing, as well as all applicable and permissible local codes, rules and regulations, including any and all applicable county, state and federal laws, rules and regulations.
  - (2) That the construction of the wireless telecommunications facility is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the State of New Jersey.
- F. No wireless telecommunications facility or tower or other structure shall be installed or constructed for the purpose of providing wireless telecommunications service until a plan of the site, including elevation, is reviewed and approved by the Planning Board.
- G. All applications for the construction or installation of a new wireless telecommunications facility shall be accompanied by a report containing the information hereinafter set forth. The report shall

be signed by a licensed professional engineer registered in the State of New Jersey and shall contain the following information. Where this section calls for certification, such certification shall be by a qualified State of New Jersey licensed professional engineer, unless otherwise noted. The application shall include, in addition to the other requirements for the conditional use permit, the following information:

- (1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily within the City.
- (2) Name and address of person preparing the report.
- (3) Name and address of the property owner, operator and applicant, to include the legal form of the applicant.
- (4) Postal address and tax map designation of the property.
- (5) Zoning district in which the property is situated.
- (6) Size of the property, stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines.
- (7) Location of all residential structures within 750 feet in the case of a freestanding tower and within 250 feet in the case of all other wireless telecommunications facility applications.
- (8) Location of all schools and habitable structures within 750 feet in the case of a freestanding tower and within 250 feet in the case of all other wireless telecommunications facility applications.
- (9) Location of all structures on the property which is the subject of the application.
- (10) Location, size and height of all proposed and existing antennas and all appurtenant structures.
- (11) Type, size and location of all proposed and existing landscaping.
- (12) The number, type and design of the wireless telecommunications facility's antenna(s) proposed and the basis for the calculations of the wireless telecommunications facility's capacity to accommodate multiple users.
- (13) The make, model and manufacturer of the wireless facility and antenna(s).
- (14) A description of the proposed wireless facility and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.
- (15) The frequency, modulation and class of service of radio or other transmitting equipment.
- (16) Transmission and maximum effective radiated power of the antenna(s).
- (17) Direction of maximum lobes and associated radiation of the antenna(s).
- (18) The applicant's proposed wireless facility maintenance and inspection procedures and related system of records.
- (19) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC.
- (20) Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices.
- (21) A copy of the FCC license applicable for the use of the wireless telecommunications facility.
- (22) Certification that a topographic and geomorphologic study and analysis has been conducted and, taking into account the subsurface and substrata and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless

telecommunications tower on the proposed site.

(23) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites.

(24) The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new wireless telecommunications facility that it constructs.

H. In the case of a new wireless telecommunications facility, the applicant shall be required to submit a report demonstrating its efforts to secure shared use of existing wireless telecommunications facilities. Copies of written requests and responses for shared use shall be provided to the Planning Board.

I. Certification that the wireless telecommunications facility, accessory facilities and structures, and attachments are designed and constructed (as built) to meet all county, state and federal structural requirements for loads, including wind and ice loads.

J. After construction certification that the wireless telecommunications facility and related facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

K. A visual impact assessment which shall, at the Planning Board's request, include:

- (1) A "zone of visibility" map which shall be provided in order to determine locations where the facility may be seen.
- (2) Computer-generated pictorial representations of "before" and "after" views from key viewpoints to be determined by the Planning Board, including, but not limited to, state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board will provide guidance concerning the appropriate key sites at a pre-application meeting.
- (3) An assessment of the visual impact of the facility base, guy wires and accessory structures from abutting and adjacent properties and streets.

L. The applicant shall, in a manner approved by the Planning Board, demonstrate and provide, in writing and/or by drawing, how it shall effectively screen from view its proposed wireless telecommunications facility base and all accessory facilities and structures, subject to approval by the Planning Board.

M. All utilities serving any wireless telecommunications facility site shall be installed underground and in compliance with all laws, rules and regulations of the City, including, specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Planning Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Planning Board, such waiver or variance shall not be detrimental to the health, safety, general welfare or environment, including the visual and scenic characteristics of the area.

N. All applicants for wireless telecommunications facilities and accessory facilities and structures shall demonstrate that the facility be sited so as to have the least possible adverse visual effect on the environment and its character and on the residences in the area of the wireless telecommunications facility site.

O. Both the wireless telecommunications facility and any and all accessory or associated facilities and structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and with the natural surroundings.

P. An access road and parking to assure adequate emergency and service access shall be provided, should such be deemed necessary by the Planning Board. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall

at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

- Q. A person who holds a conditional use permit for a wireless telecommunications facility shall construct, operate, maintain, repair, modify or restore the permitted wireless telecommunications facility in strict compliance with all current technical, safety and safety-related codes and regulations adopted by the City, county, state or United States, including, but not limited to, the most recent editions of the National Electrical Safety Code and the National Electrical Code (or substitute codes), as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
- R. A holder of a conditional use permit granted under this article shall obtain, at its own expense, all permits and licenses required by applicable law, rule or regulation and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- S. If the applicant is proposing the construction of a freestanding tower, the applicant shall examine the feasibility of designing a tower to accommodate future demand for at least two additional commercial applications, e.g., future colocations. The wireless telecommunications facility shall be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the wireless telecommunications facility is not technologically feasible or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:
  - (1) The number of foreseeable FCC licenses available for the area.
  - (2) The kind of wireless telecommunications facility site and structure proposed.
  - (3) The number of existing and potential licenses without wireless telecommunications facility spaces/sites.
  - (4) Available space on existing and approved telecommunications towers.
- T. Unless waived by the Planning Board, there shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. Where the application is for the shared use of an existing telecommunications tower or other high structure, the applicant can seek to waive any application requirements that may not be applicable. At the pre-application meeting, the waiver requests, if appropriate, will be decided by the City. Costs of the City's attorneys, engineers, planners and other consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
- U. The holder of a conditional use permit shall notify the Planning Board of any intended modification of a wireless telecommunications facility and shall apply to the Planning Board to modify, relocate or rebuild a wireless telecommunications facility.

## § 315-152. Location.

- A. Location priorities.
  - (1) Notwithstanding any other provision of the Zoning Code or any other local law, wireless telecommunications facilities may be, subject to the provisions of this article, located in any zoning district. Applicants for wireless telecommunications facilities shall locate, site and

erect said wireless telecommunications facilities, including towers or other tall structures, in accordance with the following priorities, No. 1 being the highest priority and No. 7 being the lowest priority:

<b>Priority Ranking</b>	<b>Location</b>
1	Colocation on a site with existing telecommunications towers or structures containing existing telecommunications facilities in nonresidential districts and on nonresidential buildings
2	Existing nonresidential tall structures
3	Industrial or commercial areas
4	Other nonresidential areas
5	Colocation on a site with existing telecommunications towers or structures containing existing telecommunications facilities in residential districts
6	Existing residential structures over five stories in height
7	On other property in the City

- (2) If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- (3) An applicant may not bypass sites of higher priority by stating that the site presented is the only site leased or selected. An application shall address colocation as an option and, if such option is not proposed, the applicant must explain why colocation is commercially or otherwise impractical. Agreements between providers limiting or prohibiting colocation shall not be a valid basis for any claim of commercial impracticability or hardship.
- (4) Notwithstanding the above, the Planning Board may approve any site located within an area in the above list of priorities, provided that the Planning Board finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants.
- B. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- C. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has, is or will be considering, reviewing or planning for wireless telecommunications facilities in the City, and all municipalities adjoining the City, for a two-year period following the date of the application.
- D. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Planning Board may disapprove an application for any of the following reasons:
  - (1) Conflict with safety and safety-related codes and requirements.
  - (2) Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws.
  - (3) Conflict with the historic nature of a neighborhood or historical district.
  - (4) The location of a wireless telecommunications facility will be in such proximity to residences or other noncommercial uses so as to create an unacceptable impact upon any adjoining property by virtue of visual or aesthetic impacts and/or by virtue of the impact of the

placement of such a facility upon adjoining property values.

- (5) The placement and location of a wireless telecommunications facility which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the City, or employees of the service provider or other service providers.
- (6) Placement of a wireless telecommunications facility, which, by virtue of its location, would be in conflict with the purpose and intent of the Zoning Code or Master Plan of the City of Trenton.

### **§ 315-153. Shared use of telecommunications facilities.**

- A. Location of antennas on preexisting wireless telecommunications facilities shall be considered and preferred. Shared use of existing telecommunications towers or other existing structures shall be preferred by the City, as opposed to the proposed construction of new telecommunications towers or facilities. Where such shared use is unavailable, the applicant shall submit a comprehensive report which lists an inventory of existing wireless telecommunications facilities and other appropriate structures which could be used to support antennas within four miles of any proposed new wireless telecommunications facility site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.
- B. An applicant intending to share use of an existing telecommunications tower or other tall structure shall be required to document the intent of the existing owner to share use.
- C. In the event that an application to share the use of an existing freestanding telecommunications tower does not increase the height of the freestanding telecommunications tower, the Planning Board may waive such requirements of the application required by this article as may be unnecessary to the review of the application.
- D. Such shared use shall consist only of the minimum antenna array technologically required to provide service within the City unless it is demonstrated that a more extensive antenna array is necessary to fill a service gap which cannot be filled without erecting additional freestanding towers or telecommunications structures within the City. In no event shall an antenna be installed which does not principally provide service in a manner which fills an existing gap in service within the City.

### **§ 315-154. Height of facilities and antennas.**

- A. The applicant must submit documentation demonstrating that the total height of any wireless telecommunications facility and/or antenna is necessary to provide service within the City or to otherwise fill a service gap which cannot be filled in any other reasonable fashion.
- B. Wireless telecommunications facilities shall be no higher than the minimum height necessary. Unless waived by the Planning Board upon good cause shown, the maximum height shall be 100 feet, based on three colocated antenna arrays and ambient tree height of 70 feet.
- C. The maximum height of any wireless telecommunications facility and attached antennas constructed after the effective date of this article shall not exceed that which shall permit operation without artificial lighting of any kind in accordance with municipal, county, state and/or federal laws and/or regulations.

### **§ 315-155. Visibility.**

- A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required

by law.

- B. Telecommunications towers and facilities shall be of a galvanized finish or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings, as approved by the Planning Board, and shall be maintained in accordance with the requirements of this article.
- C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facility is located.

#### **§ 315-156. Security against unauthorized access.**

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically:

- A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into.
- B. Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

#### **§ 315-157. Signage.**

Wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency telephone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any wireless telecommunications facilities, antennas, antenna supporting structures or antenna towers, unless required by law.

#### **§ 315-158. Lot size and setbacks.**

- A. All proposed telecommunications towers and associated equipment shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on site all icefall or debris from a tower or tower failure and to preserve light, air and privacy of any adjoining properties.
- B. Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the facility, plus 10 feet, or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the minimum setback requirements for the property on which it is situated.
- C. Notwithstanding anything contained herein to the contrary, if a wireless telecommunications facility is placed on an existing building, the Planning Board may vary the setbacks, provided the Planning Board requires that the wireless telecommunications facility be set back to the maximum extent permitted under the circumstances.

#### **§ 315-159. Retention of expert assistance; reimbursement by applicant; deposit required.**

- A. The Planning Board may hire any consultant and/or expert necessary to assist in review and evaluation of the application and any requests for recertification.
- B. An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the Planning Board in connection with the review of any application. The initial deposit shall be \$7,500 for a facility application and \$5,000 in the case of colocation. These funds shall accompany the filing of an application, and the City will maintain a separate escrow account for all such funds. The City's consultants/experts shall bill or invoice the City no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process the balance of this account falls below \$2,500, additional funds must be submitted to the City to bring the balance of the account to \$7,500, or in the case of colocation, \$5,000, or upon request from the applicant, a lesser amount to be set by the Planning Board, before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing, the difference shall be promptly refunded to the applicant.
- C. The total amount of the funds set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Planning Board or its consultant/expert to complete the necessary review and analysis. Additional funds, as required, shall be paid by the applicant. The initial amount of the escrow deposit shall be established at a pre-application meeting with the City.

**§ 315-160. Conditional use permit required; exceptions; continuation of existing facilities.**

- A. No person, corporation or other entity shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, a wireless telecommunications facility as of the effective date of this article without having first obtained a conditional use permit for a wireless telecommunications facility. Notwithstanding anything to the contrary in this section, no conditional use permit shall be required for those exceptions noted in the definition of wireless telecommunications facility, such as those used exclusively for fire, police and other dispatch telecommunications or exclusively for private radio and television reception and private citizens bands, amateur radio and other similar telecommunications.
- B. After the date of adoption of this article all construction, including routine maintenance on an existing wireless telecommunications facility, shall comply with the requirements of this article.
- C. All wireless telecommunications facilities existing on or before the effective date of this article shall be allowed to continue as they presently exist; provided, however, that any modification to existing facilities must comply with this article.

**§ 315-161. Action on permit applications; notification of applicant.**

- A. The Planning Board will undertake a review of an application pursuant to this article in a timely fashion and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved and the applicant's desire for a timely resolution.
- B. Except for necessary building permits no additional permits or approvals from the City, other than the conditional use permit granted under this article, shall be required for telecommunications facilities and telecommunications structures covered by this article.
- C. After the public hearing and after formally considering the application, the Planning Board may approve and issue, approve with conditions, or deny, a conditional use permit. Its decision shall

be in writing and shall be based on the record. The burden of proof for the grant of the permit shall always be upon the applicant.

- D. If the Planning Board approves the conditional use permit for a wireless telecommunications facility, then the applicant shall be notified of such approval, in writing, within 10 calendar days of the Board's action, and the conditional use permit shall be issued within 30 days after such approval.
- E. If the Planning Board denies the conditional use permit for a wireless telecommunications facility, then the applicant shall be notified of such denial in writing within 10 calendar days of the Board's action.
- F. The decision on the application shall also be filed in the office of the City Clerk within ten days after it is rendered.
- G. Upon receipt of the conditional use permit, the applicant shall thereafter apply for and obtain a building permit from the Building Department.

### **§ 315-162. Right of appeal; variances.**

Any person aggrieved by the granting or denial of an application for a wireless telecommunications facility may take an appeal therefrom to the Supreme Court of the State of New Jersey within 30 days from the date of filing of the decision of the Planning Board on the application.

### **§315-163. Recertification of conditional use permits.**

- A. At least six months prior to the fifth anniversary of the effective date of the conditional use permit and every five years thereafter, the holder of a conditional use permit for such facility shall submit a written request for recertification. In the written request for recertification, the holder of such conditional use permit shall note the following:
  - (1) The name of the holder of the conditional use permit for the wireless telecommunications facility.
  - (2) If applicable, the number or title of the conditional use permit.
  - (3) The date of the original granting of the conditional use permit.
  - (4) Whether the wireless telecommunications facility has been moved, relocated, rebuilt, repaired or otherwise modified since the issuance of the conditional use permit.
  - (5) If the wireless telecommunications facility has been moved, relocated, rebuilt, repaired or otherwise modified; whether the Planning Board approved such action; the terms and conditions of such approval; and a certification that the holder of the conditional use permit is in compliance with all terms and conditions of the approval.
  - (6) Any requests for waivers or relief of any kind whatsoever from the requirements of this article and any requirements for a conditional use permit.
  - (7) That the wireless telecommunications facility is in compliance with the conditional use permit and in compliance with all applicable codes, laws, rules and regulations.
- B. If, after such review, the Planning Board determines that the permitted wireless telecommunications facility is in compliance with the conditional use permit and all applicable codes, laws, rules and regulations, then the Board shall issue a recertification conditional use permit for the wireless telecommunications facility, which may include any new provisions or conditions that are mutually agreed upon or required by codes, laws, rules or regulations.
- C. If the Planning Board does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of the conditional use permit, or subsequent fifth anniversaries,

then the applicant for the permitted wireless telecommunications facility shall receive an extension of the conditional use permit, for up to six months, in order for the Board to complete its review.

D. If the holder of a conditional use permit for a wireless telecommunications facility does not submit a request for recertification of such conditional use permit within the time frame noted in Subsection A of this section, or if the Planning Board finds that the wireless telecommunications facility has been moved, relocated, rebuilt or otherwise modified without approval of such having been granted by the Planning Board under this article, then such conditional use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the conditional use permit, or subsequent fifth anniversaries, unless the holder of the conditional use permit adequately demonstrates to the Planning Board that extenuating circumstances prevented a timely recertification request. If the Planning Board agrees that there were legitimate extenuating circumstances, then the holder of the conditional use permit may submit a late recertification request.

#### **§ 315-164. Extent and parameters of conditional use permits.**

The extent and parameters of a conditional use permit for a wireless telecommunications facility shall be as follows:

- A. Such conditional use permit shall be nonexclusive.
- B. Such conditional use permit shall not be assignable or transferable without the express written consent of the Planning Board, and such consent shall not be unreasonably withheld.
- C. Such conditional use permit may be revoked, cancelled or terminated for a violation of the conditions and provisions of the conditional use permit for a wireless telecommunications facility or for a material violation of this article.

#### **§ 315-165. Performance security.**

The applicant and the owner of record of any property on which there is a proposal to site a wireless telecommunications facility shall be jointly required to execute and file with the City a bond, or other form of security acceptable to the City, in an amount deemed sufficient by the Planning Board to assure the faithful performance of the terms and conditions of this article and the conditions of any conditional use permit issued pursuant to this article. The full amount of the bond or security shall remain in full force and effect throughout the term of the conditional use permit and/or until the wireless telecommunications facility is removed and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the conditional use permit and shall entitle the Planning Board to revoke the conditional use permit after prior written notice to, and an opportunity to be heard by, the holder of the permit.

#### **§ 315-166. Reservation of authority to inspect facilities.**

- A. In order to verify that the holder of a conditional use permit for a wireless telecommunications facility and any and all lessees, renters and/or licensees of a wireless telecommunications facility place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, rules and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.
- B. The City shall pay for costs associated with such an inspection, except for those circumstances

occasioned by said holder's, lessee's or licensee's refusal to provide necessary information or necessary access to such facilities, including towers, antennas and appurtenant or associated facilities, or refusal to otherwise cooperate with the City with respect to an inspection, or if violations of this article are found to exist, in which case the holder, lessee or licensee shall reimburse the City for the cost of the inspection.

- C. Payment of such costs shall be made to the City within 30 days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is/are appealed in accordance with the procedures set forth in this article, said reimbursement payment must still be paid to the City and the reimbursement shall be placed in an escrow account established by the City specifically for this purpose, pending the final decision on appeal. In the event the appeal is successful, the funds held in escrow shall be returned to the permit holder.

#### **§ 315-167. Annual NIER certification.**

The holder of the conditional use permit shall, annually, cause an engineer with at least five years of experience in the field to certify to the City that non-ionizing electromagnetic radiation (NIER) levels at the site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved in advance by the City but must submit evidence of experience along with the required certification.

#### **§ 315-168. Liability insurance.**

- A. A holder of a conditional use permit for a wireless telecommunications facility shall secure, and at all times maintain, public liability insurance, property damage insurance and umbrella insurance coverage for the duration of the conditional use permit in the following amounts:
  - (1) Commercial general liability:
    - (a) Per occurrence: \$1,000,000.
    - (b) Aggregate: \$2,000,000.
- B. The commercial general liability insurance policy shall specifically include the City and its officials, employees and agents as additional insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of New Jersey.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' written notice in advance of the cancellation of the insurance.
- E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance which such policies are to renew or replace.
- F. Before construction of a permitted wireless telecommunications facility is initiated, the holder of the conditional use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

#### **§ 315-169. Indemnification.**

Any conditional use permit issued pursuant to this article shall contain a provision with respect to indemnification. Such provision shall require the holder of the conditional use permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City, officials of the City and its officers, agents, servants and employees from any and all penalties, damages or charges arising out of any and all claims, suits, demands, causes of action or awards of damage, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the construction, erection, modification, location, product

performance, operation, maintenance, repair, installation, replacement, removal or restoration of a wireless telecommunications facility within the City. With respect to the penalties, damages or charges referenced herein, reasonable fees of attorneys, consultants and expert witnesses are included in those costs that are recoverable by the City.

### **§ 315-170. Penalties for offenses.**

- A. Civil sanctions. Any person who violates any of the provisions of this article shall be liable for a civil penalty of not more than \$3,000 for every such violation. Each consecutive day of violation will be considered a separate offense. Such civil penalty may be released or compromised by the City. In addition, the City shall have power, following a hearing, to direct the violator to comply with the provisions of this article.
- B. Criminal sanctions. Any person, firm or corporation who willfully violates any of the provisions of this article or permits promulgated thereunder, excluding provisions set forth in the rules and regulations promulgated thereunder, upon conviction thereof of the first offense shall be guilty of a violation punishable by a fine of not less than \$500 and not more than \$1,000 and, for a second offense and each subsequent offense, shall be guilty of a violation punishable by a fine of not less than \$1,000 nor more than \$2,000, or a term of imprisonment of not more than 15 days, or both. Each consecutive day of violation will be considered a separate offense.
- C. Notwithstanding anything in this article, the holder of the conditional use permit for a wireless telecommunications facility may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this article or any section of this article. An attempt to do so shall subject the holder of the conditional use permit to termination and revocation of the conditional use permit.
- D. The provisions for civil and criminal penalties contained herein shall not be exclusive, and the City may seek such other relief as may be available, including injunctive relief to prevent the threatened or continued violation of this article.

### **§ 315-171. Default and/or revocation.**

- A. If a wireless telecommunications facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this article or of the conditional use permit, then the Building Department shall notify the holder of the conditional use permit, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this article, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Building Department may, at its sole discretion, order the violation remedied within 24 hours.
- B. If, within the period set forth in Subsection A above, the wireless telecommunications facility is not brought into compliance with the provisions of this article or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facility into compliance, then the Planning Board may revoke such special use permit for a wireless telecommunications facility and shall notify the holder of the special use permit within 48 hours of such action.

### **§ 315-172. Removal of facilities; restoration of site.**

- A. Under the following circumstances, the Planning Board may determine that the health, safety and welfare interests of the City warrant and require the removal of a wireless telecommunications

facility:

- (1) A wireless telecommunications facility with a permit has not used as a wireless telecommunications facility for a period exceeding 90 consecutive days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force or acts of God.
- (2) A permitted wireless telecommunications facility falls into such a state of disrepair that it creates a health or safety hazard.
- (3) A wireless telecommunications facility has been located, constructed or modified without first obtaining the required conditional use permit, or any other necessary authorization.
- (4) A wireless telecommunications facility, which does not meet the current FCC standards, shall be removed within six months of the implementation of such new standards, unless the facility is made compliant.

B. If the Planning Board makes such a determination as noted in Subsection A of this section, then the Board shall notify the holder of the conditional use permit for the wireless telecommunications facility within 48 hours that said wireless telecommunications facility is to be removed. The Planning Board may approve an interim temporary use permit, such as to enable the sale of the wireless telecommunications facility.

C. Upon a determination by the Planning Board that a wireless telecommunications facility should be removed, the holder of the conditional use permit or the owner of the site shall dismantle and remove such wireless telecommunications facility and all associated structures and facilities from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Planning Board.

D. If a wireless telecommunications facility is not removed or substantial progress has not been made to remove the wireless telecommunications facility within 90 days after the permit holder or owner of the site has received notice, then the City may remove the wireless telecommunications facility at the sole expense of the owner and/or permit holder.

E. If the City removes or causes to be removed a wireless telecommunications facility and the owner of the wireless telecommunications facility does not claim the property and remove the facility from the site to a lawful location within 10 days, then the City may take steps to declare the facility abandoned and sell it and its components.

F. Notwithstanding anything in this section to the contrary, the Planning Board may approve a temporary permit for the wireless telecommunications facility for no more than 90 days, during which time a suitable plan for removal, conversion or relocation of the affected wireless telecommunications facility shall be developed by the holder of the permit, subject to the approval of the Planning Board, and an agreement to such plan shall be executed by the holder of the permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facility in the manner provided in this section.

### **§ 315-173. Waiver of application requirements and permit conditions.**

- A. Any applicant can request a waiver of application requirements that are inapplicable to its permit application. Such request shall be in writing. Requests should be discussed at the preapplication meeting. The applicant shall have the burden of supporting such requests. Determinations as to applicability of application requirements shall be made by the Planning Board.
- B. In determining permit conditions, the Planning Board can waive inapplicable permit requirements, consistent with the policy goals and priorities of this article. The applicant shall have the burden of supporting such requests. Determinations as to applicability of permit condition requirements shall

be made by the Planning Board.

**§ 315-174. Adherence to state and federal rules and regulations.**

- A. To the extent that the holder of a conditional use permit for a wireless telecommunications facility has not received relief or is not otherwise exempt from appropriate state and/or federal agency rules or regulations, then the holder of such a conditional use permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security, are changed and/or are modified during the duration of a conditional use permit for a wireless telecommunications facility, then the holder of such a conditional use permit shall conform the wireless telecommunications facility to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by such rule, regulation, standard or provision.

**§ 315-175. Conflict with other laws.**

Where this article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the City and the public shall apply.

**§ 315-176. Severability.**

If any word, phrase, sentence, part, section, subsection or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this article, and all applications thereof, not having been declared void, unconstitutional or invalid shall remain in full force and effect.

**§ 315-177. Legislative authority.**

This article is enacted by local law pursuant to Municipal Land Use Law. This article shall supersede the provisions of City law or other statute to the extent that it is inconsistent with the same and to the extent permitted by the New Jersey State Constitution, Municipal Land Use Law or any other applicable statute.

**ARTICLE XXIV Off-Street Parking, Loading and Unloading**

§

**§ 315-178. Plan required; issuance of occupancy permits; encroachment of parking spaces prohibited.**

Off-street parking, unloading and service requirements of this article shall apply and govern in all present and future zoning districts within the City. Except as provided in this article, no application for a building permit shall be approved unless there is included with the plan for such building, improvement or use a plot plan showing the required space for off-street parking, unloading and

service facilities. Occupancy permits shall not be given unless the required off-street parking, unloading and service facilities have been provided in accordance with those shown on the approved plan. No off-street parking area shall be reduced in size or encroached upon by buildings, vehicle storage, loading or unloading, or any other use where such reduction or encroachment will reduce the off-street parking and loading spaces below that are required by these regulations. The above provisions shall not apply to one-family dwellings.

### **§ 315-179. Existing uses.**

Any building, improvement or use in operation on the effective date of this chapter, \_\_\_\_\_ is not affected by the provisions of this article until such time as the existing building, improvement or use is enlarged.

### **§ 315-180. Design standards.**

- A. Size of parking space. Each ninety-degree and parallel parking space shall not be less than 180 square feet nor less than nine feet wide, nor less than 20 feet deep. Where cars overhang concrete curbing, then the depth of a space shall be not less than 18 feet.
- B. Compact spaces. At the discretion of the Planning Board or Zoning Board of Adjustment, as applicable, as part of site plan review, up to 30% of required parking spaces may be designated for compact car use. Such spaces shall not be less than eight feet wide, not less than 17 feet deep, except in areas where cars overhang curbing, then the depth of space shall not be less than 16 feet.
- C. Driveways for residential dwelling structures. Whenever possible, parking shall be located at the rear of a residential structure, via a common driveway or alley. The parking of vehicles in front yards in front of the front building line is prohibited. Driveways must be located at the rear of the building or on side yards and extend at least 18 feet beyond the front building line, and be a minimum of eight feet in width on a side yard of at least 10 feet in width. The maximum width of a driveway shall be 12 feet in the front and side yards. When a site plan is prepared for development of more than one residential unit, the plan shall place driveways in such a manner so as to minimize curb cuts and the loss of on-street spaces.
- D. When a garage door is proposed to be located on the front facade of a residential structure, the residential structure must be at least 20 feet wide and the garage door must not comprise more than 40 percent of the front facade. Such door must be incorporated into the ground floor facade in such a manner as to provide the appearance of residential living space on the ground floor level.
- E. Interior driveways for parking lots. The following driveway widths shall apply:
  - (1) For ninety-degree parking: 22 to 24 feet wide.
  - (2) For sixty-degree parking: 18 feet wide.
  - (3) For thirty-and forty-five-degree parking: 14 feet wide
  - (4) Where used with parallel parking or where there is no parking: at least 14 feet wide for one-way traffic movement and at least 24 feet wide for two-way traffic movement.
- F. Driveway location. At the intersection of streets, no driveway providing access to parking for 5 or fewer residential dwelling units shall be located closer than 20 feet to the intersection of two curb lines. Any driveway providing access for more than 5 residential dwelling units or for any commercial use, shall be located no closer than 100 feet to the intersection of two curb lines.

G. Handicapped parking spaces. Handicapped parking spaces shall be provided in accordance with state requirements.

H. Separation from walkways and streets. All off-street parking, off-street loading and services areas shall be separated from sidewalks, streets or alleys by appropriate protective and screening devices; including attractive walls and or coniferous plantings along the street edge, in accordance with §315-210.

I. Landscaping and lighting of parking lots. Landscaping and lighting of parking lots shall be required, in accordance with Article XXVI (§315-208 et seq).

J. Multistory parking garages. Multistory parking garage facades shall meet the following design requirements:

- (1) Provide for vertical breaks along any street frontage.
- (2) Incorporate brick or other aesthetically attractive material acceptable to the Planning Board on street facing facades and mask the view of parked vehicles from the street to the greatest extent practicable. Provide for the appearance of fenestration as viewed from any public street.
- (3) Locate entrances towards the side or rear of the property whenever possible.
- (4) In the Downtown District garages must provide for street-level retail uses as specified by Capital City Redevelopment Corporation Renaissance Plan, 1988.
- (5) In BA districts single use parking structures must be designed to allow for potential future conversion of the ground floor level into retail business uses.

K. Paving of driveways and/or off-street parking areas.

- (1) All new driveways and/or off street parking areas required by ordinances shall be paved with impervious materials, including brick, asphalt, concrete or driveway pavers, or pervious paving materials that increase stormwater infiltration including gravel, crushed stone, open paving blocks or pervious paving blocks in accordance with the specification of the Construction Official or the Planning Board's consultant engineer.
- (2) Driveways for single-family dwelling units shall be permitted the option of having paving surface provided only under the vehicular tire treadway. Each treadway shall have a minimum width of two feet, with a maximum unpaved area of three feet in width down the middle. The unpaved central strip shall have gravel or be seeded.

L. Paving of on-site walkways. All new on-site walkways leading from a sidewalk, driveway, street or alley to the primary structure on the property shall be paved with impervious materials, including brick, pavers or concrete, or pervious paving materials that increase stormwater infiltration including gravel, crushed stone, open paving blocks or pervious paving blocks in accordance with the specifications of the Construction Official or the Planning Board's consultant engineer. Asphalt material may be used for walkways located in the rear yard of the property.

### **§ 315- 181. Other uses prohibited**

No off-street parking or loading area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

### **§ 315-182. Responsibility of owners.**

It shall be the responsibility of the owner of the property to properly maintain all off-street parking, loading and unloading areas, service areas, driveways, aisles and access ways in good condition,

free of potholes, cracks and sagging conditions creating drainage problems. All lighting curbs, bumpers, markings, signs, drainage and landscaping shall be similarly maintained in workable safe and good condition. If the owner fails to undertake needed repairs and general maintenance and after proper notification by the Zoning Officer, the City Council may authorize repairs to be made at the owner's expense.

### **§ 315-183. Meeting requirements through other space**

Garage space or space within a building, in basements or on the roofs of buildings may be used to meet off-street parking requirements of this chapter, provided that such space is designated to serve as off-street parking space. Required parking spaces may be provided within 1,000 linear feet, or as otherwise specifically provided in this Article, of the main entrance to the building or other establishment to be served for such purposes, or adequate shuttle service must be available. If the Applicant is not the owner of the off-site space designated to meet the off-street requirement, the Applicant shall provide evidence to the satisfaction of the Planning Board that the designated off-street space is available for use by the Applicant's site.

### **§ 315-184. Continuing obligation**

The requirements in these regulations for off-street parking space shall be a continuing obligation. It shall be unlawful for any owner of any land or building affected by these regulations to discontinue, change or dispense with such off-street parking or loading facilities which comply with the requirements of these regulations. If the owner has met its off-street obligation through off-site off-street parking that becomes unavailable, it shall be the owners responsibility to provide alternative parking of like kind, or in the alternative, and at the discretion or direction of the Planning Board to provide a fee in-lieu of provision of such replacement parking,

## **§ 315-185. Parking requirements for the Downtown Parking Districts**

### **A. General Provisions**

(1) Purpose. Parking requirements in the Trenton Downtown Districts are provided to support Downtown development. Criteria are provided to ensure that the demand for parking will be managed and that negative effects of parking are minimized, while still providing sufficient parking to meet the goals of the City of Trenton for the Downtown.

(2) Number and Location of Downtown Parking Districts

There are 10 Downtown Parking Districts:

1. West State St.
2. State/Hanover
3. State House Area
4. Downtown
5. State Offices
6. Academy
7. East State
8. Mercer Jackson
9. Ewing-Carroll
10. Train Station

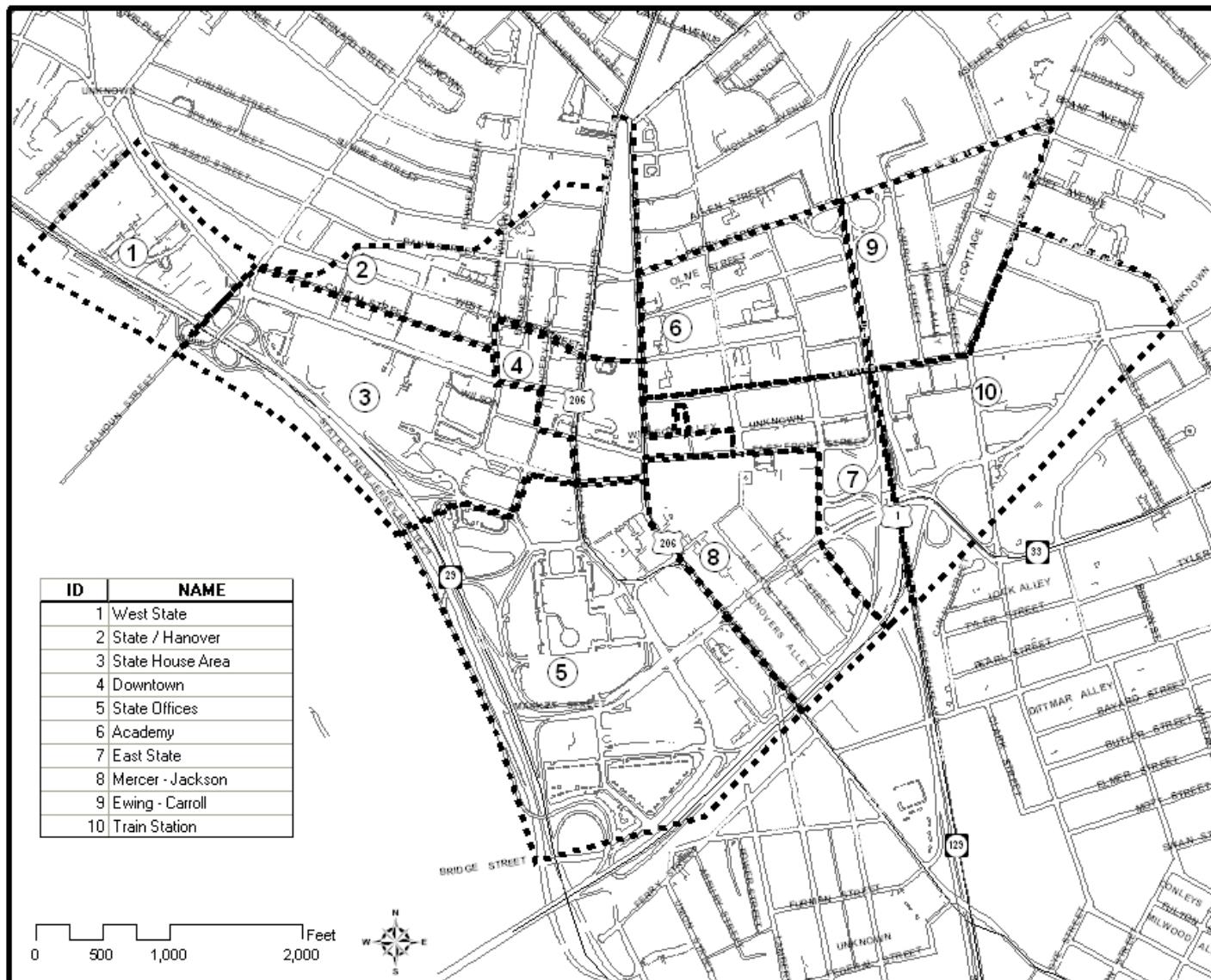
Each of the Parking Districts is identified and located in § 315-185, Figure 1.

### **B. Parking Requirements – Individual Uses**

Parking Requirements for the Downtown are based on which of the 10 Parking Districts the proposed development/redevelopment is situated. § 315-185, Table 1 provides Minimum, Maximum and Bicycle Parking requirements for each land use in each Parking District.

- (1). Minimum Parking Requirements have been established to ensure that there is sufficient parking to meet the goals of the City of Trenton for Downtown development and redevelopment.
- (2). Maximum Parking Requirements have been established and are intended to:
  - Preserve open space and limit impervious surfaces;
  - Reduce congestion;
  - Encourage attractive, pedestrian-friendly urban design;
  - Promote non-automobile modes of transportation.
  - Minimize costs for parking construction, operations and maintenance;
  - Reduce traffic and traffic related costs; and
  - Operate with a greater floor-to-area ratio, increasing leasable space.

## § 315-185, Figure 1 Downtown Parking Districts



**§315-185 Table 1 Minimum, Maximum and Bicycle Parking Requirements for the Trenton Downtown**

	District 1 W. State Street			District 2 State / Hanover			District 3 State House Area			District 4 Downtown			District 5 State Offices		
	Min.	Max.	Bike*	Min.	Max.	Bike*	Min.	Max.	Bike*	Min.	Max.	Bike*	Min.	Max.	Bike*
Residential (Per Unit)		1+ .5/ea 1 bedroom >1	.4	1.0	bedroom >1	.4		1+5/ea 1.0 bedroom >1	.4		.5+ .5/ea 0.5 bedroom >1	.4		.5+ .5/ea 0.5 bedroom >1	.4
Office (Per 1,000SF)	2.0	3.0	.1	2.0	3.0	.1	2.0	2.5	.1	2.0	2.5	.2	1.6	2.0	.2
Retail / Commercial (Per 1,000SF)	NA	NA	NA	2.7	2.7	.5	2.7	2.7	.5	2.7	2.7	.5	2.7	2.7	.5
Hotel (Per Room)	NA	NA	NA	1.0	1.1	.05	1.0	1.1	.05	1.0	1.1	.05	1.0	1.3	.05
Restaurant (Per Seat)	0.25	0.3	.05	0.25	0.3	.05	0.25	0.3	.05	0.25	0.3	.05	0.25	0.3	.05
Movie Theater (Per Seat)	0.3	0.5	.1	0.3	0.5	.1	0.3	0.4	.1	0.3	0.4	.1	0.3	0.4	.1
Conference/Convention (Per 1,000SF)	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05
Place of Worship (Per Seat)	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.05
Other (Per 1,000SF)	2.0	3.0	.05	2.0	3.0	.05	2.0	3.0	.05	2.0	3.0	.05	1.6	2.0	.05
Fee In Lieu of Minimum Spaces		\$6,000			\$15,000			\$15,000			\$15,000			\$15,000	

	District 6 Academy			District 7 E. State Street			District 8 Mercer Jackson			District 9 Ewing Carroll			District 10 Train Station		
	Min.	Max.	Bike	Min.	Max.	Bike	Min.	Max.	Bike	Min.	Max.	Bike	Min.	Max.	Bike
Residential (Per Unit)		1+ .5/ea bedroom	.4	1	>1	.4	1	>1	.4	1	>1	.4	1	>1	.4
Office (Per 1,000SF)	2.0	3	.2	2.0	3	.2	2.0	3.0	.1	2.0	3.0	.1	1.6	2.0	.4
Retail / Commercial (Per 1,000SF)	2.7	2.7	.5	2.7	2.7	.5	2.7	2.7	.5	2.7	2.7	.5	2.7	2.7	.5
Hotel (Per Room)	1.0	1.1	.05	1.0	1.1	.05	1.0	1.1	.05	1.0	1.1	.05	1.0	1.3	.05
Restaurant (Per Seat)	0.25	0.3	.05	0.25	0.3	.05	0.25	.30	.05	0.25	0.3	.05	0.25	0.25	.05
Movie Theater (Per Seat)	0.3	0.5	.1	0.3	0.5	.1	0.3	0.5	.1	0.3	0.5	.1	0.3	0.4	.1
Conference/Convention (Per 1,000SF)	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05	5.0	5.0	.05
Place of Worship (Per Seat)	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.05	0.2	0.2	.1
Other (Per 1,000SF)	2.0	3.0	.05	2.0	3.0	.05	2.0	3.0	.05	2.0	3.0	.05	1.6	2.0	.1
Fee In Lieu of Minimum Spaces		\$6,000			\$6,000			\$6,000			\$6,000			\$15,000	

\* Bicycle Space Requirements are for Re/developments of 5 or more Residential Units or 5,000 s.f. or more of Retail, Commercial or other space. Two bicycle parking spaces is the minimum where required.

(3) Bicycle Parking Requirements have been established to make the use of bicycling a more convenient and accessible alternative in the Trenton Downtown.

- a) Off-street parking for bicycles shall include provision for secure storage of bicycles. Such facilities shall provide lockable enclosed lockers or racks or equivalent structures in or upon which a bicycle may be locked by the user.
- b) Structures that require a user supplied locking device shall be designed to accommodate both chain and U-shaped locking devices and shall support the bicycle frame at two locations (not just the wheel).
- c) All lockers and racks must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location.
- d) The surfacing of such facilities shall be designed and maintained to be mud and dust free. The use of rock or gravel areas for bicycle parking is permitted provided that edging materials, such as landscape timbers are used so that the bicycle parking area is clearly demarcated and the rock material is contained.
- e) Bicycle parking facilities shall be sufficiently separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles. The separation may be accomplished through grade separation, distance or physical barrier, such as curbs, wheel stops, poles or other similar features.
- f) Required bicycle parking spaces shall be at least two (2) feet by six (6) feet per bicycle.
- g) An aisle a minimum of five (5) feet wide shall be provided behind bicycle parking facilities to allow for maneuvering.
- h) A minimum of 24 inches shall be provided beside each parked bicycle to allow access. This access may be shared by adjacent bicycles. Racks shall be installed a minimum of 24 inches from any wall or other obstruction.
- i) Bicycle parking facilities shall be located in a clearly designated safe and convenient location. Whenever possible, the bicycle parking shall be placed within 50 feet of building entrances and in well-lit areas.
- j) It is recommended that half of the bicycle parking spaces be provided as long term parking, safe and secure from vandalism and theft, and protected from the elements. The other half should be provided as short term (customer or visitor) parking, and it is recommended that these parking spaces be visible and convenient to the building entrance.

(4) Parking Requirement Adjustments for Individual Uses

A developer may make adjustments to its minimum parking requirement through the following conditions:

- a. Shared Use Parking – Applicant shall be entitled to reduce its minimum parking requirement provided that Applicant can demonstrate that it has entered into an agreement to share parking in a parking facility with other developments. Allowable deduction for parking based on shared use shall be determined as follows:
  - 1). The minimum parking requirement shall be determined for each user intending to share parking based on the minimum rates for each respective use in accordance with § 315-185 Table 1, Minimum, Maximum and Bicycle Parking Requirements for the Trenton Downtown for the applicable Parking District<sup>1</sup>.
  - 2). The minimum parking requirement for each use shall be multiplied by an "occupancy rate" as determined in § 315-185 Table 2, Parking Occupancy Rates for Shared Use Parking Assessment,

<sup>1</sup> Where shared users are located in more than one Parking District, the minimum rates of the District where the parking is located, or where a majority of the parking is located, shall prevail.

for each use for the weekday night, daytime and evening periods, and weekend night, daytime and evening periods, respectively.

**§ 315-185 Table 2 Parking Occupancy Rates for a Shared Use Parking Assessment<sup>2</sup>**

	M-F 8A-6P	M-F 6P-12A	M-F 12A-8A	Sat / Sun 8A-6P	Sat / Sun 6P-12A	Sat / Sun 12A-8A
Residential	60%	100%	100%	80%	100%	100%
Office	100%	20%	5%	5%	5%	5%
Retail/Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Conference/Convention	100%	100%	5%	100%	100%	5%
Place of Worship	10%	5%	5%	100%	50%	5%
Other <sup>3</sup>						

- b. Adjustment Based On Proximity to Transit - Applicant shall be entitled to reduce its minimum parking requirement by 10% for projects located within 600 feet of the Trenton Train Station or any Light Rail Transit Station.
- c. Adjustment Based on Public Accessibility to Parking - Applicant whose minimum parking requirement is in excess of 50 spaces shall be entitled to reduce its minimum parking requirement by 10% by entering into an agreement with the City to permit shared use parking on its property with a compatible development. This reduction will be permitted only if the Applicant is able to demonstrate to City planning staff satisfaction that there are periods where the parking will not be occupied by the proposed development.
- d. Adjustment for Additional Bicycle Parking - Applicant shall be entitled to reduce its minimum parking requirement by one space for every additional 5 bicycle parking spaces provided on its site above the minimum number required under the provisions of §315-185 Table 1, Minimum, Maximum and Bicycle Parking Requirements for the Trenton Downtown.
- e. Adjustment for Unbundled/Priced Parking - Applicant shall be entitled to reduce its minimum parking requirement by 10% of the total required spaces by agreeing to sell or rent its parking spaces separately from a lease or sale of building space.
- f. Adjustment for Housing Tenure - Applicant shall be entitled to reduce its minimum parking requirement for residential parking by up to 10% of the total required spaces for the housing that is constructed for rental versus owner occupied housing. The amount of the reduction shall be calculated by multiplying 10% by the fraction consisting of the square footage of residential units for rental use divided by the total square footage of all residential housing units developed.
- g. Adjustment for Car Share Program - Applicant whose minimum parking requirement is in excess of 20 spaces shall be entitled to reduce its minimum residential parking requirement 5% if a carsharing service is located within 1,200 feet of the development, or reduce 4 parking spaces for each carshare vehicle it locates in a residential building.

<sup>2</sup> Occupancy Rates originally developed by Victoria Transport Policy Institute

<sup>3</sup> Occupancy rates for "Other" uses as demonstrated by applicant via parking study or other credible evidence

### C. Parking Requirements - Mixed Use Projects

Mixed use projects shall determine parking using the following procedure:

- 1) Determine minimum parking requirement for each individual use of the mixed use development based on the minimum rates provided in § 315-185 Table 1 for the applicable Parking District.
- 2) Adjust for shared parking - The minimum parking requirement for each use shall be multiplied by an "occupancy rate" as determined in § 315-185 Table 2, Parking Occupancy Rates in the Shared Use Adjustment Provision, for each use for the weekday night, daytime and evening periods, and weekend night, daytime and evening periods respectively.
- 3) Tabulate minimum parking requirement for each time period – Sum up the adjusted minimum parking requirements of each land use for each of the six time periods to determine an overall project minimum parking requirement for each time period.
- 4) Determine minimum parking requirement for the Project - The highest of the six time period totals shall be the minimum parking requirement for the mixed use project prior to the application of reduction factors as provided in Paragraph B for single use.
- 5) 100% of the parking supply shall be provided within 600 feet of an entrance to the proposed building(s) it will serve unless waived via terms of item (6).
- 6) Other parking spaces in the vicinity of the project may be used to satisfy portions of the minimum parking requirement if the applicant can secure such parking through lease of at least or other such similar arrangement, for a term of at least 10 years, or if it can be demonstrated through study that certain public parking areas are typically vacant during the peak demand period of the project or will become vacant as a result of removals or demolition, all subject to the approval of the City.

### D. Parking District Specific Provisions

The following specific criteria are defined for each Parking District in the Downtown:

- 1) Surface Parking Limitations. Certain areas of the downtown are intended for high density development and therefore are restricted from meeting minimum parking criteria through the creation of surface parking lots. The level and nature of surface parking restriction is identified for each Parking District.
- 2) Curb Cut Restrictions. On-street parking is an important resource to a vibrant downtown. On-street parking is a City asset and has a tangible value to the City. During any given day, if properly managed, one on-street parking space can accommodate from 3 – 5 visitors to the downtown. Therefore, in addition to breaking up pedestrian flow and increasing the number of pedestrian and vehicle conflicts, the introduction of curb cuts for driveways diminishes a City asset and displaces 3 – 5 visitors who must seek an alternative parking accommodation.

For these reasons, **where there is on-street parking** on a street in the downtown, the introduction of curb cuts for driveways should be limited and located to minimize their impact to available on-street parking.

For each district, the minimum required off-street parking creation per curb cut is identified. The Applicant will be required to demonstrate that it has provided the designated number of off street spaces to replace each on-street space that is removed because of the introduction of the curb-cut or driveway. This requirement must address not only the on- street area directly in front of the depressed curb created by the driveway, but must also take into consideration and replace by the designated number, the spaces eliminated because of the driveway's placement (e.g., the location of 2 residential driveways eliminating a third parking space in the area between).

At the discretion of the City Planning or Zoning Board, the Applicant may be permitted to construct a driveway if fewer than the designated number of replacement spaces are created, provided that the Applicant pays a fee for each replacement space not created, in accordance with the then Applicable Parking Fee in Lieu of Minimum Spaces for the District in which the driveway is located. This fee will be deposited into the Trenton Parking Improvement Fund exclusively for the development, improvement or maintenance of public shared parking in the Downtown.

- 3) Restrictions on Location of Parking. To preserve the urban streetscape, some parking in the downtown districts, whether surface or garage, is to be located at the rear of the development. Specific parking location restrictions are identified for each Parking District. These requirements also address if minimum parking requirements can be addressed off-site, and the maximum distance that the off-site parking can be located.
- 4) Parking Fee In Lieu of Minimum Spaces - If the individual or mixed use minimum parking requirement, or portions of the parking requirement, cannot be met, developers may purchase relief through the Parking Fee in Lieu of Minimums, at the rates per parking space provided in accordance with the In Lieu of Parking Fee Schedule maintained by the City of Trenton Planning Office. This fee will be deposited into the Trenton Parking Improvement Fund to be used exclusively for the development, improvement or maintenance of public shared parking in the Downtown. Differences in the Parking In Lieu of Fees between districts reflect the differences in cost of constructing surface parking versus structured parking and may reflect the difference in land costs in different Downtown Parking Districts.

### **Parking District 1 – West State Street**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 1.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 600' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 2 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 1 is \$6,000 per space.

### **Parking District 2 - State / Hanover**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 2.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 1200' of site. Parking must be located at the rear of the site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 2 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 2 is \$15,000 per space.

### **Parking District 3 - State House Area**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 3.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 1200' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 4 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 3 is \$15,000 per space.

#### **Parking District 4 - Downtown**

Parking Type. Applicant's off-street parking requirement must be addressed through structured parking. Parking requirements may not be addressed through creation of surface parking lots in District 4.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 1200' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 4 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee = Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 4 is \$15,000 per space.

#### **Parking District 5 - State Offices**

Parking Type. Applicant's off-street parking requirement must be addressed through structured parking. Parking requirements may not be addressed through creation of surface parking lots in District 5.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 1200' of site;

Curb Cut Requirements for Removal of On-street Parking. A minimum of 4 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 5 is \$15,000 per space.

#### **Parking District 6 - Academy**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 6.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 600' of site;

Curb Cut Requirements for Removal of On-street Parking. A minimum of 3 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 6 is \$6,000 per space.

#### **Parking District 7 – East State Street**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 7.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 1000' of site;

Curb Cut Requirements for Removal of On-street Parking. A minimum of 3 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 7 is \$6,000 per space.

#### **Parking District 8 Mercer-Jackson**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 8.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 600' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 3 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 8 is \$6,000 per space.

### **Parking District 9 – Ewing-Carroll**

Parking Type. Applicant's off-street parking requirement may be addressed through creation of surface parking lots in Parking District 9.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 600' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 3 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 9 is \$6,000 per space.

### **Parking District 10 – Train Station**

Parking Type. Applicant's off-street parking requirement must be addressed through structured parking. Parking requirements may not be addressed through creation of surface parking lots in District 10.

Location of Parking. Minimum Parking Requirements may be met at off-site facilities within 600' of site.

Curb Cut Requirements for Removal of On-street Parking. A minimum of 4 off-street parking on the site must be provided per each on-street parking space removed by the Applicant.

Parking in Lieu of Fee. Applicant may pay a per space fee in lieu of providing the minimum parking requirement for the proposed development. The initial per space fee for District 10 is \$15,000 per space.

### **§ 315-186. Parking requirements for Business A District**

A. Requirements. The following requirements shall apply to any Business A District area not covered under the provisions of § 315-185, Downtown Parking Districts.

<b>Use</b>	<b>Space Requirement</b>
Residential Development:	
Up to 10 units	No parking requirement
From 11 units and above	½ space for each unit in excess of 10 units rounded up to the nearest whole number
Nonresidential development:	
Under 5,000 square feet of Gross floor area	No parking requirement
Over 5,000 square feet	1 space per 500 square feet of gross floor area in Excess of 5,000 square feet.

Note: Surface parking lots are not a permitted use in this district.

B. Waiver. In lieu of providing the required structured parking spaces, the applicant for Preliminary site plan approval may request the Planning Board or Zoning Board of Adjustment to waive the requirement for the parking spaces because of building design and site limitations. If the opinion of the Board, the parking cannot reasonably be implemented in conjunction with the site plan, the Applicant shall be required to pay the city a sum equal to the then current Parking in Lieu Fee schedule provided for the Downtown Parking District in § 315-185 of this Article. These funds shall be dedicated to a special City Parking Fund for the purpose of constructing public parking garages within the Business A Zone of the City. Such payment is to be made by the applicant prior to the issuance of a certificate of occupancy.

### **§ 315-187. Parking requirements for all districts except the Downtown Parking Districts and the Business A District.**

<b>Use</b>	<b>Minimum Space Requirements</b>
Assembly hall or auditorium seats,	1 for each 150 feet of gross floor area or 1 for each 4 whichever is greater
Automobile and gasoline each Service & auto repair shop	4 for each service bay and 1 for each pump, plus 1 for vehicle used directly in the conduct of the enterprise.
Bank	1 space for each 200 square feet of gross floor area, or 5 spaces for each non-drive-up teller window, plus 2 spaces for each automatic teller machine, whichever is greater. Banks with drive-up facilities shall provide an additional space for each drive-up teller window.

Bowling Alley	2 for each lane
Church or other house of Worship	1 for each 4 seats
Clubhouse or community center	1 for each 250 square feet of gross floor area
Commercial, retail or personal of Service establishment	1 for each 250 square feet of gross floor area in excess of 1,000 square feet
Community residence/shelter	1 for every 5 residents and 1 per staff member
Educational institution, public or private	1 for each 2 teachers and other employees. Sufficient off-street parking space for the safe and convenient loading and unloading of students. Additional facilities for student parking, taking into consideration the total number of students driving automobiles. The requirements for a stadium or gymnasium shall be in addition to these requirements.
Home professional office	1 for each employee, plus 1 for each dwelling unit and 1 for each 50 square feet of office waiting room or reception space
Hospital/health care facility	1 for each 3 beds, plus either 2 for each full-time professional staff and administrative member on maximum shift, or plus 1 for each 500 square feet of gross floor area, whichever is greater.
Hotel	1 for each room. The requirements for banquet and meeting facilities shall be in addition to these requirements.
Housing for elderly consisting of 10 or more dwelling units, developed for occupancy exclusively by persons 55 years or older.	1 for each 3 dwelling units
Industrial or manufacturing establishment, lab use or storage warehouse	1 for each employee on maximum shift, plus 1 visitor for each 8 managerial personnel and 1 for each vehicle used directly in the conduct of the enterprise.
Medical or dental office	5 space for each professional person.
Motel	1 for each guest or sleeping room
Nursing homes	1 for each 3 beds
Offices, professional and general	3 for each 1,000 square feet of gross leasable area

Residential use, excluding housing for elderly	
Single family (Detached, semi-detached & rowhouse attachment)	2 spaces per unit
Multifamily	
Studio	1 space
1 bedroom	1.25 spaces
2 bedroom	1.5 spaces
3+ bedroom	1.75 spaces
Restaurant, bar or other similar establishment	1 for each 4 seats provided in excess of 40 seats
Stadium & other outdoor sports Arenas, theatre, auditorium and Indoor sports arenas	1 for each 4 seats
Any use not herein specifically provided for	1 for each 500 square feet of gross floor area

#### **§ 315-188. Off-street parking requirements for combination of uses.**

- A. The parking requirement for each use shall be computed separately and then such requirements shall be added together to compute the total number of required parking spaces. In all questionable or doubtful cases, or for uses not enumerated, the Planning Board or the Zoning board of Adjustment, in conjunction with a use variance, shall determine the required number of spaces, utilizing as a standard the requirements for the uses which are specifically enumerated.
- B. Shared parking arrangements for up to 20 percent of the parking requirement for separate uses with different peak-hour activity may be considered by the Planning Board or Zoning Board of Adjustment as part of site plan review. Consideration of shared parking arrangements shall require submission of a shared parking analysis by the applicant for review by the Planning Board or Zoning Board of Adjustment, as appropriate. The shared parking analysis should utilize recognized transportation planning methodologies such as those published by the Urban Land Institute in Shared Parking, Second Edition (2005) or similar standards, or any official shared parking guidelines adopted by the State of New Jersey.

#### **§ 315-189. Off-street loading requirements**

- A. In any zone, in connection with every building addition, building or building group, or part thereof hereafter erected which is to be occupied by industrial, office and laboratory or commercial uses, or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building off-street loading berths in accordance with the requirements set forth below.

B. Each loading space shall be no less than 12 feet in width, 40 feet in length and 14 feet in height, and no loading space may occupy any part of any required front, side or rear yard. However, on lots on which the rear or side yard abuts a limited access highway or a railroad, such loading space may occupy the rear or side yard up to the rear property line.

### **Minimum Off-Street Loading Requirements**

<b>Uses</b>	<b>Gross Floor Area (square feet)</b>	<b>Required Berths</b>
Apartment buildings	25,000 – 100,000	1
Auditoriums	10,000 – 100,000	1
Funeral Parlors	5,000 or more	1
Hospitals and nursing homes (in addition to space for ambulances)	10,000 – 100,000	1
	Ea. Additional 100,000 or 1 additional fraction thereof	
Hotels and offices	10,000 – 100,000	1
	100,000 – 200,000	2
Industrial, manufacturing establishment warehouse, research or lab use	5,000 – 40,000	1
	40,000 – 80,000	2
	80,000 – 120,000	3
Retail, commercial restaurants and serves	10,000 – 25,000	1
	25,000 – 50,000	2
	50,000 – 80,000	3
	80,000 – 120,000	4
School	15,000 – 100,000	1

### **§ 315-190. Joint facilities for parking or loading**

Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the maximum joint demand of the separate requirements for each use, provided that all regulations governing the location of accessory spaces in relation to the uses served are adhered to. Further, no accessory space or portion thereof shall serve as a required space for more than one use, unless otherwise approved by the Planning Board or the Zoning Board of Adjustment as provided herein in accordance with the purposes and procedures set forth herein.

### **§ 315-191. Waiver of parking or loading requirements**

If any applicant can clearly demonstrate to the Planning Board that, because of the nature of his/her operation or use, the parking or loading requirements of this article are unnecessary or excessive, the Planning Board shall have the power to approve a site plan showing less paved parking or loading area than is required by this article. The Planning Board or Zoning Board of Adjustment may require that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purpose of

meeting future off-street parking or loading requirements in the event that a change of use of the premises shall make such additional off-street parking or loading facilities necessary.

## **ARTICLE XXV Signs**

### **§ 315-191. Purpose and intent.**

It is the purpose and intent of these sign regulations to permit such signs that will not, by their aggregate number, size, location, construction or manner of display, confuse or obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and welfare and to regulate signs in such a way as to protect property values, improve the physical appearance of commercial areas and preserve and enhance the aesthetics of the community.

### **§ 315-192. Definitions.**

For the purposes of this Article, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this section.

**BILLBOARD** – A sign that 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.

**FAÇADE SIGN** – A sign located on or attached to the façade of the principal structure on each street frontage.

**FREE-STANDING SIGN** – Any sign designed to be seen from outside a building that advertises activities, goods, products, services or facilities available on-site that is not attached to a building and is supported by its own structure.

**NAMEPLATE/IDENTIFICATION SIGN** - A sign located on the front façade of a residential property indicating the name and/or address of the occupant of that property.

**NON-COMMERCIAL ADVERTISEMENT AND INFORMATION SIGN** – An advertisement or informational sign of a public or semipublic nature, which may only be used to display the following:

- (1) The name or location of a hospital, nursing home, day-care center, clubhouse, funeral parlor, community center, public or private school, YMCA YWCA, church, synagogue or other place of worship. Not more than one sign shall be placed on each property, unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
- (2) The name or place of meeting of an official or civic body, such as the Chamber of Commerce, Board of Trade or service club. Not more than one such sign shall be placed on each property unless such property fronts on more than one street, in which case one such sign may be erected on each street frontage.
- (3) An event of public interest, such as a church or public meeting, local, county or state fair, Volunteer Fire Department fair, special events of service clubs and nonprofit

organizations and other similar community activities. Such signs shall be removed by the person, organization or property owner within 15 days of the date specified for the event.

**ON-SITE DIRECTIONAL SIGN** – Customary signs identifying parking areas, loading zones, entrances, exits and similar locations. Such signs may include a business name or professional name, but shall not include any advertising message.

**POLITICAL SIGN** – A sign of a public nature related to elections and campaigns.

**SIGN**- A name, identification, description, display or illustration which is affixed to, or printed or represented directly or indirectly on a building, structure or parcel of land, and which directs attention to a person, institution, organization, activity, place, object, product or business. Any structure, device, letter, word insignia, or representation that is designed to be seen from outside a building advertising activities, goods, products, services or facilities available on the premises. This definition includes signs attached onto the façade of buildings, in windows, or doors, on canopies, marquees and awnings, but does not include window displays of merchandise or signs incidental to the display of merchandise. The display of official public notices or the flag, emblem or insignia of a nation, political unit or temporary displays are not included in this definition. Signs indicating operating hours of a commercial business and credit cards which are accepted are also not included in this definition.

**TEMPORARY SIGN** – A sign constructed or intended for use during a limited period of time.

- (1) **TEMPORARY CONSTRUCTION SIGN**- A sign erected on a site during the period of construction to announce the name of the project, owner or developer, contractor, architect, landscape architect or engineer.
- (2) **TEMPORARY REAL ESTATE SIGN**- A sign advertising the real estate upon which the sign is located as being for lease or sale.
- (3) **TEMPORARY MECHANIC, PAINTER AND OTHER ARTISAN SIGN** – A sign erected only on a property where work is being performed to announce the name and contact information of the mechanic, painter or other artisan conducting the work on the site.

**WARNING/TRESPASSING SIGNS**- Customary warning, trespassing and posted signs that indicate the private nature of a driveway or property.

**§ 315-1193. Compliance required; fire safety considerations; owner's name and address on sign.**

All signs within the City shall be erected, constructed or maintained in accordance with the provisions of this article. No existing sign shall be enlarged, rebuilt, structurally altered or relocated except in accordance with the provisions of this chapter. The issuance of a permit shall not relieve the owner or lessee of the premises from the duty of maintaining safely any such structures. No sign of any description shall be installed, erected, constructed or maintained in such manner as to obstruct any fire escape or any window or door, nor shall any sign be attached in any manner to a fire escape. Every sign constructed or maintained shall be plainly marked with the name of the person, firm or corporation erecting or maintaining such sign.

**§ 315-194. Traffic safety.**

No sign shall be erected in the City that would:

- A. Obstruct the sight distance at an intersection along a public right-of-way.
- B. Would tend by its location, color, shape, message or nature to be confused with or obstruct the view of traffic signs or traffic signals by motorists or pedestrians.
- C. Use admonitions such as "stop," "go," "slow," "danger," etc., which might be confused with traffic directional signs.
- D. No sign, other than official traffic control devices or street signs, shall be erected within, or encroach upon, the right-of-way lines of any street, unless specifically authorized by other ordinances or regulations of the City.

### **§ 315-195. Fire, safety, light and air.**

No sign shall be erected or constructed that will violate any of the regulations as to health, required light, safety or air, as defined in the Building Code of the City. *Editor's Note: See Ch. 42, Building Construction.* Signs shall not extend above the roof level of the building to which they are attached.

### **§ 315-196. Maintenance.**

Whenever a sign becomes structurally unsafe, endangers the safety of the building or endangers the public safety, the Zoning Officer shall order that such sign be made safe or removed. Such order shall be complied with within 10 days of the receipt thereof by the person owning or using the sign, or the owner of the building or premises on which the unsafe sign is affixed or erected. Failure to obey such orders shall be a violation of this section.

### **§ 315-197. Mechanical contrivances.**

No sign shall contain flashers, animators or mechanical movement or contrivances of any kind, except clock-and-temperature-stating devices.

### **§ 315-198. Illumination.**

Illumination devices, such as, but not limited to, floodlights or spotlights, shall be so placed and so shielded as to prevent the rays of illumination thereof from being cast into neighboring properties and approaching vehicles.

### **§ 315-199. Computing sign area.**

The area of a permitted sign shall be determined by multiplying the greatest horizontal dimension by the greatest vertical dimension, including spaces between open-type letters and figures and including the background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. Only one side of a double-faced sign structure shall be used in computing total sign area.

### **§ 315-200. Movable signs.**

No sign device in the nature of an advertisement or announcement so constructed as to be movable, or which shall be placed on a standard sitting upon the ground, shall be placed or permitted to remain on any part of any street, sidewalk, parkway, curb or other public place.

**§ 315-201. Temporary signs.**

Except for temporary real estate signs, a temporary sign shall not remain in place for a period exceeding six months.

**§ 315-202. Appeal of decision of Zoning Officer; filing of application for permit.**

- A. Administration. The Zoning Officer shall only issue an approval for the erection or construction of a sign which meets the requirements of this article. Any aggrieved person may appeal the decision of the Zoning Officer by filing such appeal with the Zoning Board of Adjustment on forms provided therefor.
- B. Filing procedures. Application for a permit to erect, hang or place a sign shall be submitted on forms obtainable from the Zoning Officer. Each application shall be accompanied by plans showing the area of the sign, size and character, method of illumination, if any, the exact location proposed for such sign and, in the case of a projecting sign, the proposed method of fastening such sign to the building structure, the vertical distance between such sign and the finished grade and the horizontal distance between such sign and the curb and also between such sign and the right-of-way line.
- C. Additional information. Each applicant shall, upon the request of the Zoning Officer, submit any additional information deemed necessary.

**§ 315-203. Signs which do not require a permit.**

The following signs may be erected, constructed, placed and maintained without a permit:

- A. Temporary real estate signs. Such signs shall not be illuminated nor exceed four square feet.
- B. Temporary construction signs. Such signs shall not be illuminated and shall not exceed 32 square feet in area, and shall be removed promptly upon completion of the work.
- C. Temporary signs of tradespeople, mechanics, painters and other artisans.. Such signs shall not exceed six square feet and shall be removed promptly upon completion of the work.
- D. Warning and trespassing signs. Such signs shall not exceed three square feet.
- E. On-site directional signs. Such signs shall not exceed two square feet in area.
- F. Advertisement and informational signs. Such signs shall not exceed eight square feet in area.
- G. Political signs. Such signs shall not be limited as to size.

**§ 315-204. Signs which require permits.**

No sign, except those listed in § 315-203 above, shall be erected, constructed, placed or structurally altered without a permit from the Zoning Officer.

**§ 315-205. Signs in residential districts.**

- A. Only the following types of signs shall be permitted in residential districts:

- (1) Signs not requiring a permit, as specified in § 315-203 above.
- (2) Nameplate and identification signs. Such signs shall be no larger than one square foot.
- B. Number of signs. Unless otherwise specified herein, not more than one such sign shall be placed on any property, unless that property fronts on more than one street, in which event not more than one sign may be erected on each street frontage.

### **§ 315-206. Signs in MU, BA, BB and DD Districts.**

- A. Only the following type of signs shall be permitted in the MU, BA and BB Districts:

- (1) Signs not requiring a permit as specified in § 315-203 above.
- (2) Signs permitted in residential district as specified in § 315-205 above.
- (3) Facade signs. Such sign shall not project more than 18 inches beyond the building and shall not exceed an area equal to either 10% of the front wall area of the ground floor, including window and door areas, or 25 square feet in an MU District or 50 square feet in BA and BB Districts, whichever is smaller. Such sign shall not be closer than eight feet to the ground level of the building and shall not have a vertical dimension in excess of two feet in an MU District or 2 1/2 feet in BA and BB Districts.
- (4) Noncommercial advertisement and information signs.
  - (a) Only signs bearing a non-commercial message shall be permitted.
  - (b) No sign shall be permitted which bears a commercial message advertising an activity, service or product conducted or available on the premises upon which the sign is located.
- B. Number of signs. Unless otherwise specified herein, not more than one facade sign shall be permitted for each commercial use on any property, unless the property fronts on more than one street, in which event not more than one facade sign may be erected for each commercial use on each street frontage.
- C. Signs in DD districts. Signs permitted in DD districts shall be as specified in §315-155 et. seq.

### **§ 315-207. Signs in Industrial Districts.**

- A. Only the following signs shall be permitted in industrial districts.

- (1). Signs not requiring a permit as specified in § 315-203 above.
- (2). Signs permitted in residential districts as specified in § 315-205 above.
- (3). Facade signs. Such sign shall not project more than two feet beyond the building and shall not exceed an area equal to either 20% of the front wall area of the ground floor, including window and door areas, or 100 square feet, whichever is smaller. Such sign shall not be closer than eight feet to the ground level of the building and shall not have a vertical dimension in excess of four feet.
- (4). Freestanding signs. Such signs shall not exceed a height of 25 feet, measured from the

ground level to the top of the structure. The bottom edge of the sign shall not be less than 10 feet above ground level. The area of such sign shall not exceed 75 square feet, and may be interior-lighted with nonglaring lights or may be illuminated by shielded floodlights.

(5). Billboards.

- a A billboard is a permitted use provided that:
  - [1] The maximum size of the billboard does not exceed 300 square feet.
  - [2] The billboard is not located within 500 feet of a residential or mixed use zone district.
  - [3] The billboard is not located within 1,000 feet of the D&R Canal.
  - [4] No billboard shall extend over a public sidewalk or other public area.
  - [5] No billboard or billboards shall be stacked over or placed next to any billboard.
- b.) A billboard is a conditional use if the advertising area, including any trim, of the billboard exceeds 300 square feet, but is no more than 672 square feet in size; or if the billboard is located within 500 feet of a residential or mixed use zone.. See Article XXII, Conditional Uses (§ 315-132 et seq.).

B. Number of signs.

- (1) Unless otherwise specified herein, not more than one facade sign shall be permitted for each commercial use on any property, unless the property fronts on more than one street, in which event not more than one facade sign may be erected for each commercial use on each street frontage.
- (2) Unless otherwise specified, not more than one freestanding sign shall be placed on any property unless the property fronts on more than one street, in which event not more than one freestanding sign may be erected on each street frontage.

## **ARTICLE XXVI Lighting and Landscaping**

### **§ 315-208. Lighting guidelines.**

All site plan applications shall include a lighting plan. The lighting plan shall include the location, type and height of light, standard, radius of light, manufacturer's specification sheet and intensity in footcandles for all proposed exterior lighting. All parking, loading and unloading areas and walkways thereto shall be adequately illuminated during the hours between sunset and sunrise when the use is in operation.

### **§ 315-209. Lighting design standards.**

- A. Lighting shall be designed so as not to create a hazard or nuisance to adjoining properties or the traveling public. It shall be designed so as to avoid light spillage beyond the property as well as light pollution and glare above the property
- B. The use of energy-efficient light fixtures and bulbs shall be encouraged.
- C. The following design standards shall be followed:

- (1) The style of the light and light standard shall be consistent with the architectural style of the principal building within the area of development.
- (2) The base of the light fixture shall be as close to grade as possible.
- (3) The maximum height of freestanding lights shall be the same as the principal building, but not exceeding 25 feet.
- (4) All lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150°.
- (5) Where lights along property lines will be visible to adjacent residents, the lights shall be appropriately shielded.
- (6) Spotlight-type fixtures attached to buildings should be avoided.
- (7) Freestanding lights shall be so located and protected to avoid being easily damaged by vehicles.
- (8) Lighting should be located along streets, parking areas, at intersections and where various types of circulation systems merge, intersect or split.
- (9) Pathways and sidewalks shall be lighted.
- (10) Stairways, sloping or rising paths and building entrances and exits shall be illuminated.
- (11) The following intensity in footcandles shall be provided:
  - (a) Parking lots: a minimum of 0.5 footcandles throughout.
  - (b) Intersections: 1.0 footcandles.
  - (c) Maximum at property lines: 1.0 footcandles.

#### **§ 315-210. Landscaping.**

- A. All site plans shall include a landscape plan. The landscape plan shall be professionally prepared and shall identify existing and proposed trees, shrubs, bushes, plant material, ground cover and natural features. Existing trees and mature landscape features on a site should be maintained to the maximum extent practicable. When existing natural growth is proposed to be retained, the application shall include in the plans proposed methods to protect the existing trees and growth during and after construction. These shall include fences, berms, curbing, tree wells and similar devices.
- B. Proposed landscaping on a site shall accomplish the following objectives: shading of parking areas and walkways; ground cover consisting of planted materials or usable features such as seating, plazas or similar areas; erosion control; and attractive streetscapes and common areas.
- C. The following landscape design standards shall be followed in the preparation of the landscape plan:
  - (1) Landscaping shall be located to provide for climate control. For example, shade trees on the south to shield the summer sun and evergreens on the north for wind breaks.
  - (2) Landscaping shall be used to accent and complement buildings.
  - (3) Landscaping shall be provided in public areas, recreational sites and adjacent to buildings, and shall incorporate seating opportunities.
  - (4) Vines and climbing plants shall be considered for large expanses of walls.

- (5) Massing trees at critical points rather than in a straight line at predetermined intervals along streets and varying tree types by neighborhood shall be considered.
- (6) Smaller trees shall be used on narrow streets and drives.
- (7) Ground cover shall be used to prevent erosion on slopes.
- (8) A variety and mixture of landscaping shall be provided. The variety should consider susceptibility to disease, colors, seasons, textures, shapes, blossoms and foliage.
- (9) Local soil conditions and water availability shall be considered in the choice of landscaping.
- (10) The impact of any proposed landscaping plan at various time intervals shall be considered. For example, shrubs may grow and eventually block sight distances and foundation plants may eventually block window openings.
- (11) Providing fewer larger specimens instead of more smaller ones shall be considered.
- (12) Deciduous trees shall have straight single trunks of at least 2 1/2 inches caliper at planting, as measured three feet above ground level, and with the lowest branches at least four to six feet above the ground. Evergreens shall be at least four feet tall and shrubs shall be at least two feet tall at planting. All trees shall be balled and burlapped.
- (13) Street trees shall be planted in a minimum of a four-foot-square open base at intervals depending on the type:
  - (a) Large trees: interval of 40 to 50 feet.
  - (b) Medium trees: interval of 30 to 40 feet.
  - (c) Small and ornamental trees: interval of 20 to 30 feet.
- (14) Entrances to site shall have special landscaping treatment.
- (15) Existing large trees shall be saved by not varying the grade around the trees by more than six inches to 12 inches through the use of tree wells, and by erecting protective fences. Maximum effort shall be made to save mature trees.
- (16) In parking lots, at least 5% of the parking area shall be landscaped and one tree for each 10 spaces shall be installed. The landscaping should be located in protected areas, along walkways, center islands and at the end of bays. In narrow islands, low spreading plants are appropriate.
- (17) Landscaped screening and/or attractive fencing shall be provided as a buffer between off-street parking, loading and service areas and sidewalks, streets and alleys.
- (18) All landscaping in parking areas shall be carefully located so as not to obstruct vision. A variety of different types of trees shall be grouped to break up the mass of cars.

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## **ARTICLE XXVII Open Space and Public Art**

### **§ 315-211. Applicability.**

#### **A. Nonresidential development.**

- (1) Any development application for new construction for nonresidential or nonindustrial use, where the gross floor area or lot area exceeds 5,000 square feet, if located within the Downtown District or the Business A District; or exceeds 20,000 square feet, if located elsewhere, shall meet the requirements of this section.
- (2) The applicant shall be required to submit, as part of an application for preliminary site

plan approval, an open space plan, which shall be in compliance with this chapter. No development application for preliminary site plan approval shall be deemed complete unless an open space plan has been provided, or a waiver thereof has been obtained.

B. Residential development.

- (1) Any application for new residential development, and the conversion of nonresidential buildings into residential space with 10 or more units in one structure, and located in any zone district, shall meet the requirements of this subsection.
- (2) The applicant shall be required to submit, as part of an application for preliminary site plan approval, an open space plan, which shall be in compliance with this chapter. No development application for preliminary site plan approval shall be deemed complete unless an open space plan has been provided, or a waiver thereof has been obtained.

**§ 315-212. Open space area requirements.**

A. Nonresidential development.

- (1) A minimum open space area equal to two square feet for every 100 square feet of new or rehabilitated gross floor area shall be provided.
- (2) Required open space may be provided, either on the exterior or interior of the building, or both, and may consist of one or two areas on the building site or on sites adjacent to the building site.
- (3) The open space, both interior and exterior, shall be accessible to the public for a minimum of 50 hours per week.

B. Residential development.

- (1) A minimum open space area equal to 120 square feet for every dwelling unit shall be provided.
- (2) Required open space shall be provided on the building site, but need not be open to the public.

**§ 315-213. Open space plan waiver.**

In lieu of submitting an open space plan, the applicant for preliminary site plan approval may request the Planning Board to waive the requirement for an open space plan because of building design and site limitation. If, in the opinion of the Planning Board, an open space plan cannot reasonably be implemented, the applicant shall be required to pay to the City a sum of \$0.50 per gross square foot for nonresidential development, and \$500 per dwelling unit for residential development. These funds shall be dedicated to a special fund for the purpose of enhancing open public spaces within the City of Trenton in accordance with an approved budget by the City Council. Such payment is to be made by the applicant prior to the issuance of a certificate of occupancy.

**§ 315-214. Open space plan requirements.**

- A. The open space plan required under this chapter shall indicate the size and configuration of exterior or interior public open space having appropriate landscaping features, such as trees and shrubbery, sitting areas, plazas and similar open space, designed chiefly for public pedestrian enjoyment. If such plan includes interior space, the ceiling height shall be a

minimum of 20 feet and be on the first floor of the building with natural light as a primary source of lighting through skylights or similar window design.

B. The Planning Board shall, in determining the sufficiency of an open space plan, consider the following factors:

- (1) Reasonable access to the open space area from the public sidewalk on the building site.
- (2) The availability of natural daylight as a primary source of daytime light for the open space.
- (3) Reasonable spacing and selection of trees and shrubbery to enhance the area visually and to provide for convenient pedestrian access throughout the open space.
- (4) Adequacy and design of trash receptacles for placement of litter.
- (5) Appropriateness of the size of an open space area with respect to its particular function.

D. The maintenance of the open space shall be the responsibility of the owner. Failure to properly maintain and keep free of litter open space approved under this chapter shall make the owner subject to penalties a set forth in Chapter 1, Article III, General Penalty, of the Code of the City of Trenton.

E. Refer to Article XXVI (§ 315-210 et seq.) of this chapter for additional lighting and landscaping requirements.

### **§ 315-215. Public art requirement.**

A. In addition to meeting the open space requirements set forth herein, any application for a project which comprises a nonresidential or nonindustrial building having in excess of 50,000 gross square feet shall include publicly visible works of art of such medium, dimensions and placement as shall be deemed appropriate by the Planning Board.

B. The provision of such art shall not exceed an amount equal to \$0.50 per square foot of construction, or 5% of the total cost of construction, whichever is greater. In lieu of the aforementioned expenditures for the provisions of art, the developer shall have the option of contributing to an Arts Development Fund an amount equal to \$0.50 per square foot of construction or 0.5% of the total costs of construction, whichever is greater.

C. The initial art proposal shall be submitted as part of the preliminary site plan application.

D. Payment of the in-lieu-of funds shall be made within 60 days following the grant of final site approval.

## **ARTICLE XXVIII Performance and Improvement Standards**

### **§ 315-216. Performance standards.**

A. Electrical or electronic devices. All electrical or electronic devices shall be subject to the provisions of Public Law 90-602, 90th Congress, HR 10790, dated October 18, 1968, entitled "An Act for the Protection of Public Health and Safety from the Dangers of Electronic Product Radiation." Radiation products, as defined in DHEW Publications No. (FDA) 75-8003, shall be so limited and controlled so that no measurable energy can be recorded at any point beyond the property boundaries. The applicant, upon request, shall produce certified data wherein measurements made in accordance with the procedures and standards set forth in the DHEW Publication No. (FDA) 75-8003 adequately demonstrate compliance with the minimum standards established by the Act.

- B. Glare. No use shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare beyond its lot lines. Exterior lighting shall be shielded, buffered and directed so that glare, direct light or reflection will not become a nuisance to adjoining properties, adjoining units, adjoining districts or streets.
- C. Heat. No use shall produce heat perceptible beyond its lot lines. Further, no use shall be permitted which could cause the temperature to rise or fall in any body of water, except that this provision shall not apply to any sewerage treatment plant which has received approval by the New Jersey Department of Environmental Protection.
- D. Noise. No use shall produce noise levels greater than those permitted by local regulations or those rules established by the New Jersey Department of Environmental Protection, as they may be adopted and amended, whichever is more restrictive.
- E. Odor. Odors shall not be discernible at the lot line or beyond.
- F. Storage and waste disposal. No provision shall be made for the depositing of materials or waste upon a lot where they may be transferred off the lot by natural causes or forces, where they can contaminate an underground aquifer or otherwise render such an underground aquifer undesirable as a source of water supply or recreation, or where they will destroy aquatic life. Provision shall be made for all material or waste which might cause fumes or dust, which constitute a fire or toxic hazard or which may be edible or otherwise attractive to rodents and insects to be enclosed in appropriate containers to eliminate such hazards.
- G. Ventilation. No use shall obstruct the natural ventilation of adjacent uses, nor contaminate the air with excessive heat or odor. Further, no air conditioners or exhaust fans shall be permitted to discharge exhausted air unless set back from all property lines 10 feet or equipped with baffles to deflect the discharged air away from the adjacent use.
- H. Explosive and inflammable matter. No use shall create an imminent hazard in regard to explosivity and inflammability. All uses must be in conformance with the City Fire Code. *Editor's Note: See Ch. 97, Fire Prevention.*
- I. Emissions. All fuel-generated industries shall comply with the New Jersey Department of Environmental Protection standards for emissions, and specifically with the standards of the Clean Air Act.
- J. Vibration. There shall be no vibration which is discernible to the human sense of feeling beyond the immediate lot.
- K. Screening. There shall be adequate screening of any unsightly condition created in conjunction with a permitted use.
- L. Drainage. No stormwater or natural drainage which originated on the property, or water generated by an activity, such as air conditioners or swimming pools, shall be diverted across property lines, unless transported in an approved or existing drainage system.

### **§ 315-217. Improvement standards.**

Site plans for all proposed street improvements, water and sewer facilities, public utilities and stormwater drainage shall be designed in accordance with improvement standards prepared by the City Department of Public Works. In those instances where such standards are not available or applicable, the applicant shall use the improvement standards contained in the publication entitled, Model Subdivision and Site Ordinance, and published by the New Jersey Department of Community Affairs, Division of Housing and Development, Office of Program Analysis, CN800, Trenton, New Jersey, and dated January, 1987, or the latest revision thereof.

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## ARTICLE XXIX Historic Landmark Site Regulations

### § 315-218. Restoration permit required.

No person shall construct, reconstruct, alter, paint or restore a structure, or move a structure into or within an Historic District, nor shall any person cause any such work to be performed, nor shall any construction permit for such work be issued by the Construction Official, unless a restoration permit has been approved by the Historic Landmarks Commission or, in the case of a development application, by the Planning Board or Zoning Board of Adjustment.

When emergency repairs are required, the Construction Official shall notify the chairperson of the Landmarks Commission or the City's Historic Preservation Officer and a recommendation regarding emergency repairs shall be made within 48 hours. The Construction Official may allow temporary repairs to an historic site prior to the Landmarks Commission's review when these repairs are necessary for the building's occupancy or for public safety. Such emergency repairs shall be made to conform to the provisions of this section within 90 days.

### § 315-219. Development application.

- A. In the event that the proposed activities described in § 315-181 are included in a development application submitted for the approval of a subdivision, site plan, conditional use, variance or change of use, the Planning Board or the Zoning Board of Adjustment shall make available to the Historic Landmarks Commission an informational copy of the application. However, failure to make the informational copy available shall not invalidate any hearing or proceedings.
- B. The Historic Landmarks Commission may provide its advice through a written report submitted by the Commission or by the oral testimony of its staff or one of its members at the hearing on the application. The Commission shall make any recommendations within 45 days of an application for a restoration permit.
- C. The Planning Board or Zoning Board of Adjustment shall review any such development application to determine whether the proposed activity conforms with the design criteria and guidelines set forth in §§ 315-224 to 315-227 below. In the event that the proposed activity conforms with such criteria and guidelines, the Board shall approve a restoration permit when it issues the other required approvals.

### § 315-220. Review of application not requiring review by the Planning Board or Zoning Board of Adjustment.

- A. In the event that the proposed activities described in § 315-218 above are not included in a development application requiring review by the Planning Board or Zoning Board of Adjustment, then prior to the issuance of a construction, zoning, demolition or sign permit, the Construction Official shall immediately refer such application to the Historic Landmarks Commission for a written report on the application.
- B. The Commission shall complete its review of the application for a construction, zoning, demolition or sign permit and shall submit its report to the Construction Official within 45 days of his/her referral of the application setting forth its findings of whether the proposed activity conforms with the criteria and guidelines set forth in §§ 315-224 to 315-227 below. In the event that the proposed activity conforms with such criteria and guidelines, the Commission shall approve a restoration permit for such activity. The Commission shall notify the Construction Official, in writing, of its action. Failure of the Commission to report within the forty-five-day period shall constitute a report in favor of issuance of the permit. If the Commission recommends to the Construction Official against the issuance of a permit or

recommends conditions to the permit to be issued, the Construction Official shall deny the issuance of the permit or include conditions in the permit as the case may be.

### **§ 315-221. Review of other activities.**

- A. In the event that the proposed activities described in § 315-219 above are not included in a development application, as set forth in § 315-219 above, or subject to the issuance of a permit, as set forth in § 315-220 above, and application shall be made to the Historic Landmarks Commission or the Construction Official for the issuance of a restoration permit. The Construction Official shall immediately refer the application to the Historic Landmarks Commission.
- B. The Commission shall complete its review of the application for a restoration permit and shall submit its report to the Construction Official within 45 days of his/her referral of the application and shall determine whether the proposed activity conforms with the criteria and guidelines, set forth in §§ 315-224 to 315-227 below. In the event that the proposed activity conforms with such criteria and guidelines, the Commission shall approve a restoration permit for such activity. The Commission shall notify the Construction Official, in writing, of its action. Failure of the Commission to report within the forty-five-day period shall constitute a report in favor of the issuance of the permit. If the Commission recommends to the Construction Official against the issuance of a permit or recommends conditions to the permit to be issued, the Construction Official shall deny the issuance of the permit or include the conditions in the permit as the case may be.
- C. Applications for restoration permits involving only paint and color selection can be approved by the City's historic preservation specialist, without review by the Commission.

### **§ 315-222. Commission advice on any development application.**

The Historic Landmarks Commission may provide its advice pertaining to any development application or other application pending before the Planning Board or the Zoning Board of Adjustment. Such advice may be conveyed through the Commission's delegation of one of its members or staff to testify orally at the hearing on any application and to explain any written report that the Commission may have submitted.

### **§ 315-223. Review by Council of negative recommendations of Commission.**

In the case of a decision of the Historic Landmarks Commission constituting a denial or negative recommendation, the applicant may, within 10 days thereof, request a reconsideration, review or reversal of such decision by filing a written request for same with the City Clerk. Upon timely filing of such request, the City Clerk shall set the matter down for a hearing before City Council. No decision or recommendation of the Historic Landmarks Commission, to which timely objections have been filed, shall be final until reviewed and approved by City Council at such hearing. If, after a hearing, the City Council shall determine to reverse the decision under review, in whole or in part, or otherwise to withhold approval of any such decision, it shall so state and return the matter to the Historic Landmarks Commission with a summary of its findings and with direction to reissue its decision in conformance with the decision of City Council, or to clarify, reconsider or otherwise dispose of the issue before it within 15 days of the Council's decision, or such other time as may be necessary to avoid undue delay or hardship, in default of which the application shall be deemed granted as applied for.

### **§ 315-224. General criteria and guidelines.**

The Planning Board, the Zoning Board of Adjustment, the Historic Landmarks Commission or the Construction Official, as the case may be, shall approve a restoration permit only if the activity as proposed, or as modified by conditions imposed by either the Board or the Commission, as the case may be:

- A. Is consistent with the additional criteria of this article and with the purposes of this chapter.
- B. Would not adversely affect the character and appearance of the Historic District, the relationships among structures or the appearance between structures and public ways in the district.
- C. Would not adversely affect the exterior architectural features and setting of the structure and its historical and architectural interest.

### **§ 315-225. New construction; additions; moving of structures.**

- A. A certificate of appropriateness to permit the construction of new structures or additions to existing structures, or to move structures into or within an Historic District, or involving proposed activities pertaining to outbuildings, shall be approved only if the activity as proposed, or as modified by conditions imposed by the Planning Board, the Zoning Board of Adjustment or the Historic Landmarks Commission:
  - (1) Is not incongruous with the existing streetscapes of the Historic District; and
  - (2) Is visually compatible with the structures and places to which it is visually related, as determined by the following standards:
    - (a) The height of the proposed structure shall be visually compatible with the adjacent structures.
    - (b) The relationship of the width of the proposed structure to the height of the front elevation shall be visually compatible with structures and places to which it is visually related.
    - (c) The relationship of the width of windows to the height of windows in a proposed structure shall be visually compatible with the structures and places to which it is visually related.
    - (d) The relationship of solids to voids in the front facade of a proposed structure shall be visually compatible with the structures and places to which it is visually related.
    - (e) The relationship of the proposed structure to the open space between it and adjoining structures shall be visually compatible with the structures and places to which it is visually related.
    - (f) The relationship of entrance and porch projections to the street shall be visually compatible with the structures and places to which it is visually related.
    - (g) The relationship of materials and textures of the facade and roof of a proposed structure shall be visually compatible with the predominant materials used in the structures to which it is visually related.
    - (h) The roof shapes of a proposed structure shall be visually compatible with structures to which it is visually related.
    - (i) Appurtenances, such as walls and open type fencing, shall form cohesive walls of enclosure along the street to the extent necessary to maintain visual compatibility of the main structure with the structures and places to which it is visually related.

- (j) The size of the proposed structure, the mass of the proposed structure in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the structure and places to which it is visually related.
- B. It is not the intent of this chapter to discourage contemporary architectural expression or solely to encourage new construction that simply emulates existing buildings of historic or architectural interest of a certain period or specific architectural style, but to preserve the integrity and authenticity of the Historic District, to ensure the compatibility of the new structures therein to the greatest extent possible, and to encourage diverse but compatible architecture. If past architectural styles are to be used, a copy of a specific structure is preferable to an amalgam of building types and styles.

**§ 315-226. Activities involving existing structures, other than demolition or removal.**

- A. A restoration permit for proposed activities pertaining to existing structures, other than when such proposed activity is the construction of an addition to a structure, the alteration of an outbuilding or the demolition or removal of such structure from the Historic District, shall be approved only if the activity as proposed, or as modified by conditions imposed by the Planning Board, the Zoning Board of Adjustment, the Historic Landmarks Commission or the administrative officer, as the case may be:
  - (1) Preserves or enhances the historical or architectural value and character of the structure; or
  - (2) Seeks to return the structure, or the part covered by the application, to a known or reasonably conceived previous appearance, except that modifications of structures lacking architectural merit and not in character with the Historic District may be considered when the modifications make the building more compatible.
- B. In determining whether the applicant's proposal will restore the authenticity of the structure, as hereby required, the following guidelines, among other appropriate factors, shall when feasible be followed:
  - (1) Existing materials, if they are the original materials of the original structure or remodeling that is being restored, should be maintained and repaired rather than replaced.
  - (2) Distinguishing original qualities or character of a building, structure or site, and its environment, should not be destroyed. The removal or alteration of any historic material, distinctive architectural feature or examples of skilled craftsmanship should be avoided.
  - (3) Architectural details of the original construction or remodeling that is being restored or altered should be retained. This includes, but is not limited to, cornices and their brackets; window trims, such as molded lintels; porch elements, such as posts, balustrades and spindles; doors and windows, particularly their size and the number and size of the individual panes.
  - (4) Structures and sites in an Historic District shall be recognized as products of their own time. Alterations that have no historic basis and that seek to create an earlier or later appearance should be discouraged.
  - (5) If an element must be replaced rather than repaired, a copy of the original is preferable to a similar or conjectural piece.
  - (6) If a copy of a missing piece cannot be obtained, similar or conjectural items are preferable to none at all.

- (7) In the event replacement of original materials is necessary, the new materials should match the material being replaced in design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence to the extent possible, rather than conjectural designs or the availability of different architectural elements from other buildings.
- (8) The original siding and roofing material should be maintained or repaired, and, if replacement is needed, it should be of the same material and size. If the same material is not available, a substitute material should be of the same shape, size and texture.
- (9) Storm windows and doors should be unobtrusive as possible.
- (10) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

### **§ 315-227. Demolition or removal of structures.**

- A. The Historic Landmarks Commission may deny the issuance of a restoration permit for the demolition or removal of a structure. The Historic Landmarks Commission shall consult civic groups and public agencies and officials to ascertain how the City may preserve the building or premises. The Commission shall attempt, with the owner, to establish feasible plans for preservation of structures where moving or demolition thereof would be a significant loss to the public and the City.
- B. In regard to an application to demolish any structure within an Historic District, the following matters shall be considered:
  - (1) Its historic, architectural and cultural significance.
  - (2) Its potential for use for those purposes currently permitted in the zoning provisions of this chapter.
  - (3) Its importance to the City and the extent to which its historical, architectural or cultural value is such that its removal would be detrimental to the public interest.
  - (4) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it cannot be reproduced, or could be reproduced only with great difficulty and cost.
  - (5) The extent to which its retention or rehabilitation would promote the general welfare by maintaining and increasing real estate values, generating business, creating new jobs, attracting visitors, students, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating study in architecture and design, educating citizens in American culture and heritage or making the City a more attractive and desirable place in which to live.
  - (6) If it is within an Historic District, the probable impact of its removal upon the character of the district.
- C. The purpose of this section is to encourage the preservation of historical buildings and to offer the City, interested persons, historical societies or other organizations the opportunity to acquire or to arrange for the preservation of buildings.
- D. In regard to the application to move any structure from a district to a location outside the district, the following criteria shall be considered:
  - (1) The historic or architectural loss to the site of the original location and the district as a whole.

- (2) The compelling reasons for not retaining the structure at its present site.
- (3) The probability of significant damages to the structure at its present site.

**§ 315-228. Completion of activities under restoration permit.**

- A. Activities authorized by a restoration permit shall be completed within 12 months of the date of issuance thereof, unless the term is extended by the Planning Board, the Zoning Board of Adjustment or the Historic Landmarks Commission, as the case may be.
- B. A restoration permit may be approved, with or without conditions, even though the application does not conform with criteria and guidelines set forth in §§ 315-224 to 315-227 above, if the Board or the Commission, as the case may be, determines that applying such standards to the application is impracticable or will result in undue hardship to the owner and that such hardship outweighs the public interest by denying the application.
- C. The provisions of this chapter shall not apply to any activity performed pursuant to a valid and existing development approval or construction permit issued prior to the effective date of this chapter (May 25, 1989).

**§ 315-229. Designated landmarks and historic sites.**

The following districts and buildings have been designated historic sites and districts to which the provisions governing historic preservation apply and, pending review and recommendation of the Planning Board of any modifications thereof, shall remain as designated and subject to the regulations and restrictions hereof:

**Individual Landmarks and Sites**

<b>Site</b>	<b>Location</b>
204 West State Street, Interior	120 North Warren Street
222 West State Street, Interior	222 West State Street
Ackerman Building	210 East Hanover Street
Adams and Sickles Building	One West End Avenue
Cadwalader Park	Parkside and Bellevue Avenues
Carver Center	36-44 Fowler Street
Champale Office	1024 Lamberton Street
Delaware-Raritan Canal House	1 Prospect Street
Delaware-Raritan Canal	City-wide
Dickinson House	701 Clinton Avenue
Douglas House	Front and Montgomery Streets
Elks Lodge No. 105	120 North Warren Street
Ellarslie Mansion	Cadwalader Park
Emlen House	312 West State Street
First Presbyterian Church	120 East State Street
Friends Meeting House	Montgomery and East Hanover Streets
Golden Swan	101-103 South Warren Street

Grinslade's Blacksmith	334 North Olden Avenue
The Hermitage	46 Colonial Avenue
Site of Hunterdon County Courthouse	16 South Warren Street and Prison Wall
John T. Nixon School	20 Bellevue Avenue
Kelsey Building	101 West State Street
Ladder Company No. 2 Firehouse	1005 South Clinton Avenue
Mercer Street Friends Center	151 Mercer Street
Mercer Cemetery	51 South Clinton Avenue
Mount Carmel Guild	73 North Clinton Avenue
Mt. Zion Church	135-137 Perry Street
New Jersey National Bank	One West State Street
New Jersey Steel and Iron Co. Building	501 John Fitch Way
New Jersey State Employees' Association	15 West State Street
Old Barracks	Front and Willow Streets
Old Eagle Tavern	431-433 South Broad Street
Old Mill House	School Lane and Mill Road
Old Masonic Temple	South Willow and West Lafayette Streets
Old City Hall	2 North Broad Street
Pentecostal Church	207 North Montgomery Street
Public Library, Interior	130 Academy Street
Reading Freight Station	260 North Willow Street
Rudolph U. Kuser	315 West State Street
Shaky Bridge	City Water Works, vicinity Calhoun Street
St. Michael's Episcopal Church	140-144 North Warren Streets
Trenton City Hall	319 East State Street
Trenton Elk's Lodge No. 105, Interior	120 North Warren Street
Trenton Battle Monument	North Broad and North Warren Streets
Trenton State Prison Warden's House	498 Second Street
Trenton State Prison Administration Building	392 Third Street
William Trent House	518 South Warren Street

### **Historic Districts**

Berkely Square Historic District	Hanover Academy Historic District
Ewing-Carroll Historic District	Mill Hill Historic District
Greenwood Hamilton Historic District	State House Historic District
Fisher, Richey, Perdicaris Historic District, as described in Ordinance 89-85	

## ARTICLE XXX Supplementary Provisions

### § 315-230. Nonconforming uses, Structures and Lots.

A. The following provisions shall apply to uses and structures which lawfully existed prior to the adoption of the zoning regulations or any amendment thereto, but which do not presently conform to this article:

- (1) Continuation permitted. Any nonconforming use or structure which lawfully existed at the time of adoption of this chapter or any amendment thereto may be continued upon the lot or in the structure so occupied. Any such nonconforming structure may be restored or repaired in the event of partial destruction thereof, as provided in subsection 5. below.
- (2) Subdivisions involving same. No lot containing a nonconforming use shall be subdivided so as to reduce the lot area of such lot. No lot containing a nonconforming structure shall be subdivided so as to increase the degree or extent of the nonconforming condition.
- (3) Expansions or alterations. The following provisions shall apply to the expansion or alteration of nonconforming structures or uses:
  - (a) Any nonconforming use or structure which is nonconforming because of use shall not be enlarged, extended or structurally altered in any manner whatsoever.
  - (b) No nonconforming structure may be altered if the alteration would increase the degree or extent of the nonconforming condition, or would create any condition on the property that would not be in conformance with this chapter.
  - (c) A nonconforming use or structure changed or altered to a conforming use or structure may not thereafter be changed back to a nonconforming use or structure.
  - (d) A nonconforming use or structure shall not be changed or altered to diminish the nature, degree or extent of the nonconforming condition in one location while simultaneously increasing the nature, degree or extent of the nonconforming condition in another location on the property.
- (4) Abandonment of nonconforming uses. Notwithstanding the provisions of subsection A(1). above, in the event that there shall be an abandonment of any nonconforming use, such use shall not be permitted to continue. For purposes of administering this chapter, a nonconforming use shall be presumed to be abandoned if such use shall have ceased to operate for a period of eighteen (18) consecutive calendar months, absent showing by the property owner, and a finding by the Zoning Board of Adjustment, that the use has not been abandoned, notwithstanding the cessation of operation.
- (5) Restoration or repairs. Nothing in this section shall prevent restoration or continuance of a nonconforming building or structure which is partially destroyed by fire, explosion, act of God, or of any public enemy, or the like. "Partial destruction" shall be defined as any destruction of less than fifty percent (50%) of the area or volume, whichever is more restrictive, of the whole building or structure at the time of the partial destruction. If, however, any such building or structure shall be destroyed in excess of fifty percent (50%) of the area or volume of the whole building or structure at the time of such destruction, then after any permitted reconstruction, the same may be used only in

such manner as to conform to all the requirements, terms and conditions of this chapter.

- B. The following provisions shall apply to any lot which lawfully existed at the time of the adoption of the zoning regulations or any amendment thereto, but which presently does not conform to the zoning requirements for lot area, lot width, lot frontage, or lot location:
  - (1) Such lots may be used for any use permitted in the district in which it is located, subject to the following requirements:
    - (a) At the time of and since the adoption of the zoning regulation making such lot nonconforming, the owner of the lot shall not have owned any adjoining property; or the lot must be part of a recorded subdivision approved by the Planning Board or the Zoning Board of Adjustment; and
    - (b) All other applicable zoning regulations besides lot area, lot width, lot frontage or lot location must be complied with.
  - (2) Such lots shall not be subdivided so as to increase the degree or extent of any nonconforming lot condition, or so as to prevent compliance with this chapter by any reasonable future development on the property

- C. 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 ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the administrative officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment. The administrative officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R.S. 54:5-14 and R.S. 54:5-15. The fees collected by the official shall be paid by him to the municipality. Denial by the administrative officer shall be appealable to the Zoning Board of Adjustment. N.J.S.A. 40:55D-72 to N.J.S.A. 40:55D-75 shall apply to applications or appeals to the Zoning Board of Adjustment.

### **§ 315-231. Height exceptions.**

Nothing herein contained shall be interpreted to limit or restrict the height of a church spire, radio or wireless station, belfry, appurtenant structure, clock tower, chimney flue, water tank, elevator bulkhead, stage tower, scenery loft or similar structure.

### **§ 315-232. Yard exceptions.**

In all districts building setback lines established for certain streets by this chapter in §315-240 or by special act of City Council or the Planning Board incident to site plan approval shall have precedence over the setbacks established in Articles XI – XXI, §315-86, et seq.

#### A. Front yards.

- (1) In all districts: When a building extends through from street to street, the front yard restrictions shall be observed on both streets.

- (2) In all districts: When over 50 percent of structures on a block are set back a uniform distance from the street, the front yard setback for new construction shall be consistent with the majority of existing structures on the street.
- (3) In Residence A Districts. In no case shall a building be placed more than 20 feet back of the front main wall of the nearest building existing within 200 feet thereof. In the case of a corner lot, any building other than a detached garage or other outbuilding may be placed within 16 feet of the side property line.
- (4) In Residence B-1, B-2 and B Districts. In no case shall a building be placed more than 20 feet back of the front main wall of the nearest building existing within 200 feet thereof. In the case of a corner lot, any building other than a detached garage or other outbuilding may be placed within 14 feet of the side property line.
- (5) Residential lots on steep slopes. Where the topography is such that access to a private garage built behind a front building setback line, as required by this chapter, is impracticable, it shall be permissible to place such a building, not exceeding one story in height, within the front yard space, provided that no part of the structure extends above the first level of a dwelling on an adjoining premises and within 100 feet thereof, or, if no such dwelling exists within such specified distance, no part of the structure extends more than four feet above the mean ground level of the lot on which it is to be erected, at the established building setback line, and no part of the structure extends nearer to the street property line than six feet.
- (6) Architectural features. Architectural features may project into a required front yard a distance not greater than the following:
  - (a) Open entrance shelter: four feet.
  - (b) Cornices and eaves: three feet.
  - (c) Window sills and belt courses: six inches.
  - (d) Chimneys: 24 inches.
- (7) Fire escapes. Fire escapes are not permitted in front yards.
- (8) Open balconies. Open balconies, not covered by a roof or canopy, which extend above the level of the first floor of the building may be erected to project into front yards, provided that such structures are not more than 30 inches in depth.
- (9) Porches, platforms or landing places. Open structures, such as steps, platforms, paved terraces or landing places, which do not extend above the level of the first floor of the building, having no wall more than 30 inches high, may project into a required front yard for a distance not exceeding eight feet, or in accordance with established same side of street front yard setbacks for such projections. When the front yard setback for a building is 0 feet, such open structures may encroach on the public right-of-way for a distance as specified in Chapter 42, Building Construction, of the City Code.
- (10) Awnings, movable canopies. Except as regulated elsewhere, an awning or movable canopy may project into a required front yard not more than eight feet. No awning or canopy shall be less than eight feet above the ground level.
- (11) Bay or bow window. A bay or bow window may project into a required front yard not more than 30 inches.
- (12) Hanging of laundry. Hanging of or drying laundry is not permitted in front yards.

B. Side yards.

- (1) Architectural features. Architectural features may project into a required side yard a distance not greater than the following:
  - (a) Open entrance shelters: four feet.
  - (b) Cornices and eaves: three feet.
  - (c) Window sills and belt courses: six inches.
  - (d) Chimneys: two feet.
  - (e) Steps and landings: four feet.
  - (f) Basement covered stairwells: six inches.
- (2) Fire escapes. An open or lattice enclosed, fireproof, outside fire escape may project not more than five feet into a required side yard.
- (3) Open balconies. Open balconies, not covered by a roof or canopy, which extend above the level of the first floor of the building may be erected to project into side yards not more than 30 inches.
- (4) Movable awnings and canopies. A movable awning or canopy may project into a required side yard not more than five feet.
- (5) Bay or bow window. A bay or bow window may project into a required side yard not more than 30 inches.

C. Rear yards.

- (1) Architectural features. Architectural features may project into a required rear yard a distance not greater than the following:
  - (a) Cornices and eaves: three feet.
  - (b) Window sills and belt courses: six inches.
  - (c) Chimneys: two feet.
- (2) Fire escapes. An open or lattice enclosed, fireproof, outside fire escape may project not more than eight feet into a required rear yard.
- (3) Open balconies. Open balconies, not covered by a roof or canopy, which extend above the level of the first floor of the building may be erected to project into rear yards not more than 30 inches.
- (4) Steps, platforms, decks, paved terraces or landing places. Open structures, such as steps, platforms, paved terraces or landing places, which do not extend above the level of the first floor of the building, having no wall more than 30 inches high, may project into a required rear yard for a distance not exceeding 20 feet.
- (5) Awnings and movable canopies. An awning or movable canopy may project into a required rear yard not more than 30 inches.
- (6) Bay or bow windows. A bay or bow window may project into a required rear yard not more than 30 inches.

**§ 315-233. Greenhouses, storage sheds and private garages in residential zones.**

- A. In Residential A and B-1 Zones, no greenhouse, storage shed, private garage or other outbuilding shall be placed closer to a side or rear property line than three feet, or one foot in the case of a property abutting an alley. If the building is of frame construction, the distance shall be increased to six feet. For each foot the height of such a building exceeds 15 feet, the

offset from the side and rear property lines shall be increased by six inches. No detached garage or other outbuilding shall be placed closer to a front street property line than a distance equal to 1/2 the width of the lot, up to a distance that need not exceed 50 feet. The above, however, shall not prevent the construction of a garage as a structural part of a dwelling, and a one-story garage so constructed may extend into a rear yard for the entire width or depth of the structure.

- B. In Residential B and MU Zones, the requirements for greenhouse, storage sheds, private garages or other outbuildings shall be the same as for Residential A and B-1 Zones, as specified in Subsection A above, except:
  - (1) It shall be permissible to build a joint garage on adjoining lots.
  - (2) An attached garage may extend into a required side yard for a distance not exceeding four feet, provided that it has no window opening or openings at the side, does not exceed one story or 14 feet in height, and does not extend nearer to a side lot line than six feet.
- C. No garage or other outbuilding shall be used for dwelling purposes, except by a person or persons employed on the premises and when no part of the building is closer to a side or rear property line than 20 feet, and only when the structure satisfies all other applicable City codes and ordinances.
- D. No portable metal accessory building may be located closer than one foot from a side or rear property line, provided that the one foot area is covered with a concrete weather-resistant covering or similar material to prevent water from entering into any adjoining property and the accumulation of debris. The structure shall be properly anchored to a permanent solid base to prevent upheaval by wind force.
- E. Metal accessory buildings shall not exceed seven feet in width, 10 feet in length and eight feet in height. No metal accessory structure shall be located closer than three feet to any habitable structure on the same lot or any adjoining lot.
- F. A carport may not be erected closer than one foot from a side or rear property line. No detached carport shall be located closer than three feet from any habitable structure on the same lot or any adjoining lot. A carport shall in no case exceed 12 feet in width for one car, or 22 feet in width for two cars in the rear yard, 22 feet in length and 15 feet in height.

#### **§ 315-234. Exterior storage of vehicles, trucks and boats in residential zones.**

- A. Business vehicles. Vehicles which are used for business purposes may not be parked on any private property between the hours of 8:00 p.m. and 6:00 a.m., except in enclosed garages or behind the front building line.
- B. Inoperable vehicles. Inoperable motor vehicles shall not be stored on private property for more than three weeks, except in enclosed garages. *Editor's Note: See Ch. 292, Vehicles, Abandoned.*
- C. Boats. Except for canoes and boats of under 20 feet in length, boats shall not be stored in the open for over one week, except within the rear yard at least three feet in distance from any adjoining property line.
- D. Trucks. To restrict and prohibit the parking of trucks, truck-tractors, step vans, trailers and buses of registered gross vehicle weight in excess of 8,000 pounds, or having more than four tiers, in residential districts between the hours of 8:00 p.m. and 6:00 a.m., the following shall apply:
  - (1) No person shall park or store any truck, truck-tractor, step van, trailer or bus having a motor vehicle registration weight in excess of 8,000 pounds gross weight, according to the registration requirements of the Division of Motor Vehicle of the State of New Jersey, according to the manufacturer's design specifications or the registration requirements of

the state of registration, or having more than four tires, on any street or on any portion of any property situated within a residential zone, unless fully enclosed in a garage or parked on an improved parking surface so that all parts of the vehicle are parked behind the front building line of an existing building or, in the absence of an existing building, behind the front building line of the adjacent structure, at any time between 8:00 p.m. on any day and 6:00 a.m. on the following day, except when necessary to the performance of any service or to meet any temporary need, in which case the owner or operator of the vehicle shall promptly notify the Police Department of the need for such parking and shall display a legible notice behind the windshield of the vehicle indicating the address of the property which is being serviced by the vehicle.

- (2) The foregoing restrictions shall not be construed to apply to vehicles which are designed and used primarily as recreation vehicles.

### **§ 315-235. Trailers and recreational vehicles.**

No automobile trailer or recreational vehicle shall be stored in the open for over one week, except within the rear yard, at least three feet from any adjoining property line.

### **§ 315-236. Fences and masonry walls.**

All fences or walls shall have a finished side facing the street or neighboring property owners. No barbed or razor-edge wire or electrified fencing shall be permitted on or attached to a building, except on a part of a building facing the rear yard of a site located in an industrial zone. No barbed or razor-edge wire or electrified fencing shall be visible from the street.

#### **A. In Residential Districts A and B-1:**

- (1) A fence or masonry wall of not more than six feet in height is permitted along the rear lot line and along the side lot line from the rear lot line to the front building line.
- (2) No fence or masonry wall shall be permitted along the side lot line from the front building line to the front lot line and along the front lot line. A corner lot has two front yards.
- (3) No barbed or razor-edge wire, electrified fence or similar material shall be permitted to be used.

#### **B. In Residential District B and B-2, Business District BB and MU Mixed Use District:**

- (1) A fence or masonry wall of not more than six feet in height is permitted along the rear lot line and along the side lot line from the rear lot line to the front building line.
- (2) A fence or masonry wall of not more than four feet in height is permitted along the side lot line from the front building line to the front lot line, and along the front lot line. A corner lot has two front yards.
- (3) No barbed or razor-edge wire, electrified fence or similar material shall be permitted to be used.

#### **C. In Business District BA and the Downtown District (DD):**

- (1) Permitted fences and walls along front and side yards shall include a maximum 50% opaque wall, six feet high, made of vertical metal posts with a base no higher than two feet and piers of brick or stucco, or a wall, a maximum of four feet high, made of brick, cast stone, stone, terra cotta or stucco. No barbed or razor-edge wire, electrified fence or similar material shall be permitted to be used.
- (2) Rear yard fences may also be constructed using cyclone fences at a maximum height of

six feet. No barbed or razor-edge wire, electrified fence or similar material shall be permitted to be used.

D. In Industrial Districts A and B: A fence or masonry wall of not more than 10 feet in height shall be permitted along the front lot line and along the side and rear lot lines. Barbed wire, not to exceed 1 1/2 feet in height, shall be permitted to be used on a fence or wall at a height of nine or 10 feet. No razor-edge, electrified wire or similar material shall be permitted.

### **§ 315-237. Temporary permits.**

A. Temporary permits may be authorized by the Zoning Board of Adjustment for a period not to exceed one year for nonconforming uses incident to housing and construction projects, and including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered for sale, provided that such permits are issued only upon agreement by the owner to remove the structure or structures upon expiration of permit. Such permits are renewable annually, for a period not to exceed three years.

B. Temporary permits shall be issued by the Planning Board if the use is part of a site plan.

### **§ 315-238. Swimming pools.**

A. Private residential swimming pools shall be located in rear yards only and shall conform to required side and rear setbacks. No setback shall be less than six feet in Residential A and B-1 Districts and three feet in Residential B and MU Districts. Pools shall be surrounded by a fence at least four feet, but no more than six feet in height.

B. In Residential B and MU Districts, aboveground pools shall be a minimum of two feet from the property line.

### **§ 315-239. Tennis courts.**

Tennis courts shall be located in rear yards only and may be surrounded by a fence a maximum of 12 feet in height. Such fence shall be set back from any lot line by at least six feet.

### **§ 315-240. Special building setback lines established.**

Unless greater building setbacks are established by other sections of this chapter, or by the City Council, the building setbacks for certain streets and sections of streets shall be as follows, except that this shall not require placing a building more than 10 feet back of the front main wall of an adjoining building already existing within 50 feet of and on the same side of the street with the building to be erected.

Street	Location	Building Setback from Center Line (feet)	Right-of-Way Existing Width (feet)	Right-of-Way Ultimate Width (feet)
Bellevue Avenue	Calhoun Street to North Willow Street	30	50	60
Chambers Street	Greenwood Avenue to East State Street	30	50	60
Chauncey	North Willow Street to	25	30	50

Street	North Warren Street			
Clinton Avenue	North East State Street to Nottingham Way	40	60	70
	South East State Street to Dye Street	35	50 and 60	70
Greenwood Avenue	Railroad to east City line	60	66	80
Hamilton Avenue	East Canal Street to South Broad Street	33	60	66
Ingham Avenue	Burton Avenue to Parkway Avenue	30	50	60
John Way	Fitch Entire length	55	70 and 80	70 and 80
Liberty Street	Chamber Street to Lalor Street	40	50	60
Montgomery Street	North East Hanover Street to Holland Avenue	25	40 and 45	50
Nottingham Way	Mulberry Street to City limit	40	50	70
Parkside Avenue	Stuyvesant Avenue to Parkway Avenue	50	50 and 60	
Parkway Avenue	Pennington Avenue to Hillcrest Avenue	45	50	70
Perry Street	North Clinton Avenue to Penna. RR Branch	45	66	74
	Penna. RR Branch to North Warren Street	37	66	74
Southard Street	Jefferson Street to Brunswick Avenue	35	50 and 60	60
Spring Street	Prospect Street to North Willow Street	37	66	74
State Street	East Armory Drive to Stockton Street	33	56	66
State Street	East Stockton Street to Montgomery Street	30	56 and 57	60
	West Richey Place to Calhoun Street	55	60	76
Stockton Street	North East State Street to Academy Street	33	50	66
	South East State Street to Market Street	33	50 and 54	66
Sullivan Way	Sanhican Drive to Penna. RR	55	50	66
	Penna. RR to City limits	65	50	66

Sylvester Avenue	New York Avenue to Brunswick Avenue	45	50	60
Willow Street	North Spring to Pennington Avenue	37		74

### **§ 315-241. Family day care homes.**

Where authorized elsewhere in this chapter, family day care homes may be conducted in a private dwelling unit subject to the following:

- A. No more than five children, up to the age of six years, may be cared for in the dwelling units.
- B. A private residence in which three to five children, not counting children legally related to the caregiver or where there is no payment for the care, are provided with child-care services for 15 or more hours per week on a regular basis qualifies if approved by the New Jersey Division of Youth and Family Services or an organization with which the Division contracts for family day care.
- C. No changes that would require a building permit shall be made to the interior or exterior of the dwelling unit for the purposes of this use.
- D. The dwelling unit shall have hard-wired smoke detectors.
- E. No advertising is permitted on the premises.

### **§ 315-242. Junkyards and recycling centers.**

- A. Screening and fencing.
  - (1) Opaque fencing, screens or buffers no less than 10 feet high shall be provided along all property lines. Fencing along any property line of a junkyard or recycling center that abuts a public right-of-way, except within industrially zoned areas; or abuts an existing residential, institutional or public-serving commercial use, notwithstanding the existing zoning classification affecting such use, shall be provided in the form of an opaque wall with a finished or painted side facing outwards, the materials and design of which shall be subject to approval by the Planning Board at the time of application for site plan approval.
  - (2) Fencing facing the public right-of-way shall be set back five feet from the property line, and landscaping shall be provided for the area between the property line and the fence.
  - (3) Gates providing access to junkyards shall be a minimum of eight feet high, shall be made of opaque materials and shall open such that the doors do not infringe on the public right-of-way.
  - (4) Opaque fencing shall not be required with respect to property lines in industrial areas abutting other industrial uses.
- B. Site standards. Horizontal and vertical control points for all stockpile areas containing processed or unprocessed materials shall be established and maintained on all sites containing such areas, pursuant to the following conditions:
  - (1) Horizontal limit markers shall be set at the corners of all stockpile areas shown on the approved site plan of the facility. The outer edge of each stockpile, as delineated by the horizontal limit marker, shall be no less than 15 feet from any property line abutting a residential, institutional or public-serving commercial property.
  - (2) At least two vertical limit markers shall be set at locations in close proximity to each

stockpile area, clearly establishing maximum vertical limits for each stockpile area. Maximum height of stockpiles shall be 20 feet above existing grade in facilities located in areas zoned other than industrial, or where the stockpile is within 50 feet of a property line abutting a residential, institutional or public-serving commercial property. The maximum height of other stockpiles shall be 35 feet, except with respect to combustible or flammable materials, where the maximum height shall be 20 feet.

- (3) Metal pipe or rods permanently set in place as approved by the Department of Inspections shall be used to establish horizontal and vertical control points. Where a stockpile is walled at any point by an interior wall other than the wall marking the property line, the wall can be used for a horizontal limit marker and/or the base for a vertical limit marker.
- (4) All markers shall be shown on the approved site plan for the facility. Within 30 days of final site plan approval, a site inspection shall be held at the facility site in the presence of the owner and/or operator of the facility and authorized representatives of the City for the purpose of establishing the precise location of all markers.
- (5) Aisles, driveways and uniform passageways shall be provided between stockpiles to permit access for fire-fighting operations, including areas where stripped vehicle bodies are stored.
- (6) Storage of tires shall take place exclusively in enclosed containers or structures and shall comply with all other state regulations with respect to fire and mosquito control provisions.
- (7) The Planning Board may require that any crushing operations be located in enclosed containers or structures, or in the alternative, shall require the owner or operator to obtain and receive an air pollution permit from the New Jersey Department of Environmental Protection.

C. Other standards.

- (1) The Planning Board may require that certain interior driveways within junkyards be paved in order to minimize tracking of mud and debris, and in order to facilitate proper drainage of the site.
- (2) All processed and unprocessed materials and residue shall be stored in a manner which prevents runoff, leakage or seepage of any waste or residue into, on or around the soil on which the storage or stockpile is located. The design of all storage, stockpile and disposal areas, and the methods established for prevention of runoff, leakage and seepage shall be subject to Planning Board review and approval at the time of site plan application.

D. Compliance. The provisions of § 315-242 herein shall not be enforceable against any junkyard or recycling center that shall establish to the satisfaction of the Zoning Officer that it has been in continuous operation as a junkyard or recycling center at its present location since July 20, 1955. All other facilities subject to the provisions of Subsection A herein shall be in compliance with the provisions thereof no later than July 1, 1996. For the purposes of this subsection, compliance shall mean submission of a site plan to the Planning Board meeting the requirements of this chapter, approval of such site plan with such modifications as the Planning Board may deem appropriate, and completion of all improvements set forth on the approved site plan.

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## **APPENDICES**

**APPENDIX A: Area and Bulk Schedules**

**APPENDIX B: Minor Subdivision/Minor Site Plan Checklist**

**APPENDIX C: Preliminary Major Subdivision/Preliminary Major Site Plan Checklist**

**APPENDIX D: Final Subdivision/Final Site Plan Checklist**

**APPENDIX E: Variance Checklist**

Exhibit A

APPENDIX A

**CITY OF TRENTON  
ZONING SCHEDULES**

**Residential Districts**

Zone	Use	Min. Lot Size (square feet)	Min Yards (feet) <sup>1</sup>			Min. Lot Width	Min. Building Width	Max. Building Height (stories/feet)	Max. Lot Coverage	Min. Net Habitable Floor Area (square feet)
			Front <sup>2</sup>	Rear	Side					
RA	Detached 1-family dwelling units	6,000 sf	Avg. or 30'	35'	One: 6' Both: 16'	50'	25'	2.5/35'	45%	1,500 sf
RB-1	Detached 1-family dwelling units	4,000 sf	Avg. or 25'	35'	One: 6' Both: 14'	40'	20'	2.5/35'	45%	1,200 sf
RB-2	Detached 1-family dwelling units	4,000 sf	Avg. or 20'	35'	One: 6' Both: 14'	40'	---	3/35'	45%	1,200 sf
RB-2	Semi-detached 1-family dwelling units	2,500 sf/unit	Avg. or 20'	35'	One: 6' Both: n/a	25'/unit	---	3/35'	50%	1,000 sf/unit
RB	Detached 1-family dwelling units	4,000 sf	Avg. or 20'	35'	One: 6' Both: 14'	40'	---	3/35'	45%	1,200 sf
RB	Semi-detached 1-family dwelling units	2,500 sf/unit	Avg. or 20'	35'	One: 6' Both: n/a	25'/unit	---	3/35'	50%	1,000 sf/unit
RB	Rowhouse dwelling units	1,500 sf/unit	Avg. or 20'	35'	---	15'/unit	---	3/35'	50%	900 sf/unit

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be as specified in the table.

<sup>3</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

Exhibit A

**CITY OF TRENTON  
ZONING SCHEDULES**

**Business/Mixed-Use Districts**

Zone	Use	Min. Lot Size (square feet)	Min Yards (feet) <sup>1</sup>			Min. Lot Width	Max. Building Height (stories/feet)	Max. Lot Coverage	Min. Net Habitable Floor Area (square feet)
			Front <sup>2</sup>	Rear	Side				
MU	Detached 1-family dwelling units	4,000 sf	Avg. or 20'	35'	One: 6' Both: 14'	40'	3/35'	45%	1,200 sf
MU	Semi-detached 1-family dwelling units	2,500 sf/unit	Avg. or 20'	35'	One: 6' Both: ---	25'	3/35'	50%	1,000 sf/unit
MU	Two-family dwelling structures	2,500 sf/unit	Avg. or 20'	35'	One: 6' Both: 14'	40'	3/35'	50%	650 sf/unit
MU	Rowhouse dwelling units	1,500 sf/unit	Avg. or 20'	35'	--- <sup>4</sup>	15'/unit	3/35'	60%	900 sf/unit
MU	Multifamily dwelling structures	2,000 sf/unit (first 2 units) 500 sf/unit (addt'l units)	Avg. or 20'	35'	One: 6' Both: 14'	40'	3/35'	60%	650 sf/unit
MU	Offices	5,000 sf	Avg. or 20'	35'	One: 10' Both: 20'	50'	3/35'	60%	---
MU	Mixed use structures	4,000 sf	Avg. or 20'	35'	One: 10' Both: 20'	40'	3/35'	60%	Residential: 650 sf/unit Business: 400 sf/business use
BA	Business uses	2,000 sf	Avg. or 0'	20 <sup>3</sup>	One: 0' <sup>5</sup> Both: 0' <sup>5</sup>	20'	--- <sup>6</sup>	60%	800 sf/business use
BA	Detached 1-family dwelling units	4,000 sf	Avg. or 0'	20 <sup>3</sup>	One: 6' Both: 14'	40'	3/35'	45%	1,000 sf/unit
BA	Semi-detached 1-family dwelling units	2,500 sf/unit	Avg. or 0'	20 <sup>3</sup>	One: 6' Both: ---	25'	3/35'	50%	1,000 sf/unit
BA	Two-family dwelling structure	2,500 sf/unit	Avg. or 0'	20 <sup>3</sup>	One: 6' Both: 14'	40'	3/35'	50%	650 sf/unit
BA	Rowhouse dwelling structure	1,500 sf/unit	Avg. or 0'	20 <sup>3</sup>	--- <sup>4</sup>	15'/unit	3/35'	60%	900 sf/unit
BA	Multifamily dwelling structure	2,000 sf/unit (first 2 units) 500 sf/unit (addt'l units)	Avg. or 0'	20 <sup>3</sup>	One: 0' Both: 0'	20'	--- <sup>6</sup>	60%	500 sf/unit
BA	Mixed use structures	4,000 sf	Avg. or 0'	20 <sup>3</sup>	One: 0 <sup>5</sup> Both: 0 <sup>5</sup>	40'	--- <sup>6</sup>	60%	Residential: 500 sf/unit Business: 800 sf/business use

Exhibit A

**CITY OF TRENTON  
ZONING SCHEDULES**

**Business/Mixed-Use Districts (Continued)**

Zone	Use	Min. Lot Size (square feet)	Min Yards (feet) <sup>1</sup>			Min. Lot Width	Max. Building Height (stories/feet)	Max. Lot Coverage	Min. Net Habitable Floor Area (square feet)
			Front	Rear	Side				
DD	Business uses	2,000 sf	0' <sup>7</sup>	20' <sup>3</sup>	One: 0' <sup>5</sup> Both: 0' <sup>5</sup>	20'	14/210'	---	800 sf/business use
DD	Detached 1-family dwelling units	4,000 sf	0' <sup>7</sup>	20'	One: 6' Both: 14'	40'	3/35'	45%	1,000 sf/unit
DD	Semi-detached 1-family dwelling units	2,500 sf/unit	0' <sup>7</sup>	20'	One: 6' Both: ---	25'	3/35'	50%	1,000 sf/unit
DD	Two-family dwelling structure	2,500 sf/unit	0' <sup>7</sup>	20'	One: 6' Both: 14'	40'	3/35'	50%	650 sf/unit
DD	Rowhouse dwelling structure	1,500 sf/unit	0' <sup>7</sup>	20'	--- <sup>4</sup>	15'/unit	3/35'	60%	900 sf/unit
DD	Multifamily dwelling structure	2,000 sf/unit (first 2 units) 500 sf/unit (addt'l units)	0' <sup>7</sup>	20'	One: 0' Both: 0'	20'	--- <sup>6</sup>	60%	Residential: 500 sf/unit Business: 800sf/business use
DD	Mixed use structures with residential uses above business uses	2,000 sf	0' <sup>7</sup>	20' <sup>3</sup>	One: 0' <sup>5</sup> Both: 0' <sup>5</sup>	20'	14/210'	---	500 sf
BB	Business uses	2,000 sf	Avg. or 20' <sup>2,8</sup>	20'	One: 0' <sup>5</sup> Both: 0' <sup>5</sup>	20'	4/50'	60%	800 sf/business use
BB	Detached 1-family dwelling units	4,000 sf	Avg. or 20' <sup>2,8</sup>	20'	One: 6' Both: 14'	40'	3/35'	45%	1,000 sf/unit
BB	Semi-detached 1-family dwelling units	2,500 sf/unit	Avg. or 20' <sup>2,8</sup>	20'	One: 6' Both: ---	25'	3/35'	50%	1,000 sf/unit
BB	Two-family dwelling structure	2,500 sf/unit	Avg. or 20' <sup>2,8</sup>	20'	One: 6' Both: 14'	40'	3/35'	50%	650 sf/unit
BB	Rowhouse dwelling structure	1,500 sf/unit	Avg. or 20' <sup>2,8</sup>	20'	--- <sup>4</sup>	15'/unit	3/35'	60%	900 sf/unit
BB	Multifamily dwelling structure	2,000 sf/unit (first 2 units) 500 sf/unit (addt'l units)	Avg. or 20' <sup>2,8</sup>	20'	One: 0' Both: 0'	20'	4/50'	60%	500 sf/unit
BB	Mixed use structures	4,000 sf	Avg. or 20' <sup>2,8</sup>	20'	One: 0' <sup>5</sup> Both: 0' <sup>5</sup>	40'	4/50'	60%	Residential: 500 sf/unit Business 800 sf/business use

## Exhibit A

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be as specified in the table.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> There shall be no more than eight units in any one rowhouse structure. A minimum side yard setback of 6 feet is required for each end unit in a rowhouse structure.

<sup>5</sup> When a building designed wholly or partially for the conduct of business or other non-dwelling purposes adjoins a lot in a residence district at the side, a 6 foot setback shall be provided on the residential side of the business lot.

<sup>6</sup> Refer to the Capital City Renaissance Plan for height limitations. The Planning Board may further restrict building height by taking into consideration the average height of buildings in the same block as the proposed building site, and where the proposed site is a corner, the height of buildings on the other corners of the same intersection. In historic districts the number of stories of any proposed new building must be consistent with adjacent historic buildings.

<sup>7</sup> No front yard setback shall be required except when the DD district frontage extends part way into a block, the remainder of which is in a residence district, the same front yard shall be required for the business frontage as the adjoining residential frontage.

<sup>8</sup> If the property abuts a residence district, the front yard setback shall be the same as for the abutting residence district. If abutted by more than one residence district the front yard requirements of the least restrictive residential district shall apply.

Exhibit A

**CITY OF TRENTON  
ZONING SCHEDULES**

**Industrial Districts**

Zone	Use	Min. Lot Size (square feet)	Min Yards (feet) <sup>1</sup>			Min. FAR	Max. FAR	Max. Building Height (stories/feet)
			Front <sup>2</sup>	Rear <sup>3,4</sup>	Side <sup>4</sup>			
IA	All permitted uses	10,000 sf	Avg. or 20'	10'	One: 0' Both: 0'	0.4	1.5	3/50'
IB	All permitted uses	25,000 sf	Avg. or 20'	10'	One: 0' Both: 0'	0.2	0.5	3/50'

<sup>1</sup> See § 315-232, Yard Exceptions.

<sup>2</sup> When there is only one existing structure on a block, the front yard setback for a new structure shall be as specified in the table.

<sup>3</sup> No rear yard setback shall be required on a corner lot that is less than 50' from a side street line.

<sup>4</sup> When a property adjoins a residence or business district at the rear or side, the same rear and side yard setback shall be required as for the most restrictive adjoining residence or business district.

**APPENDIX B****ZONING AND LAND DEVELOPMENT**

**CHECKLIST I**  
**MINOR SUBDIVISION PLATS**  
**AND MINOR SITE PLANS**

The following table is a checklist of items that must be submitted as part of minor and subdivision plat and minor site plan applications, as outlined in Chapter 315, Zoning and Land Development Code of the City of Trenton. The Applicant must indicate the sheet number on which the required item is located in the left column of the checklist. This list summarizes required items; for complete details of submission requirements and procedures, refer to §315-66. (Where any discrepancies between §315-66 and this checklist may occur, §315-66 supersedes this checklist.)

<b>Documents to be submitted</b>	
	5 copies: Completed application form(s), including this completed checklist
	10 copies: Subdivision plat or site plan at a scale of not less than one inch equals 50 feet printed on one of the following standard sheet sizes and folded into eights with the title block revealed: 8 ½ x 13, 15 x 21, 24 x 36, 30 x 42.  <i>Each plat or site plan must drawn from a field survey by a professional engineer or land surveyor and must be signed and sealed by a New Jersey professional engineer or land surveyor.</i>  <i>All engineering data must be signed and sealed by a professional engineer and all survey data must be signed and sealed by a professional land surveyor.</i>
	1 copy: Reduced scale subdivision plat and/or site plan printed on 11 x 17 sized paper
	5 copies: Protective covenant or deed restrictions affecting the property, as applicable
	Application fee in accordance with §315-71
	Escrow fee in accordance with §315-71

<b>Details required for minor subdivision plat and minor site plan applications</b>	
<b>Sheet #</b>	<b>Required Item</b>
	Key map showing the entire project site and its relation to the surrounding area, at a scale of one inch equals not more than 2,000 feet
	Title block: <ul style="list-style-type: none"><li>- Name of subdivision or development, City of Trenton, Mercer County</li><li>- Name, title, address and telephone number of applicant</li><li>- Name, title, address and license number of professional(s) who prepared the plat or plan</li><li>- Name, title, and address of owner(s) of record</li><li>- Scale in written and graphic form</li><li>- Date of original preparation and each subsequent revision with a list of specific revisions entered on each sheet</li></ul>
	North arrow
	<i>For subdivisions and site plans:</i> Square footage or acreage of the project site to the nearest hundredth of an acre, not including areas within public right-of-ways
	<i>For site plans:</i> Computation of the area of the tract to be disturbed
	Approval signature lines for the Planning and/or ZBA Chairperson, Planning and/or ZBA Secretary, and Director of Division of Planning
	Existing tax sheet number(s) and lot and block number(s) of the lot(s) to be subdivided

	or developed as they appear on the City Tax Map and proposed block and lot numbers, as provided by the City Tax Assessor upon written request.
	Subdivision or development boundary line shown as a heavy solid line.
	<p>Location of existing and proposed:</p> <ul style="list-style-type: none"> <li>- Property lines with bearings and distances</li> <li>- Streets, alleys and structures with their numerical dimensions and an indication of whether existing structures will be retained or removed</li> <li>- Parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, and drainpipes</li> <li>- Natural features, including wetlands and trees</li> <li>- Historic landmarked areas or sites, as indicated on the City's Historic Landmarks and Districts Map</li> </ul>
	Location and width of all existing and proposed utility easements
	Zoning districts on and adjacent to the project site, including district names and requirements with proposed variance requests
	Proposed buffer and landscaped areas
	Delineation of floodplains, including floodway and flood fringe areas
	Contours as shown on the USGS topographical maps
	Names and lot and block numbers of all property owners within 200 feet of the extreme limits of the project site, as shown on the most recent tax list prepared by the City Tax Assessor
	Certificate from the City Tax Collector that all taxes and assessments are paid to date
	Deed descriptions, including metes and bounds, easements, covenants, restrictions, and roadway and sight triangle dedications

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Signature and title of person who prepared this checklist

**APPENDIX C****ZONING AND LAND DEVELOPMENT**

**CHECKLIST II**  
**PRELIMINARY MAJOR SUBDIVISION PLATS**  
**AND PRELIMINARY MAJOR SITE PLANS**

The following table is a checklist of items that must be submitted as part of preliminary major subdivision plat and preliminary major site plan applications, as outlined in Chapter 315, Zoning and Land Development Code of the City of Trenton. The Applicant must indicate the sheet number on which the required item is located in the left column of the checklist. This list summarizes required items; for complete details of submission requirements and procedures, refer to §315-67. (Where any discrepancies between §315-67 and this checklist may occur, §315-67 supersedes this checklist.)

<b>Documents to be submitted</b>	
	5 copies: Completed application form(s), including this completed checklist
	10 copies: Subdivision plat or site plan at a scale of not less than one inch equals 50 feet printed on one of the following standard sheet sizes and folded into eights with the title block revealed: 8 ½ x 13, 15 x 21, 24 x 36, 30 x 42.  <i>Each plat or site plan must drawn from a field survey by a professional engineer or land surveyor and must be signed and sealed by a New Jersey professional engineer or land surveyor.</i>  <i>All engineering data must be signed and sealed by a professional engineer and all survey data must be signed and sealed by a professional land surveyor.</i>
	1 copy: Reduced scale subdivision plat and/or site plan printed on 11 x 17 sized paper
	5 copies: Protective covenant or deed restrictions affecting the property, as applicable
	Application fee in accordance with §315-71
	Escrow fee in accordance with §315-71

<b>Details required for preliminary major subdivision and preliminary major site plan applications</b>	
<b>Sheet #</b>	<b>Required Item</b>
	Key map showing the entire project site and its relation to the surrounding area, at a scale of one inch equals not more than 2,000 feet
	Title block: <ul style="list-style-type: none"> <li>- Name of subdivision or development, City of Trenton, Mercer County</li> <li>- Name, title, address and telephone number of applicant</li> <li>- Name, title, address and license number of professional(s) who prepared the plat or plan</li> <li>- Name, title, and address of owner(s) of record</li> <li>- Scale in written and graphic form</li> <li>- Date of original preparation and each subsequent revision with a list of specific revisions entered on each sheet</li> </ul>
	North arrow
	<i>For subdivisions and site plans:</i> Square footage or acreage of the project site to the nearest hundredth of an acre, not including areas within public right-of-ways  <i>For site plans:</i> Computation of the area of the tract to be disturbed
	Approval signature lines for the Planning and/or ZBA Chairperson, Planning and/or ZBA Secretary, and Director of Division of Planning

	Existing tax sheet number(s) and lot and block number(s) of the lot(s) to be subdivided or developed as they appear on the City Tax Map and proposed block and lot numbers, as provided by the City Tax Assessor upon written request.
	Subdivision or development boundary line shown as a heavy solid line.
	<p>Location of existing and proposed:</p> <ul style="list-style-type: none"> <li>- Property lines with bearings and distances</li> <li>- Streets, alleys and structures with their numerical dimensions and an indication of whether existing structures will be retained or removed</li> <li>- Parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, and drainpipes</li> <li>- Natural features, including wetlands and trees</li> <li>- Historic landmarked areas or sites, as indicated on the City's Historic Landmarks and Districts Map</li> <li>- Redevelopment areas, as indicated on the City's Redevelopment Areas Map</li> </ul>
	Location and width of all existing and proposed utility easements
	Zoning districts on and adjacent to the project site, including district names and requirements with proposed variance requests
	Proposed buffer and landscaped areas
	Delineation of floodplains, including floodway and flood fringe areas
	Contours as shown on the USGS topographical maps
	Names and lot and block numbers of all property owners within 200 feet of the extreme limits of the project site, as shown on the most recent tax list prepared by the City Tax Assessor
	Certificate from the City Tax Collector that all taxes and assessments are paid to date
	Deed descriptions, including metes and bounds, easements, covenants, restrictions, and roadway and sight triangle dedications

Additional requirements for preliminary major site plan applications	
Sheet #	Required Item
	Location and species associations of all existing individual trees or groups of trees having a caliper of eight inches or more measured three feet above the ground level on portions of the project site that are proposed to be disturbed
	Proposed location of all proposed plantings with a legend listing the botanical and common names, sizes at time of planting, total quantity of each plant, and location of each plant keyed to the plan or plat
	Existing and proposed bridges, culverts, drainage swales, and watercourses both on the project site and within 200 feet of its boundaries. Cross sections of the watercourses and/or drainage swales must be provided at an appropriate scale showing the extent of the floodplain, top of bank, normal water levels and bottom elevations.
	Existing and proposed contours with intervals of five feet. All contour information shall refer to a known datum. Existing contours shall be shown as a dashed line; finished grades shall be shown as a solid line.
	A soil erosion and sediment control plan as required by N.J.S.A. 4:24-39.
	Locations of all existing structures, showing existing and proposed front, rear and side yard setback distances, an indication of whether the existing structures and uses will be retained or removed, and any landmark areas or sites as indicated on the City's Historic Landmarks and Districts Map.
	Size, height and location of all proposed buildings, structures, signs and lighting facilities.
	A zoning compliance table demonstrating conformity to the requirements of the zoning district(s) in which the property is located. Information to be shown on this table must include, but is not limited to lot size, lot coverage, building setbacks, building height, floor area ratio and parking requirements. All tract and lot sizes shall be expressed in square feet and shall include bearings and distances.

	<p>Architectural drawings including urban design elements and signage as follows:</p> <ol style="list-style-type: none"> <li>a. Proposed floor plans</li> <li>b. Proposed elevations</li> <li>c. Indication of room sizes and building height of proposed/existing structures on both floor plans and elevations. Materials and manufacturers of building details including windows and siding.</li> <li>d. Color palette for proposed structures, including but not limited to façade, trim, and roof.</li> <li>e. Proposed façade details including, but not limited to doors, shutters, and cornices.</li> <li>f. Materials, sizes and treatments for all porches, stoop areas, garden walls, planters and stair railings, as well as landscaping in accordance with §315-164.</li> <li>g. Height, size, boundaries and entry/gate locations for all fencing.</li> <li>h. Locations, type and character of all proposed wall mounted light fixtures, mail boxes and any other exterior building features.</li> <li>i. Proposed paving patterns and brick work for sidewalks, driveways and parking areas.</li> <li>j. Size, color, materials for any proposed signage as well as scaled representations on elevations including verbiage and font style.</li> <li>k. Design and location of any proposed freestanding signs including size and materials to be used.</li> </ol>
	Proposed location and direction of illumination, power and type of proposed outdoor lighting, including details of lighting poles, luminaries and hours of operation.
	An open space, screening, buffering and landscaping plan per § 315-180.
	The location and design of any off-street parking area, showing size and location of parking spaces, aisles and barriers. Landscaping in parking areas shall be provided in accordance with the provisions of § 315-175.
	Proposed public art and proposed location of such art to be provided by the Applicant as part of the proposed project per § 315-181, as applicable.
	All means of vehicular access and egress to and from the site onto public streets and alleys showing the site and the location of driveways, cartways and curb cuts, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, sight triangle easements, additional width and other proposed devices necessary to prevent vehicular conflicts.
	Plans and computations for any storm drainage system demonstrating compliance with Chapter 234: Stormwater Management of the City ordinance, per §315-66C.1.m.
	Location of existing infrastructure such as water and sewer mains, utility structures, gas transmission lines and high tension power lines on the project site and within 200 feet of its boundaries.
	Plans of proposed infrastructure improvements and utility layouts, including sewers, storm drains and waterlines and feasible connections to gas, telephone and electrical utility systems
	Plans for proposed streets including typical cross sections and construction details, horizontal and vertical alignments of the center line of all proposed streets and of all existing streets abutting the project site.
	Protective covenants or deed restrictions applying to the land being developed.
	Proposed permanent monuments.
	Provide proof of review and approval from the New Jersey State Delaware and Raritan Canal Commission, where applicable.
	Submit a copy of the site plan application to the City of Trenton Historic Landmark Commission for advisory review, where applicable.
	Submit a subdivision application to Mercer County for review and approval.
	Submit a recycling plan to the Mercer County Improvement Authority, as set forth in the county recycling plan, for any new development of 50 or more single-family units,

	25 multifamily units and 1,000 square feet or more of lot area for commercial or industrial use.
	Proposed structures shall be related harmoniously to themselves and to existing topography, buildings and roads in the vicinity of the project site. The achievement of a harmonious relationship may include the creation of focal points with respect to public views of the site, surrounding terrain and other buildings. Proposed structures shall be sited so as to minimize any adverse impact upon the surrounding area and particularly upon any nearby residences by reason of: (a) Building location, height, bulk and shadows. (b) Location, intensity, direction and times of use of outdoor lighting. (c) Likelihood of nuisances. (d) Other similar considerations.
	The City and the Planning Board and/or Zoning Board of Appeals reserve the right to require additional information before granting a preliminary subdivision and/or site plan hearing or approval when, in their judgment, such additional information is required in order for the relevant Board to make an informed decision or when unique circumstances affect the project site or when the application for development poses special problems for the project site and the surrounding area. Such information shall include, but not be limited to, drainage calculations and traffic impact analyses or engineering studies.

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Signature and title of person who prepared this checklist

**APPENDIX D****ZONING AND LAND DEVELOPMENT****CHECKLIST III  
FINAL SUBDIVISION PLATS AND SITE PLANS**

The following table is a checklist of items that must be submitted as part of final subdivision plan and final site plan applications, as outlined in Chapter 315, Zoning and Land Development Code of the City of Trenton. This list summarizes required items; for complete details of submission requirements and procedures, refer to §315-68. (Where any discrepancies between §315-68 and this checklist may occur, §315-68 supersedes this checklist.)

<b>Documents to be submitted</b>	
	3 copies: Completed application form(s), including this completed checklist
	6 copies: Final subdivision plat and/or final site plan at a scale of not less than one inch equals 50 feet printed on one of the following standard sheet sizes and folded into eights with the title block revealed: 8 ½ x 13, 15 x 21, 24 x 36, 30 x 42.  <i>Each plat or site plan must drawn from a field survey by a professional engineer or land surveyor and must be signed and sealed by a New Jersey professional engineer or land surveyor.</i>
	<i>All engineering data must be signed and sealed by a professional engineer and all survey data must be signed and sealed by a professional land surveyor.</i>
	1 copy: Reduced scale final subdivision plat and/or final site plan printed on 11 x 17 sized paper
	Application fee in accordance with §315-71
	Escrow fee in accordance with §315-71
	An acknowledgment signed by the applicant stating that the applicant is familiar with the procedure set forth herein for submitting and acting upon final site plans, and agrees to be bound by it.

<b>Details required for final subdivision and site plan applications</b>	
	All details stipulated in § 315-67.
	All additional details required at the time of preliminary approval.
	Detailed architectural and engineering data including:  An architect's third angle projection drawing, with total envelope dimensions, of each structure and sign or of a typical structure and/or sign, showing front, side and rear elevations.  Cross sections, plans, profiles and established grades of all streets, aisles, lanes and driveways, including center line geometry and horizontal alignments with bearings, radii and tangents.  Plans and profiles of all storm and sanitary sewers and water mains
	The final submission shall be accompanied by a certificate from the City Tax Collector that all taxes and assessments are paid to date.

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Signature and title of person who prepared this checklist

**APPENDIX E****ZONING AND LAND DEVELOPMENT****CHECKLIST IV  
VARIANCES**

The following table is a checklist of items that must be submitted as part of a variance application, as outlined in Chapter 315, Zoning and Land Development Code of the City of Trenton. This list summarizes required items as provided for in §315-62.

<b>Documents to be submitted</b>	
	5 copies: Completed application form, including this completed checklist
	10 copies: Plan at a scale of not less than one inch equals 50 feet printed on one of the following standard sheet sizes and folded into eights with the title block revealed: 8 ½ x 13, 15 x 21, 24 x 36, 30 x 42.  <i>Plan must be drawn from a field survey by a professional engineer or land surveyor and must be signed and sealed by a New Jersey professional engineer or land surveyor.</i>
	1 copy: Reduced scale plan printed on 11 x 17 sized paper
	Application fee in accordance with §315-71
	Key map at less than one inch equals 2,000 feet
	Title block: <ul style="list-style-type: none"> <li>- Name of development, City of Trenton, Mercer County</li> <li>- Name, title, address and telephone number of subdivider or developer</li> <li>- Name, title, address and license number of the professional or professionals who prepared the plat or plan</li> <li>- Name, title and address of the owner or owners of record</li> <li>- Scale in written and graphic form</li> <li>- Date of original preparation; date of each subsequent revision thereof; and list of specific revisions entered on each sheet</li> </ul>
	North arrow
	Square footage or acreage of the project site to the nearest hundredth of an acre, not including areas within public right-of-ways
	Approval signature lines for the Planning and/or ZBA Chairperson, Planning and/or ZBA Secretary, and Director of Division of Planning
	Existing tax sheet number(s) and lot and block number(s) of the lot(s) to be subdivided or developed as they appear on the City Tax Map and proposed block and lot numbers, as provided by the City Tax Assessor upon written request.
	Subdivision or development boundary line shown as a heavy solid line.
	Location of existing and proposed: <ul style="list-style-type: none"> <li>- Property lines with bearings and distances</li> <li>- Streets, alleys and structures with their numerical dimensions and an indication of whether existing structures will be retained or removed</li> <li>- Parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, and drainpipes</li> <li>- Natural features, including wetlands and trees</li> <li>- Historic landmarked areas or sites, as indicated on the City's Historic Landmarks and Districts Map</li> <li>- Redevelopment areas, as indicated on the City's Redevelopment Areas Map</li> </ul>
	Location and width of all existing and proposed utility easements
	Zoning districts on and adjacent to the project site, including district names and requirements with proposed variance requests
	Proposed buffer and landscaped areas

Exhibit A

	Delineation of floodplains, including floodway and flood fringe areas
	Contours as shown on the USGS topographical maps
	Names and lot and block numbers of all property owners within 200 feet of the extreme limits of the project site, as shown on the most recent tax list prepared by the City Tax Assessor
	Certificate from the City Tax Collector that all taxes and assessments are paid to date
	Deed descriptions, including metes and bounds, easements, covenants, restrictions, road right-of-way dedications and improvements and sight triangle easements, as applicable.

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Signature and title of person who prepared this checklist

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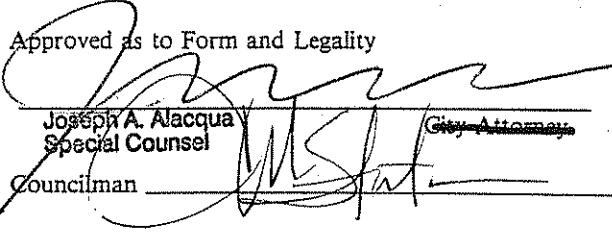
# ORDINANCE

No. \_\_\_\_\_

1st Reading APR 28 2010  
Public Hearing JUN 03 2010  
2nd Rdg. and Final Passage JUN 03 2010  
Withdrawn Lost

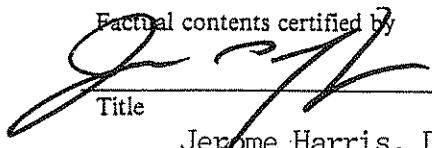
Date to Mayor JUN 03 2010  
Date Returned JUN 16 2010  
Date Resubmitted to Council JUN 16 2010

Approved as to Form and Legality

  
Joseph A. Iacqua  
Special Counsel  
Councilman

~~City Attorney~~

Factual contents certified by

  
Title

Jerome Harris, Dir. Hous. and Ec.  
presents the following Ordinance: Dev.

## AN ORDINANCE TO ADOPT A REVISED CHAPTER XIX ("ZONING") OF THE REVISED GENERAL ORDINANCES OF THE CITY OF TRENTON WHICH REORGANIZES, UPDATES AND AMENDS LAND DEVELOPMENT REGULATIONS; AND TO AMEND THE "REVISED ZONING MAP FOR THE CITY OF TRENTON" AS INCORPORATED IN CHAPTER XIX

WHEREAS, the City of Trenton Land Development Ordinance has not been comprehensively re-evaluated since 1989; and

WHEREAS, the City desires to amend the Zoning and Land Development Ordinance to reflect modern land use policies as well as eliminate any inconsistencies with the Municipal Land Use Law, Chapter 291, Law of New Jersey, 1975; and

WHEREAS, the City of Trenton, Department of Housing and Economic Development completed an extensive citizen participation process as part of this update; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Trenton in the furtherance of the general welfare of the City of Trenton to enact these new zoning provisions.

# ORDINANCE

Page 2

**NOW, THEREFORE, IT IS ORDAINED**, by the City Council of the City of Trenton as follows:

1. That the amendments to Chapter XIX of the Revised General Ordinances of the City of Trenton attached hereto as Exhibit A are hereby approved and the City Clerk is hereby directed to file said amendments in the City Clerk's Office and also file a copy of this Ordinance with the County of Mercer Planning Board.
2. All ordinances or parts of ordinances of the City of Trenton heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of the inconsistency.
3. This Ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

RECORD OF COUNCIL VOTE ON FINAL PASSAGE															
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.	
BETHEA	X			X	MELONE	X	X			PINTELLA	X	X			
MUSCHAL	X			X	SEGURA	X	X		X	PRESIDENT					
LARTIGUE	X			X	STATON	X			X						

X—INDICATES VOTE

A.B.—ABSENT

N.V.—NOT VOTING

X.O.R.—INDICATES OVERRIDE VETO

APR 28 2010

JUN 03, 2010

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ on \_\_\_\_\_  
Adopted on second and final reading after hearing on \_\_\_\_\_

Rejected  
Approved by

Mayor

4/14/2010  
Reconsidered  
By Council

Override  
Vote

Aye  Nay

President of Council

Leona Breyler