



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF PUBLIC	)	DECISION AND ORDER
SERVICE ELECTRIC AND GAS COMPANY	)	
PURSUANT TO <u>N.J.S.A.</u> 40-55D-19 FROM A	)	
DECISION OF THE CITY OF NEWARK ZONING	)	
BOARD OF ADJUSTMENT DENYING AN	)	
APPLICATION FOR PRELIMINARY AND FINAL SITE	)	
PLAN APPROVAL AND VARIANCES NECESSARY	)	
FOR THE CONSTRUCTION OF A 260/26/13KV	)	
SWITCHING STATION (MCCARTER SWITCHING	)	BPU DOCKET NO. EO14020185
STATION)	)	OAL DOCKET NO. PUC 04056-14

**Parties of Record:**

**Kathleen Barnett Einhorn, Esq.**, for petitioner Public Service Electric and Gas Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel  
**Renee Steinhagen, Esq.**, for New Jersey Appleseed PILC  
**Aaron Kleinbaum, Esq.**, for Eastern Environmental Law Center  
**Angelo Cifelli, Esq.**, for City of Newark Zoning Board of Adjustment

BY THE BOARD<sup>1</sup>:

On January 11, 2013, Public Service Electric and Gas (PSE&G), a New Jersey public utility engaged in the business of the transmission, distribution, and sale of electricity, filed an application with the City of Newark Zoning Board of Adjustment (ZBA) for preliminary and final site plan approval and variances to construct a new 230kV/23kV/13kV Switching Station at 29-53 Eleventh Avenue and 13-45 Littleton Avenue, Newark, New Jersey (the Project). At a special public hearing held on December 3, 2013, the ZBA voted to deny approval of PSE&G's application. This decision was memorialized by resolution on January 23, 2014. Subsequently, PSE&G filed a petition with the New Jersey Board of Public Utilities (Board) on or about February 27, 2014, pursuant to N.J.S.A. 40:55d-19 of the Municipal Land Use Law (MLUL), appealing the decision of the ZBA, seeking Board approval of the Project requesting and a determination that the Project is reasonably necessary for the service, convenience or welfare of the public and therefore not subject to the ordinances of the City of Newark or any other ordinance or regulation authorized by the MLUL.

<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

According to the petition, the Project is designed to satisfy the needs of the PJM Regional Transmission Expansion Planning (RTEP) process. The RTEP identifies transmission system upgrades and enhancements needed to maintain the reliability of the transmission system based upon a model of expected future system conditions. For this Project, reliability criteria violations projected to begin in 2012 were identified. Specifically, there are four underground circuits serving the Newark Load Pocket. When there is a loss of any two (2) circuits, the remaining two (2) circuits are loaded above their normal rating. This results in a North American Electric Reliability Corporation (NERC) Category C (n-1-1) reliability criteria violation.

This matter was deemed a contested case and, on April 3, 2014, was transmitted to the Office of Administrative Law (OAL) for hearing pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The case was assigned to Administrative Law Judge Gail M. Cookson (ALJ) under docket number PUC 04056-14. A prehearing conference was convened telephonically on April 15, 2014, at which time discovery, witnesses and other prehearing matters were discussed. ALJ Cookson granted the City of Newark (City), the Urban League of Essex County (ULEC), and the Fairmount Housing Neighborhood Association (FHNA) leave to intervene in the proceedings. Evidentiary hearings were held on September 15, 17, 18 and 19, 2014. Board Staff and the Division of Rate Counsel (Rate Counsel) appeared and participated in the proceedings.

After the hearings, the City, ULEC, FHNA and PSE&G (Signatory Parties) reported progress on settlement and requested an adjournment of the time for submission of the interveners' post-hearing briefs, which was granted. A Stipulation of Settlement signed by the Signatory Parties was transmitted to ALJ Cookson on November 26, 2014. On December 1, 2014, ALJ Cookson entered an Initial Decision finding that the Stipulation of Settlement was voluntary, was agreed to by all of the parties, disposes of all issues in controversy and is consistent with law and therefore meets the requirements of N.J.A.C. 17:27-19.1. ALJ Cookson ordered the matter be deemed dismissed with prejudice and that the proceedings be concluded. Board Staff and Rate Counsel were listed as parties of record on the Initial Decision.

By letter dated December 12, 2014, Rate Counsel informed the Board that notwithstanding the statement in the Initial Decision that all parties had executed the Stipulation of Settlement, Rate Counsel had not participated in settlement discussions and did not sign the Stipulation of Settlement. Additionally, Rate Counsel did not support or oppose the settlement.

At the December 17, 2014 agenda meeting, the Board requested an extension of time to render a final decision in this matter until March 4, 2015 which was subsequently approved by Laura Sanders, Acting Director of the OAL and Chief ALJ.

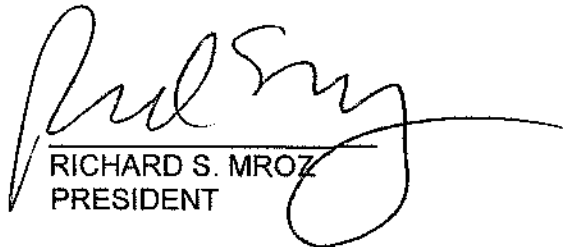
After review of the record, ALJ Cookson's Initial Decision, Settlement, and the Stipulation of Settlement of the Signatory Parties, the Board **HEREBY FINDS** that the settlement was voluntary as evidenced by the signatures of the Signatory Parties, and that its terms fully dispose of all outstanding contested issues in this matter.

Accordingly, the Board **HEREBY ADOPTS** the Initial Decision modifying it solely to reflect that neither Rate Counsel nor Board Staff were signatories to the Settlement.

Adoption of this settlement and the Initial Decision, as modified, does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the Project shall be made in an appropriate subsequent proceeding.

DATED: 1/21/2015

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

ATTEST:



CARMEN D. DIAZ  
ASSISTANT SECRETARY

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY  
PURSUANT TO N.J.S.A. 40-55D-19 FROM A DECISION OF THE CITY OF NEWARK ZONING  
BOARD OF ADJUSTMENT DENYING AN APPLICATION FOR PRELIMINARY AND FINAL  
SITE PLAN APPROVAL AND VARIANCES NECESSARY FOR THE CONSTRUCTION OF A  
260/26/13KV SWITCHING STATION (MCCARTER SWITCHING STATION)

BPU DOCKET NO. EO14020185  
OAL DOCKET NO. PUC 04056-14

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**WHEREAS**, on February 27, 2014 PSE&G appealed the Zoning Board's resolution by submitting a Petition at the NJBPU for a determination under N.J.S.A. 40:55D-19 that the proposed Project is reasonably necessary for the service, convenience or welfare of the public (the "Proceeding");

**WHEREAS**, the NJBPU transmitted the case to the Office of Administrative Law for hearings and the matter was assigned to the Honorable Gail M. Cookson, ALJ;

**WHEREAS**, the ULEC, the FHNA and the City intervened in the Proceeding (hereinafter ULEC, City and PSE&G collectively referred to as the "Parties");

**WHEREAS**, Staff of the Board of Public Utilities as well as New Jersey Division of Rate Counsel have appeared before ALJ Cookson, participated throughout the Proceeding, including evidentiary hearings, and encouraged the Parties to continue discussions towards, if possible, an amicable resolution of this matter;

**WHEREAS**, the Parties have reached an agreement under the terms set forth in the Settlement Agreement attached hereto as Exhibit A that the Parties believe represents a fair and reasonable resolution that benefits all Parties; and

**NOW, THEREFORE**, in consideration of the promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto execute and deliver this Stipulation of Settlement on the terms and conditions set forth herein.

1. The Parties agree that pursuant to N.J.S.A. 40:55D-19, the Project and the design, described as the Modified Facility in the Settlement Agreement, is reasonably necessary for the service, convenience or welfare of the public and the Parties agree to an entry of an order by the Board approving this Stipulation of Settlement ("Stipulation") and ordering that PSE&G can

immediately begin construction of the Project under N.J.S.A. 40:55D-19, subject to any other State or Federal permits that may be required.

2. The Parties agree to abide by the terms of the Settlement Agreement attached to the Stipulation as Exhibit A.

3. As part of the Settlement Agreement, PSE&G is required to create a wholly owned subsidiary which will become an Urban Renewal Entity ("URE"). In order to effectuate the terms of the Settlement, PSE&G will transfer Block 1830 Lot 10 on the Official Tax Map of the City of Newark to the URE. The URE will then lease back a portion of the site to PSE&G for the construction, operation and maintenance of the Project. The unused portion of Lot 10 will be transferred to the City of Newark pursuant to N.J.S.A. 48:3-7. In addition to general NJBPU approval of this Stipulation, to the extent any specific approval is required, the Parties hereby request that the NJBPU approve the transfer of property from PSE&G to the URE, its wholly-owned subsidiary.

4. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this Proceeding.

5. This Stipulation contains terms, each of which is interdependent with the others and essential in its own right to the signing of this Stipulation. Each term is vital to the agreement as a whole, since the parties expressly and jointly state that they would not have signed the Stipulation had any term been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, unless the Parties consent in writing, this Stipulation shall be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

6. This Stipulation may be executed in as many counterparts as there are signatories, each of which shall be deemed an original, but all of which shall constitute one and the same



instrument. The Parties agree that this Stipulation, once fully executed, will be filed for approval with the Administrative Law Judge and the NJBPU.

7. Signature. The parties understand and agree to the terms of this Stipulation and execute it as of the date first set forth above.

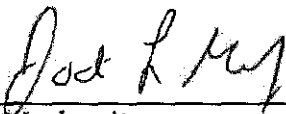
**THE CITY OF NEWARK**

By: \_\_\_\_\_  
Larry Crump  
Corporate Counsel

**URBAN LEAGUE OF ESSEX COUNTY AND  
FAIRMOUNT HOUSING NEIGHBORHOOD  
ASSOCIATION**

By: \_\_\_\_\_  
Renee Steinhagen

**PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY**  
By: PSEG Services Corp., Attorneys for PSE&G

By:  \_\_\_\_\_  
Jodi L. Moskowitz  
Deputy General Counsel

8. Signature. The parties understand and agree to the terms of this Stipulation and execute it as of the date first set forth above.

**THE CITY OF NEWARK**

By: Karen Brown  
Karen Brown  
Corporation Counsel

**URBAN LEAGUE OF ESSEX COUNTY AND  
FAIRMOUNT HEIGHTS NEIGHBORHOOD  
ASSOCIATION**

By: Renee Steinhagen  
Renee Steinhagen, Esq.  
Attorney for The Urban League of Essex County and  
Fairmount Heights Neighborhood Association

**PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY**

**By: PSEG Services Corp., Attorneys for PSE&G**

By: \_\_\_\_\_  
Jodi L. Moskowitz  
Deputy General Counsel

**EXHIBIT A TO STIPULATION OF SETTLEMENT**  
Fully Executed Settlement Agreement

## EXECUTION COPY

## SETTLEMENT AGREEMENT

This **SETTLEMENT AGREEMENT** (the "**Agreement**") is made and entered into this 26<sup>th</sup> day of November, 2014, by and among the **CITY OF NEWARK** ("**City**"), a municipal corporation in the County of Essex and the State of New Jersey with an address at 920 Broad Street, Newark, New Jersey 07102; the **URBAN LEAGUE OF ESSEX COUNTY** ("**Urban League**"), a 501(c)(3) community based organization with an address at 508 Central Avenue, Newark, New Jersey 07107; the **FAIRMOUNT HEIGHTS NEIGHBORHOOD ASSOCIATION** ("**FHNA**"), a New Jersey non-profit resident improvement association with an address at 501 Central Avenue, Newark, New Jersey 07107; and **PUBLIC SERVICE ELECTRIC AND GAS COMPANY** ("**PSE&G**"), a public utility organized in the State of New Jersey with offices at 80 Park Plaza, Newark, New Jersey 07102 (collectively, the "**Parties**");

**WHEREAS**, PSE&G proposes to construct on Block 1830, portions of Lots 10 and 1 on the tax map of the City and more commonly known as 29-53 Eleventh Avenue and 13-45 Littleton Avenue, respectively (collectively, the "**Property**"), the McCarter Switching Station (the "**Facility**") that will maintain the reliability of the transmission system and the delivery and distribution of electricity to the residents of the City as required by PJM Interconnection LLC, the federally approved regional operator of the transmission grid; and

**WHEREAS**, in connection with PSE&G's application (the "**Application**") for land use variances and preliminary and final site plan approval before the City Zoning Board of Adjustment (the "**Zoning Board**"), the Urban League, the FHNA, and members of the community presented testimony against the Application, and such testimony was a contributing factor in the Zoning Board's January 23, 2014 decision denying the Application; and

**WHEREAS**, on February 27, 2014, PSE&G filed an appeal petition entitled "In the Matter of the Petition of Public Service Electric and Gas Company Pursuant to *N.J.S.A. 40:55D-19* from a Decision of the City of Newark Zoning Board of Adjustment Denying an Application for Preliminary and Final Site Plan Approval and Variances Necessary for the Construction of A 230/26/13kV Switching Station (McCarter Switching Station)", with the New Jersey Board of Public Utilities (the "**BPU**") to appeal the Zoning Board's denial of the Application (the "**Litigation**"); and

**WHEREAS**, on March 19, 2014, the BPU granted the Urban League's and FHNA's motion to intervene in the Litigation; and

**WHEREAS**, on or about April 1, 2014, the BPU referred the matter to the Office of Administrative Law, which held hearings on the Litigation beginning on September 15, 2014; and

**WHEREAS**, on September 15, 2014, the Administrative Law Judge granted the City's Motion to Intervene in the Litigation; and



**WHEREAS**, in recognition that the Facility is reasonably necessary for the service, convenience or welfare of the public, and in further recognition of the fact that PSE&G has made and continues to make good faith efforts to minimize any negative impact to the West Ward, including the Fairmount neighborhood, the Parties have negotiated the terms of the settlement set forth herein that, among other things: (i) mitigates the overall impact of the Facility on the West Ward, including the Fairmount neighborhood; (ii) provides a process for approvals and the elimination of legal and regulatory obstacles for construction of the Facility to proceed; (iii) requires PSE&G to support a community benefits package as mitigation for the Facility, as further described herein; and (iv) sets forth the respective commitments and other obligations of the Parties (the foregoing items (i), (ii), (iii) and (iv) collectively referred to herein as the "**Settlement**"); and

**WHEREAS**, as a first step in moving to facilitate the Settlement process, PSE&G has, in good faith, entered into an escrow agreement with Brick City Development Corporation ("**BCDC**") (as amended and supplemented from time to time, the "**Escrow Agreement**") and funded an aggregate escrow deposit of \$175,000 for the purpose of: (i) funding a proposal by The Switzer Group to review certain aspects of the design of the Facility, including the size, the location on the Property and façade treatments, and to develop a master plan for re-zoning of the Property and the redevelopment of the adjacent lots; and (ii) funding certain BCDC staff and professional costs and expenses; and

**WHEREAS**, the Parties now desire to enter into this Agreement, setting forth the terms of the Settlement and dismiss the Litigation, including memorializing the community benefits package and establish a process for the Facility to proceed through the development and construction process.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, hereby agree as follows:

## ARTICLE I

THE SETTLEMENT TERMS

The Parties hereby agree to the following Settlement terms and conditions:

A. PSE&G agrees to undertake the following (collectively, the “**Community Benefits Package**”) as mitigation for construction of the Facility:

- (i) Provide Three Hundred and Seventy Five Thousand (\$375,000) Dollars for City costs and expenses which will assist in the redevelopment of the property surrounding the Facility, including, but not limited to, real estate staff members, legal fees, and planning and architectural costs. One Hundred and Seventy Five (\$175,000) Dollars of this amount has previously been funded through the escrow deposit described above. The remaining Two Hundred Thousand (\$200,000) Dollars will be paid over to the City by PSE&G upon receipt of the BPU approval of the Settlement identified in Article II hereof;
- (ii) Expressly acknowledges the social and economic benefit that can be derived from the development, construction and programming of the Community Center (as defined below), and hereby recognizes and endorses the Community Center as an important component of this Settlement;
- (iii) Re-orient the Facility approximately as set forth at Exhibit D. The Parties agree that the re-oriented Facility, together with the alternative lightning protection system described at Article I(A)(ix) below, the stormwater management measures described at Article I(B)(vi), and the provisions of the Plan Amendment (set forth at Exhibit A) shall constitute the “**Modified Facility**”;
- (iv) Provide an at-grade stormwater retention basin on approximately 1 acre of the Excess Property, as defined below (the “**Stormwater Management Measure**”) in a location to be determined by the City not later than March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary, and in consultation with the Urban League, FHNA and PSE&G at a cost not to exceed \$300,000 to service the stormwater runoff for the area bounded by Eleventh Avenue, Littleton Avenue, South Seventh Street, Central Avenue and West Market Street assuming that the development on the balance of Block 1830 shall be deemed to be 100% impervious coverage. PSE&G will undertake commercially reasonable efforts to enhance the aesthetic value (which shall be included in the not to exceed \$300,000 cost) of the Stormwater Management Measure. In furtherance of PSE&G’s obligation set forth herein, the City shall determine the location of the Stormwater Management Measure not later than March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary. The City, the Urban League and the FHNA further

agree that the failure of the City, to determine the location of the Stormwater Management Measure shall not impede, impair or restrict PSE&G's ability to commence and complete construction of or commence operation of the Modified Facility;

- (v) Within thirty (30) days of the date of the issuance of a construction permit for the Modified Facility, PSE&G shall exercise the Option<sup>1</sup> to acquire certain real property identified as Block 1830, Lot 1 on the tax map of the City and more commonly known as 484 Central Avenue (the "**Block 1830 Lot 1 Property**"), from Victory Temple National Holiness Church, Inc. (the "**Owner**").<sup>2</sup> PSE&G shall pay all costs and expenses relating to the acquisition of Block 1830 Lot 1 Property;
- (vi) PSE&G shall demolish the building located on the Block 1830 Lot 1 Property (the "**Building**"). PSE&G shall provide all necessary labor, materials and equipment to demolish the Building and clean and clear the affected area where the Building was located prior to the demolition. PSE&G shall remove all debris from the demolition area in accordance with generally accepted demolition practices and procedures;
- (vii) PSE&G shall undertake the environmental remediation of Block 1830, Lot 10 (the "**PSE&G Property**") and the Block 1830 Lot 1 Property (the "**Remediation Work**") in accordance with the scope of work and in satisfaction of the environmental standards (the "**Environmental Standards**") attached hereto as Exhibit B (the "**Remediation Work Limit**"). PSE&G shall use commercially reasonable efforts to complete the Remediation Work after both: (a) the Planning Board Subdivision approval, and if necessary, the Planning Board site plan approval, which approvals shall be final and non-appealable; and (b) the Modified Facility has received all approvals necessary to commence operation. Upon completion of the Remediation Work in accordance with the referenced environmental standards and satisfying the conditions set forth herein, PSE&G shall convey to the City, at no cost to the City, those portions of the PSE&G Property and the Block 1830 Lot 1 Property as are unneeded for the Modified Facility (as generally described at Exhibit C hereto, as may be modified during the planning and approvals process, the "**Excess Property**"). PSE&G shall pay all fees and costs relating to the conveyance of the Excess Property to the City including all realty transfer fees;
- (viii) PSE&G shall defend, indemnify and hold the City harmless from and against claims by any third-party for remediation cost recovery, bodily injury, or

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<sup>1</sup> See FN3.

<sup>2</sup> The Parties acknowledge that as of the date of this Agreement, PSE&G has entered into an Option and Purchase and Sale Agreement dated June 18, 2014 granting PSE&G the rights to acquire the Block 1830 Lot 1 Property on the terms and conditions set forth therein.

property damage relating solely to soil contamination located on or at Block 1830, Lot 1 or the Excess Property for a period of three (3) years from the date on which PSE&G delivers a restricted use, soils-only area of concern Response Action Outcome ("RAO") for the Excess Property based on NJDEP's non-residential soil remediation standards. This indemnity shall be solely in favor of the City and shall not be assignable to any other person or entity. This indemnity shall be void and of no effect if the City, or its successors or assigns, violate the requirements of any Deed Notice or Soil or Groundwater Remedial Action Permit issued by the New Jersey Department of Environmental Protection ("NJDEP") for Block 1830 Lot 1, or the Excess Property, or if the City, or successors or assigns through any action or inaction allow the Covenant Not to Sue pursuant to N.J.S.A. 58:10B-13.1 to become void or inoperative in any manner. PSE&G shall have no liability for any additional remediation should the City or any of its successors or assigns decide to use the site in any manner that would require additional remediation, beyond the minimum necessary to obtain the RAO. This indemnity shall not apply to any claim for remediation, bodily injury or property damage or of any nature whatsoever arising out of or related to ground water contamination at, or emanating from or flowing onto Block 1830, Lot 1 or the Excess Property or the use of the Excess Property as a child care or child educational facility and the Deed Notice for the Excess Property shall specifically prohibit construction or use of the Excess Property as a child care or child educational facility. This indemnity shall survive the Closing and transfer of title of the Excess Property from PSE&G to the City. Nothing in this indemnification shall be deemed an admission by PSE&G of liability with respect to contamination of Lot 1830, Block 1 or the Excess Property and PSE&G reserves all of its rights and defenses with respect thereto. Notwithstanding anything contained herein to the contrary, the City covenants and agrees that it shall not develop, construct, operate or permit any other party with whom it may contract for the development of the Excess Property to develop, construct or operate a child care or child educational facility. PSE&G shall have the express right to enforce this covenant at law and equity;

- (ix) PSE&G shall install a Modified Facility lightning protection system (the "**Modified System**") that shall be in lieu of the 60 foot lightning masts proposed for the Facility. Generally, the Modified System shall consist of thin horizontal wires ("**Static Wire(s)**") in the place of one or more of the lightning masts. The Static Wire will run from high points on the Gas Insulated Switching Gear ("**GIS**") building to the corners of the perimeter wall. PSE&G envisions at least 4 horizontal Static Wires running from the 4 corners of the GIS building to the 4 corners of the wall. The Static Wires will be high enough so as not to impede maintenance of the Modified Facility. Vertical structural members at the GIS building and at the wall corners will be needed to support the Static Wire. At the wall corners these vertical structural members may extend a modest height above the top of the wall. In addition to the Static Wires, PSE&G may require the use of

short lightning rods, called "Stingers". Stingers are approximately 5 feet in length and are made of thin copper rods;

- (x) pay Urban League's and FHNA's reasonable attorney's fees and related costs and expenses, in connection with the settlement of the Litigation, not to exceed Fifty Thousand (\$50,000);
- (xi) pay the fees costs and expenses of the Mediator selected by the Parties. The Parties hereby acknowledge that former New Jersey Supreme Court Justice, the Honorable James Coleman and/or former New Jersey Superior Court Justice Alvin Weiss have been engaged by the Parties to observe and as necessary, mediate any issues that may arise among the Parties with respect to this Agreement for the purpose of assuring a fair and equitable resolution of the issues among the Parties and recognizing the public interests to be served by the Settlement;
- (xii) PSE&G shall construct, at its own cost and expense, a commercially reasonable architectural screening wall around the Modified Facility not to exceed Twenty Million (\$20,000,000) Dollars. The design of the architectural screening wall will incorporate fire-retardant materials, will be consistent with the Plan Amendment, and will be compatible with the neighborhood pursuant to a reasonable charette-like process that is agreed to by PSE&G, the City's Director of Housing and Economic Development and the West Ward Councilman, in consultation with the Urban League and FHNA, which charette and final design recommendation shall be completed no later than March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary. To the extent that such final design recommendation shall not be made by March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary, then PSE&G shall have the right, in its sole discretion, to design and construct the architectural screening wall. Notwithstanding the foregoing, the Parties acknowledge that the architectural screening wall must not interfere with or negatively impact the construction, operation and/or maintenance of the Modified Facility;
- (xiii) PSE&G commits to consult and cooperate with the appropriate City officials, including fire safety officials, in connection with the development of a safety and evacuation plan in the event of fire or explosion at the Modified Facility. In furtherance of this obligation, the City agrees that the plan shall be completed during the construction phase of the Project and will be shared with the Fairmount community prior to the date the Facility commences operation;
- (xiv) during the construction of the Modified Facility, hire a security firm to provide security for the Modified Facility Site during non-working hours (including weekends). PSE&G shall provide adequate security for the Modified Facility



Site for the length of the term of the Financial Agreement. Adequate security shall consist of the installation of unmanned security cameras monitoring the Modified Facility and the adjacent public areas, maintenance of the footage recorded by such security cameras in accordance with PSE&G general and customary practices, and provision of copies of such footage to law enforcement (if such footage is available) upon reasonable request. Nothing in this section shall prevent PSE&G from implementing a different security system in the future, in PSE&G's sole discretion;

- (xv) PSE&G shall construct the Modified Facility in accordance with applicable codes, regulations and statutes governing the construction of such facilities, and on the days and at the times set forth in Exhibit G. In addition, PSE&G shall abide by all the conditions set forth by the Central Planning Board (to the extent any conditions may be imposed in connection with a planning approval, if any), and such reasonable and generally applicable conditions as may be imposed by the City, including, but not limited to, the demolition of the Building, construction of the Modified Facility (e.g., air quality or other environmental concerns that are associated with activities related to the demolition or construction work), and construction-related street closings;
- (xvi) use best efforts to satisfy the conditions of the Settlement set forth at Article II hereof; and
- (xvii) Pursuant to the provisions of *N.J.S.A. 40A:20-1 et seq.* (Long Term Tax Exemption Law) and with Municipal Council approval, enter into a financial agreement by and between an urban renewal entity formed by PSE&G (the "PSE&G Entity") and the City substantially in the form attached hereto as Exhibit E (the "Financial Agreement") providing for the payment by the PSE&G Entity with respect to the taxable improvements on the Modified Facility site, a payment in lieu of tax in the amounts set forth at Exhibit F hereto (as the same may be modified in the manner set forth therein, the "PILOT Payments"). Exhibit F reflects that such payments shall escalate at an annual rate of 3.75% and a portion of which may be assigned by the City in accordance with the provisions of the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64 et seq.* (the "RAB Law"). The proceeds of the RABs, if and when issued, may be used by the City for any purpose, including, but not limited to, the following:
  - (a) Workforce Training Programs: to support Workforce Development Programs for Newark residents.
  - (b) Economic Development: for economic development within the City.

- (c) Health and Wellness: for the development and administration of health and wellness programs.
- (d) Additional Policing: to fund policing within the City.
- (e) Community/Training Center: to fund the construction of the Community Center described in Article I(B)(xii) below.
- (f) Liberty Park: to redevelop Liberty Park in consultation with the FHNA.
- (g) Pedestrian and Vehicle Safety Plan: to develop and implement revised vehicular and pedestrian safety plan that includes state of the art traffic management techniques including street reconstruction and signalization in the convergence of Littleton Avenue, West Market Street, Central Avenue and pedestrian safety and inadequate access to Liberty Park in consultation with the FHNA.
- (h) Pedestrian Lighting: to develop and implement a public light plan for the Fairmount neighborhood to ensure adequate lighting for pedestrians, and provide new lighting for the community. In consultation with the FHNA.
- (i) Allocation of RAB Proceeds: For clarity and absence of doubt, the Parties agree that the City, in its sole discretion, shall allocate the proceeds. PSE&G shall have no ability to control how or for what purposes the City allocates the RAB proceeds, and the City shall not be required to obtain the approval, consent or acquiescence of PSE&G for implementation of any project to be funded pursuant to this Agreement. The Parties further acknowledge that any project funded by the RAB proceeds shall be the sole responsibility of the City, its instrumentalities or partners, and that PSE&G shall have no responsibility for or involvement in, contractually or otherwise, any such project, including the management or outcomes of the projects. The Parties acknowledge that the City is not restricted to only using proceeds of the RABs to support the Community Center, Workforce Training Programs, Economic Development, Health and Wellness, and/or Additional Policing initiatives described herein, but may, in its sole discretion, pursue and/or use other sources of revenue, including, but not limited to grant or donated funds to satisfy these commitments.

Pursuant to the provisions of N.J.S.A. 40A:20-1 et seq. (Long Term Tax Exemption Law) and with Municipal Council approval, and to the extent permitted by law, the Parties agree to work collaboratively in connection with the City's action to authorize, enter into and implement the Financial Agreement, including obtaining, among others, review and/or approval by the New Jersey Economic Development Authority, the Office for Planning Advocacy in the Office of the New Jersey Secretary of State, and the Local Finance Board in the Division of Local Government Services, Department of Community Affairs (collectively, the "RAB Approvals"). Notwithstanding the above, if the RAB Approvals shall restrict or limit the implementation of the Financial Agreement or the assignment of payment in lieu of taxes due thereunder other than as contemplated by the City in the exercise of its discretion to enter into the Financial Agreement and seek the RAB Approvals, such restriction or limitation shall not be a condition to the approval or implementation of this Agreement and the City expressly agrees that PSE&G shall have no obligation to supplement or otherwise modify the Settlement terms (including but not limited to providing any additional funding, programs or in kind services), and all of the other terms of this Agreement shall remain in full force and effect and the Parties shall use their respective best efforts to implement the terms and conditions thereof and hereof.

B. The City hereby agrees to undertake the following, in consideration for the mitigation offered by PSE&G:

- (i) cause the Plan Amendment to the Redevelopment Plan substantially in the form attached hereto as Exhibit A to incorporate land use and bulk requirements that permit the Modified Facility to be built "as of right" and refer that Plan Amendment to the Planning Board for consideration. The Department of Economic and Housing Development - Newark Planning Office in consultation with PSE&G, the Urban League and the FHNA shall prepare, review and/or comment on the Plan Amendment and submit it to the Parties for review, and thereafter have the Plan Amendment presented to the Municipal Council to adopt a referral resolution to the Planning Board, in sufficient time that the Plan Amendment can be enacted by municipal ordinance on or before December 31, 2014;
- (ii) upon receipt of the Planning Board comments on the Plan Amendment, or if none are received within the timeframes set forth in the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, take action to introduce and finally adopt the Plan Amendment in accordance with applicable law, in sufficient time that the Plan Amendment can be enacted by municipal ordinance on or before December 31, 2014;
- (iii) following adoption of the Plan Amendment, take all procedural steps including publication and/or delivery of all notices as required by applicable law or regulation in order that the legislation approving the Plan Amendment shall be final and non-appealable and in full force and effect. PSE&G agrees that it will

not rely upon the Plan Amendment until the conditions to the Settlement Agreement set forth in Article II(A) hereof have been satisfied;

- (iv) if necessary, assist PSE&G in obtaining approvals under its subdivision application, and if necessary, site plan application for the Modified Facility before the Planning Board;
- (v) in the City's sole discretion and with the approval of the Municipal Council, enter into the Financial Agreement, take actions necessary to adopt the ordinance authorizing the Financial Agreement providing for the payment of the PILOT Payments, and take such further action as may be necessary in accordance with the RAB law to obtain the RAB approvals;
- (vi) the City acknowledges that the Modified Facility, including the construction of the Stormwater Management Measure in accordance with the requirements of the Plan Amendment, complies with all City stormwater management requirements. Further, in order for PSE&G to satisfy its obligations to provide the Stormwater Management Measure as referred to in Article I(A)(iv) above, the City shall: (a) grant to PSE&G a lease, easement or other sufficient property interest in the Excess Property (assignable to a PSE&G affiliate) necessary for PSE&G or its affiliate to construct, operate and maintain the Stormwater Management Measure; and (b) determine the location of the Stormwater Management Measure not later than March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary. PSE&G expressly acknowledges that it shall pay, in accordance with the terms of the Financial Agreement (as defined herein) payments in lieu of taxes for the improvements represented by the Stormwater Management Measure;
- (vii) use best efforts to cause the City Building Department to issue construction permits for the Modified Facility within thirty (30) days of the submission of completed application for such permits;
- (viii) support the development and construction of the Modified Facility by not objecting to any of the proceedings undertaken by PSE&G to obtain all required governmental approvals, including, but not limited to, State or Federal rate proceedings or proceedings before the Municipal Council and the Planning Board with respect to the Plan Amendment and/or Site Plan and subdivision approval, as the case may be;
- (ix) enter into a Stipulation of Settlement in the Litigation, if requested by PSE&G, which indicates that the Modified Facility, as contemplated herein, is reasonably necessary for the service, convenience or welfare of the public, and acknowledging that the City does not object to an Order entered by the Board of Public Utilities approving the redesigned project under *N.J.S.A. 40:55D-19*, and that the City shall use best efforts to fulfill its obligations hereunder;

- (x) use best efforts to satisfy the conditions of the Settlement set forth at Article II hereof;
- (xi) reserve Fifty Thousand (\$50,000) Dollars of the Two Hundred Thousand (\$200,000) Dollars received from PSE&G pursuant to Article I(A)(i) above for requests for expressions of interest with respect to the development of the Excess Property, with such portion of the monies to be controlled by the Urban League and FHNA. These funds will be released by the City upon its receipt of the funds above;
- (xii) in furtherance of PSE&G's obligation to construct the architectural screening wall as provided in Article I. (A)(xii) herein, complete the charette and final design recommendation no later than March 31, 2015, or such earlier date in connection with a PSE&G Site Plan application, if necessary;
- (xiii) provide to the Urban League reports and other information submitted by PSE&G or its affiliate under Section 15.01 and 15.02 of the Financial Agreement and in furtherance of the City's goals and objectives set forth therein, accept Urban League job referrals;
- (xiv) Support and fund the construction of a community/training center on the Excess Property (or other lot(s)) in the Fairmount neighborhood (the "**Community Center**"). The Community Center will serve the dual purpose of providing a community space for the operation of social and economic programs funded by the proceeds of the Financial Agreement described above and set forth with more particularity in Exhibit E (or some other funding source), which will provide a community social, recreational and educational/job training space for residents of the Fairmount and surrounding community; and
- (xv) following the transfer of the Excess Property to the City, the City shall name the Urban League as the designated redeveloper of the Excess Property and enter into a redevelopment agreement with the Urban League whereby the redevelopment of the Excess Property shall include the construction of the Community Center, which will be funded pursuant to Article I(A)(xvii)(e). The Urban League may construct the Community Center on another lot in Fairmount if more appropriate than on the Excess Property.

C. Urban League and FHNA hereby agree, in consideration of all the community benefits set forth herein to undertake the following:

- (i) support the development and construction of the Modified Facility by not objecting to any of the proceedings undertaken by PSE&G to obtain all required governmental approvals, including, but not limited to, State or federal rate



proceedings or proceedings before the Municipal Council and the Planning Board with respect to the Plan Amendment and/or Site Plan and subdivision approval, as the case may be, except that the Urban League and the FHNA reserve the right to object to any material changes to the Plan Amendment that relate to the Modified Facility; and

- (ii) enter into a Stipulation of Settlement in the Litigation which indicates that the Modified Facility is reasonably necessary for the service, convenience or welfare of the public, and acknowledging that the Urban League and FHNA do not object to an Order entered by the Board of Public Utilities approving the Modified Facility under *N.J.S.A. 40:55D-19*, and that the Urban League and FHNA each shall use best efforts to fulfill its respective obligations hereunder.

## ARTICLE I.1

### MISCELLANEOUS TERMS

(a) **Effective Date:** This Agreement and the Settlement shall be effective upon the date it is approved by the Municipal Council and executed by the duly authorized representatives of each of the Parties hereto (the "Effective Date").

(b) The terms of this Agreement and Settlement, including the Exhibits, which are incorporated herein by reference and attached hereto, set out the entire agreement among the Parties and supersede all negotiations, preliminary agreements and understandings written, oral or otherwise. The Parties each acknowledge and represent that they have not relied upon or been induced to enter into the terms of the Agreement and Settlement by any written, oral or other representation or undertaking not expressly recorded herein, accordingly, no part of the Agreement or Settlement shall be set aside on the basis of any such representation or undertaking and none of the Parties shall be liable to any of the other Parties on the basis of any such representation or undertaking.

(c) This Agreement shall be construed and interpreted in accordance with the laws of the State of New Jersey, without regard to its choice of law principles.

## ARTICLE II

### CONDITIONS AND ENFORCEMENT OF SETTLEMENT

A. This Agreement and the obligations of the Parties set forth herein are subject to and conditioned upon the following:

1. The approval of the Stipulation of Settlement by the New Jersey Board of Public Utilities ("BPU"), without modification, and the approval of the BPU (to the extent required) of any transfer of land to effectuate the terms of this Agreement.

2. Release of the PSE&G Mortgage lien by the Mortgage holder.
3. City Council resolution authorizing execution of the Agreement and Stipulation of Settlement.
4. Urban League and FHNA resolutions authorizing execution of the Agreement and Stipulation of Settlement.

B. Enforcement

1. The failure of any of the aforementioned conditions precedent to be satisfied shall render the Agreement void and unenforceable.
2. The Parties hereby acknowledge that certain of PSE&G's obligations under this Agreement may be undertaken by the PSE&G Entity or by an affiliate of PSE&G, and the Parties further hereby acknowledge that performance by the PSE&G Entity or by an affiliate of PSE&G shall constitute performance by PSE&G for all purposes of this Agreement. This Agreement shall be binding and enforceable against PSE&G, the PSE&G Entity and any of PSE&G's assignees and the PSE&G Entity's assignees.
3. If one or more of the terms or conditions of the Agreement are not satisfied by any party, then, the aggrieved party shall have all rights at law or equity to enforce the terms of this Agreement.

IN WITNESS WHEREOF, the City of Newark, the Urban League of Essex County, the Fairmount Heights Neighborhood Association, and Public Service Electric and Gas Company have caused this Settlement Agreement to be signed by the respective officers duly authorized as of the day and year first set forth above.

Witness:

THE CITY OF NEWARK

\_\_\_\_\_

By: \_\_\_\_\_

Witness:

URBAN LEAGUE OF ESSEX COUNTY

\_\_\_\_\_

By: \_\_\_\_\_

Witness:


FAIRMOUNT HEIGHTS NEIGHBORHOOD  
ASSOCIATION

\_\_\_\_\_

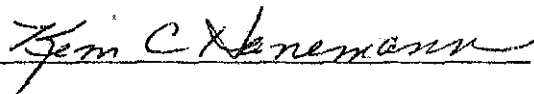
By: \_\_\_\_\_

Witness:

PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY

  
\_\_\_\_\_

David K. Richter  
Asst. Gen. Sec. Council

By:   
\_\_\_\_\_

IN WITNESS WHEREOF, the City of Newark, the Urban League of Essex County, the Fairmount Heights Neighborhood Association, and Public Service Electric and Gas Company have caused this Settlement Agreement to be signed by the respective officers duly authorized as of the day and year first set forth above.

Witness:

THE CITY OF NEWARK

\_\_\_\_\_

By: \_\_\_\_\_

Witness:

URBAN LEAGUE OF ESSEX COUNTY

*Suzanne L. Boyd*

By: *Vivian Cox-Jones*

Witness:

FAIRMOUNT HEIGHTS NEIGHBORHOOD  
ASSOCIATION

*Micie Gentrigen*

By: *Dorian K. Johnson*


Witness:

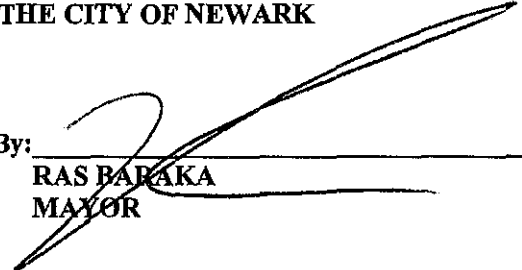
PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY

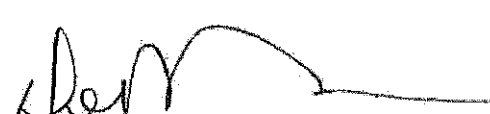
\_\_\_\_\_


By: \_\_\_\_\_

IN WITNESS WHEREOF, the City of Newark, the Urban League of Essex County, the Fairmount Heights Neighborhood Association, and Public Service Electric and Gas Company have caused this Settlement Agreement to be signed by the respective officers duly authorized as of the day and year first set forth above.

Witness:  
  
\_\_\_\_\_

THE CITY OF NEWARK  
By:   
\_\_\_\_\_ RAS BARAKA  
MAYOR

Witness:  
  
\_\_\_\_\_

THE CITY OF NEWARK  
By:   
\_\_\_\_\_ KAREN BROWN  
CORPORATION COUNSEL

Witness:  
\_\_\_\_\_

URBAN LEAGUE OF ESSEX COUNTY  
By: \_\_\_\_\_

Witness:  
\_\_\_\_\_

FAIRMOUNT HEIGHTS NEIGHBORHOOD  
ASSOCIATION  
By: \_\_\_\_\_

Witness:  
\_\_\_\_\_

PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY  
By: \_\_\_\_\_

**EXHIBIT A**

**Plan Amendment**

**Proposed 10th Amendment to NJR 72 Urban  
Renewal Plan for the Fairmount Urban Renewal  
Project (to be renamed the Fairmount Urban  
Renewal Project Redevelopment Plan)**

**C. Land Use Plan**

**Land Use Map**

U.R.P. Map #2 Land use Map is attached and shows  
the following:

Thoroughfares and street rights-of-way  
Public Uses and Easements

**Land Uses**

R2 1-2 Family Residential  
R4 Low Rise Multifamily Residential  
R6 High-Rise Multifamily Residential  
C1 Neighborhood Commercial  
C2 Community Commercial  
C3 Regional Commercial  
MX1 Mixed Use, Residential/Commercial  
INST Institutional  
SUB Substation

# Urban Renewal Plan Map #2 Land Use Map

 Redevelopment Plan Area Boundary

## Land use classifications

R1 - Detached Single-Family Residential (Page 32)

R2 - Single and Two-Family Residential (Page 33)

R3 - One to Three-Family and Townhouse Residential (Page 34)

 R4 - Low-Rise Multifamily Residential (Page 35)

 R5 - Mid-Rise Multifamily Residential (Page 36)

 R6 - High-Rise Multifamily Residential (Page 37)

 C1 - Neighborhood Commercial (Page 38)

 C2 - Community Commercial (Page 39)

 C3 - Regional Commercial (Page 40)

 MX1 - Mixed Use, Residential/Commercial (Page 44)

 MX2 - Mixed Use, Residential/Commercial/Industrial (Page 45)

 I1 - Light Industrial (Page 41)

 I2 - Medium Industrial (Page 42)

 I3 - Heavy Industrial (Page 43)

 INST - Institutional (Page 47)


 PARK - Parks and Open Space

 CEM - Cemetery

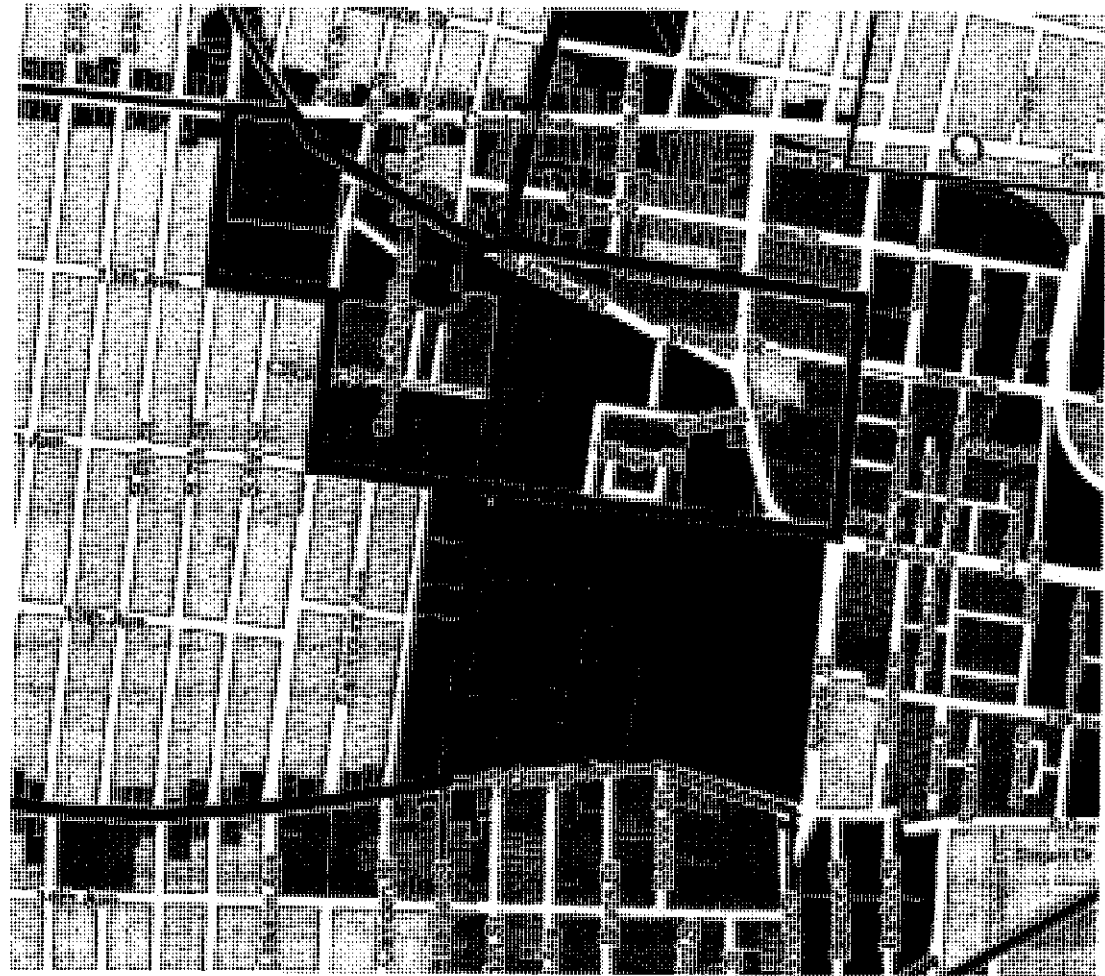
 EWR/EWS-S - Airport

 PORT - Port

 RDV/SD - Redevelopment/Special Districts

 SUB - Substation

Note: SUB (Substation) zone includes a portion of Block 1830 Lots 1 and 10.





## C. LAND USE PLAN

### Land Use Provisions and Building Requirements

Table 4-1: Residential Districts			
P = Permitted    - = Not Permitted    C = Conditional Use Only * = Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.			
	R-2	R-4	R-6
<b>Principal Uses</b>			
Single-Family Dwelling	P	P	-
Two-Family Dwelling	P	P	-
Three-Family Dwelling	-	P	-
Town House, Dwelling	-	P	-
Low-Rise Multi-Family Dwellings	-	P	P
Mid-Rise Multi-Family Dwellings	-	-	P
High-Rise Multi-Family Dwellings	-	-	P
Active Recreation Park	P	P	P
Assisted Living Facilities & Nursing Homes	-	C	C
Child Care Center	C	C	C
Community Centers	-	C	C
Community Gardens	P	P	P
Community Residences for the Developmentally Disabled, Persons with Head Injuries and Terminally Ill Persons and Community Shelters for Victims of Domestic Violence, Adult Family Care Home	P	P	P
Ground Floor Use for Child Care Center, Community Center, Consignment Store, Convenience Retail, Finance, Insurance Real Estate, or Securities Brokerage Consumer Services, Fresh Food Market, Governmental (Non-Municipal) Use, Municipal Use, Offices, Personal Services Establishment, or General Consumer Goods Retail Sales.	-	P	P
Municipal Uses	P	P	P
Passive Recreation Park	P	P	P
Places of Worship	C	C	C
Primary and Secondary Schools	C	C	C
Urban Farm (See Section 40:4-6)*	-	P	P

Table 4-1: Residential Districts

P = Permitted    - = Not Permitted    C = Conditional Use Only  
 \* = Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.

	R-2	R-4	R-6
<b>Accessory Uses</b>			
Automotive Lifts (see Section 40:4-6)*	-	-	P
Coldframe	P	P	P
Commercial Antennas & Microwave Dishes	-	-	C
Composting (See Section 40:4-6)*	P	P	P
Family Day Care Homes (see Section 40:4-6)*	P	P	P
Greenhouse	P	P	P
Home Occupation (See Section 40:4-6)*	P	P	P
Home Professional Offices	-	C	C
Hoophouse	P	P	P
Outdoor Storage, Portable Storage Units	P	P	P
Parking, Structured	-	P	P
Parking Garage, Private Residential	P	P	P
Private Sports Courts	C	C	C
Sheds and Other Accessory Storage Structures (See Section 40:4-6)*	P	P	P
Solar Energy Systems	C	C	C
Swimming Pools, Private	P	P	P
Wind Energy Systems, Small	C	C	C

**40:4-2. Permitted uses in Commercial Districts**

Table 4-2: Commercial Districts			
P = Permitted    - = Not Permitted			
C = Conditional Use Only			
* = Additional Standards apply (Section 40:4-6)			
Any use not listed below is also prohibited.			
	C-1	C-2	C-3
<b>Principal Uses</b>			
Dwelling, Above the Ground Floor of Retail, Office or Service Use	P	P	P
Animal Daycare, Animal Grooming	-	-	C
Automobile Rentals	-	-	C
Automobile Repair and Tire Repair	-	-	C
Automobile Sales	-	-	C
Ball Bond Agency	-	P	P
Bar/Lounge, Cigar or Hookah (See Section 40:4-6)*	-	-	-
Bars, Taverns, Lounges	-	C	C
Billboards	-	-	-
Body Art Studio	-	C	C
Business, Specialized or Vocational Schools	-	P	P
Check-Cashing Establishments	-	-	P
Child Care Center	P	P	P
Cigar/Tobacco Retail Sales Establishment (See Section 40:4-6)	-	P	P
Commercial Antennas & Microwave Dishes	C	C	C
Commercial Recreation	-	-	P
Community Centers	P	P	P
Community Gardens	P	P	P
Consignment Store	P	P	P
Consumer Repair Services	P	P	P
Convenience Retail (permitted on ground floor only)	P	P	P
Department Store	-	-	P
Dry Cleaning and Laundry Establishment	-	C	C
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	-	C	C

Table 4-2: Commercial Districts			
P = Permitted    - = Not Permitted			
C = Conditional Use Only			
* = Additional Standards apply (Section 40:4-6)			
Any use not listed below is also prohibited.			
	C-1	C-2	C-3
Finance, Insurance, Real Estate, or Securities Brokerage Consumer Services	P	P	P
Fish, Meat and Poultry Markets	-	P	P
Fitness Center	-	P	P
Fresh Food Market	P	P	P
Funeral Home or Mortuary	C	C	C
Furniture and Appliance Stores, Used	C	C	C
Gasoline Station	-	-	C
Governmental (Non-Municipal) Uses	P	P	P
Gun, Ammunition/Weapons Dealers	-	-	-
Hotels (See Section 40:4-6)*	-	-	P
Large Format Retail and/or Shopping Centers	-	-	C
Laundromat	P	P	P
Liquor Stores	-	-	C
Market Gardens	P	P	P
Massage Facility	-	C	C
Medical Clinic or Emergency Care Facility	-	P	P
Medical Offices	-	P	P
Methadone Maintenance Clinic	-	-	C
Municipal Uses	P	P	P
Nightclubs, Discotheques & Cabarets	-	C	C
Offices (only permitted on second floor or above in C-2)	P	P	P
Pawn Shops	-	-	C
Personal Service Establishment	P	P	P
Pet Shop (See Section 40:4-6)*	-	-	P
Places of Worship	C	C	C
Primary & Secondary Schools	C	C	C

Table 4-2: Commercial Districts			
P = Permitted    -- = Not Permitted			
C = Conditional Use Only			
* = Additional Standards apply (Section 40:4-6)			
Any use not listed below is also prohibited.			
	C-1	C-2	C-3
Private Clubs (See Section 40:4-6)	-	C	C
Resale or Thrift Shop	-	-	C
Retail Sales, General Consumer Goods	P	P	P
Rooming House or Boarding House	-	C	C
Sit-Down Restaurant	P	P	P
Substance Abuse Treatment Center	-	-	C
Supermarket	-	P	P
Take-Out Restaurant	P	P	P
Theaters	-	P	P
Urban Farm (See Section 40:4)*	P	P	P
Veterinary Clinic, Office, or Hospital	-	-	C
Wholesale Bakeries	-	C	C

Table 4-2: Commercial Districts			
P = Permitted    -- = Not Permitted			
C = Conditional Use Only			
* = Additional Standards apply (Section 40:4-6)			
Any use not listed below is also prohibited.			
	C-1	C-2	C-3
<b>Accessory Uses</b>			
Automotive Lifts (see Section 40:4-6)*	P	P	P
Child Care Center	P	P	P
Coldframe	P	P	P
Composting (See Section 40:4-6)*	P	P	P
Donation Bin (See Section 40:4-6)*	P	P	P
Drive-Through Facilities	-	-	C
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	C	C	C
Greenhouse	P	P	P
Home Occupation (See Section 40:4-6)*	P	P	P
Hoophouse	P	P	P
Farm Stand	P	P	P
Massage Facilities	C	C	C
Ice Cream Service Window	C	C	C
Outdoor Storage, Portable Storage Units	C	C	C
Parking, Structured	P	-	P
Sidewalk Café (accessory to permitted restaurant only, see Section 40:4-6)*	P	P	P
Solar Energy Systems	C	C	C
Wind Energy Systems, Small	C	C	C

**40:4-3. Permitted uses in Industrial, Airport, and Port Area Districts**

Table 4-3: Industrial, Airport, and Port Area Districts						
P = Permitted    - = Not Permitted    C = Conditional Use Only						
Additional Standards apply (Section 40:4-6)      Any use not listed below is also prohibited.						
	I-1	I-2	I-3	EWR	EWR-S	PORT
<b>Principal Uses</b>						
Airport	--	--	--	P	--	--
Animal Boarding or Kennel, Animal Shelter, Pound	C	C	--	--	--	--
Animal Daycare, Animal Grooming	--	--	--	--	--	--
Artist Live/Work Studio (Nuisance Producing)	C	--	--	--	--	--
Automobile Paint and Body Repair	--	C	C	--	C	--
Automobile Rentals	C	C	--	--	C	--
Automobile Repair and Tire Repair	C	C	C	--	C	--
Automobile Sales	C	C	--	--	C	--
Automobile Car Wash	C	C	--	--	C	--
Ball Bond Agency	P	P	--	--	--	--
Billboards	--	--	C	--	C	C
Check-Cashing Establishment	P	P	--	--	--	--
Child Care Center	--	--	--	--	P	--
Commercial, Industrial Truck and Bus Services	--	C	C	--	C	--
Commercial Antennas & Microwave Dishes	C	C	C	C	C	C
Commercial Recreation	P	P	--	--	--	--
Convenience Retail	P	P	P	--	P	--
Crematorium, Animal	--	C	C	--	--	--
Data Center	P	P	P	--	P	--
Dry Cleaning & Laundry Establishment	--	C	C	--	C	--
Electrical or Gas Switching Facility, Power Distribution or Substation	--	--	P	--	--	--
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	--	P	P	--	--	--
Exterminator / Pesticide Application Business	C	C	C	--	--	--
Finance, Insurance, Real Estate, or Securities Brokerage Consumer Services	--	--	--	--	P	--
Fish, Meat and Poultry Markets	P	--	--	--	--	--
Fitness Center	P	P	--	--	--	--
Gasoline Station	C	C	C	--	P	--
Governmental (Non-Municipal) Uses	P	P	P	P	P	P
Heavy Retail and Service	P	P	--	--	--	--
Heliport	--	--	--	P	P	--
Homeless Shelter	C	--	--	--	--	--
Hotels (See Section 40:4-6)*	--	--	--	--	P	--

Table 4-3: Industrial, Airport, and Port Area Districts

P = Permitted    -- = Not Permitted    C = Conditional Use Only

Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.

	I-1	I-2	I-3	EWR	EWR-S	PORT
Laundry Facility-Commercial/Wholesale	P	P	P	--	--	--
Live Animal Market	C	C	C	--	--	--
Manufacturing, Heavy	--	--	P	--	--	P
Manufacturing, Light	P	P	P	--	P	P
Manufacturing, Medium	--	P	P	--	--	P
Materials Salvage or Junk Facility	--	C	C	--	--	--
Methadone Maintenance Clinic	C	--	--	--	--	--
Municipal Uses	P	P	P	P	P	P
Nightclubs, Discotheques & Cabarets	P	--	--	--	--	--
Operation Facilities for Bus/Taxicab/Ambulance/Limousine	P	P	--	--	P	--
Outdoor Storage	--	--	C	--	--	--
Outdoor Storage, Chemical	--	--	C	--	--	--
Parking Garage, Commercial Vehicle	--	P	P	--	--	--
Places of Worship	C	--	--	--	--	--
Power Generation Facilities	--	--	P	--	--	--
Recycling Center	C	C	C	--	--	--
Research and Development	P	P	P	--	P	--
Self Storage	P	--	--	--	--	--
Sexually Oriented Businesses	--	C	--	--	--	--
Sit-Down Restaurant	P	--	--	--	--	--
Solar Energy System	P	P	P	--	--	--
Substance Abuse Treatment Centers	C	--	--	--	--	--
Take-Out Restaurant	P	--	--	--	--	--
Telephone Switching Facility	P	P	P	--	--	--
Truck Terminal	--	P	P	--	--	--
Vehicle Towing Facility	P	P	--	--	--	--
Veterinary Clinic, Office or Hospital	C	--	--	--	--	--
Warehousing, Wholesaling and Distribution	P	P	P	P	P	P
Waste Transfer Station	--	--	P	--	--	--
Wholesale Bakeries	P	P	P	--	P	--
Wind Energy Systems, Large	P	P	P	--	--	--

Table 4-3: Industrial, Airport, and Port Area Districts

P = Permitted    -- = Not Permitted    C = Conditional Use Only Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.						
	I-1	I-2	I-3	EWR	EWR-S	PORT
<b>Accessory Uses</b>						
Automotive Lifts (see Section 40:4-6)*	P	P	P	P	P	P
Childcare Center	P	--	--	--	P	--
Commercial, Industrial Truck and Bus Wash	--	C	C	--	C	--
Composting (see Section 40:4-6)*	P	P	P	P	P	P
Parking Area, Private	P	P	P	--	P	P
Donation Bln (See Section 40:4-6)*	P	P	P	--	--	--
Drive-Through Facilities	C	--	--	--	C	C
Emergency Food Distribution Center, Food Pantry, Soup Kitchen	C	--	--	--	--	--
Offices	P	P	P	--	--	--
Outdoor Display Area	C	C	C	C	C	C
Outdoor Storage	C	C	C	C	C	C
Outdoor Storage, Chemical	C	C	C	C	C	C
Outdoor Storage, Portable Storage Units	C	C	C	C	C	C
Parking, Structured	P	P	P	P	P	P
Power Plant	--	--	C	--	--	--
Solar Energy Systems	C	C	C	C	C	C
Wind Energy Systems, Small	C	C	C	C	C	C

**40:4-4. Permitted Uses in Mixed-Use & Other Districts**

Table 4-4: Mixed-Use & Other Districts					
P = Permitted    - = Not Permitted    C = Conditional Use Only					
Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.					
	MX-1	MX-2	INST	PARK	CEM
<b>Primary Uses</b>					
Single-Family Dwelling	P	P	-	-	-
Two-Family Dwelling	P	P	-	-	-
Three-Family Dwelling	P	P	-	-	-
Town House, Dwelling	P	P	P	-	-
Low-Rise Multi-Family Dwellings	P	P	P	-	-
Mid-Rise Multi-Family Dwellings	-	-	P	-	-
Artist Live/Work Studio (Nuisance Producing)	-	C	-	-	-
Active Recreation Park	P	-	P	P	-
Animal Boarding or Kennel, Animal Shelter, Pound	-	C	-	-	-
Animal Daycare, Animal Grooming	C	C	-	-	-
Automobile Repair and Tire Repair	-	P	-	-	-
Bar/Lounge, Cigar or Hookah (See Section 40:4-6)*	-	-	-	-	-
Bars, Taverns, Lounges	C	C	-	-	-
Body Art Studio	-	C	-	-	-
Business, Specialized or Vocational Schools	-	P	-	-	-
Cemeteries (See Section 40:4-6)*	-	-	-	-	P
Child Care Center	P	P	P	-	-
Colleges and Universities	-	-	P	-	-
Commercial Recreation	-	P	-	-	-
Community Centers	P	P	P	-	-
Community Gardens	P	P	P	P	-
Consignment Store	P	P	-	-	-
Consumer Repair Services	P	P	-	-	-
Convenience Retail	P	P	P	-	-
Data Center	-	P	-	-	-
Dormitory	-	-	P	-	-
Dry Cleaning and Laundry Establishment	C	C	C	-	-
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	C	C	-	-	-
Finance, Insurance, Real Estate, or Securities Brokerage Consumer Services	P	P	-	-	-
Fish, Meat and Poultry Markets	P	P	-	-	-
Fitness Center	P	P	P	-	-
Fresh Food Market	P	P	P	-	-
Funeral Home or Mortuary	C	C	-	-	-



Table 4-4: Mixed-Use & Other Districts

P = Permitted    - = Not Permitted    C = Conditional Use Only  
 Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.

	MX-1	MX-2	INST	PARK	CEM
Governmental (Non-Municipal) Uses	-	P	P	-	-
Homeless Shelter	C	C	C	-	-
Hospital or Medical Institution	-	-	P	-	-
Hotels (See Section 40:4-6)*	-	-	-	-	-
Laundromat	P	P	-	-	-
Manufacturing, Light	-	P	-	-	-
Massage Facilities	C	C	-	-	-
Medical Clinic or Emergency Care Facility	-	P	-	-	-
Medical Offices	P	P	-	-	-
Methadone Maintenance Clinic	-	C	-	-	-
Municipal Uses	P	P	P	-	-
Museums	-	-	P	-	-
Offices	P	P	P	-	-
Passive Recreation Park	P	-	P	P	-
Personal Service Establishment	P	P	-	-	-
Places of Worship	C	C	C	-	-
Primary and Secondary Schools	C	C	C	-	-
Private Clubs (See Section 40:4-6-8)	C	-	-	-	-
Recycling Center	-	C	-	-	-
Resale or Thrift Shop	C	C	-	-	-
Research and Development	-	P	P	-	-
Retail Sales, General Consumer Goods	P	P	P	-	-
Sit-Down Restaurant	P	P	-	-	-
Substance Abuse Treatment Center	-	C	-	-	-
Supermarket	P	P	-	-	-
Take-Out Restaurant	P	P	-	-	-
Theater	-	-	P	-	-
Urban Farms (See Section 40:4-6)*	P	P	P	-	-
Veterinary Clinic, Office or Hospital	-	C	-	-	-
Warehousing, Wholesaling and Distribution	-	P	-	-	-
Wholesale Bakeries	-	P	-	-	-

Table 4-4: Mixed-Use & Other Districts					
P = Permitted    - = Not Permitted    C = Conditional Use Only					
Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.					
	MX-1	MX-2	INST	PARK	CEM
<b>Accessory Uses</b>					
Automotive Lifts (see Section 40:4-6-1)*	-	P	P	-	-
Child Care Center	P	P	P	-	-
Coldframe	P	P	P	P	-
Columbarium	-	-	-	-	P
Composting (See Section 40:4-6)*	P	P	P	P	P
Crematorium, Animal	-	-	-	-	C
Crematorium, Human	-	-	-	-	C
Donation Bin (See Section 40:4-6)*	P	P	P	-	-
Emergency Food Distribution Center, Food Pantry & Soup Kitchen	C	C	-	-	-
Farm Stand	P	P	P	-	-
Greenhouse	P	P	P	P	-
Home Occupation (See Section 40:4-6-5)*	P	-	-	-	-
Home Professional Offices	C	C	-	-	-
Hoophouse	P	P	P	P	-
Maintenance Buildings	-	-	P	P	P
Massage Facilities	C	C	-	-	-
Mausoleum	-	-	-	-	P
Mausoleum, Family	-	-	-	-	P
Offices	P	P	P	-	P
Outdoor Storage, Portable Storage Units	-	C	C	-	C
Parking, Structured	P	P	-	-	-
Parking Garage, Private Residential	P	P	-	-	-
Place of Worship	-	-	-	-	P
Sidewalk Café (accessory to permitted restaurant only, see Section 40:4-6)*	P	P	P	-	-
Solar Energy Systems	C	C	C	-	C
Tombstones and Monuments	-	-	-	-	P
Wind Energy Systems, Small	C	C	C	C	C

#### 40:4-4.1 Permitted Uses in the Substation Zone

In the SUB Substation Zone, Utility Installations which shall be defined to include utility transmission and distribute facilities and related utility facilities and infrastructure to serve surrounding areas shall be permitted.

#### **40:4-5. Nonconforming Uses**

**40:1-5-1.** Any lawful nonconforming use or structure existing on the effective date of the zoning ordinance, or at the time of the effective date of any amendment or supplement thereto making it a nonconforming use or structure, may be continued upon the lot or in the building so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof, in accordance with this Title, except that any lawful nonconforming use subject to condition or conditions or limitation as to term of duration, shall continue subject to any condition or conditions, and only for and to the end of the term or duration for which such nonconforming use was granted.

**40:1-5-2.** No existing building or premises devoted to a nonconforming use as permitted by this Title, shall be enlarged, extended, reconstructed or structurally altered, unless a variance for such expansion has been granted by the Zoning Board of Adjustment pursuant to NJSA 40:55D-70d(2).

**40:1-5-3.** No nonconforming use which shall have been discontinued for a period exceeding twelve (12) months shall be resumed, nor shall it be replaced by any other nonconforming use.

**40:1-5-4.** In the event of a partial destruction of a structure devoted to a nonconforming use, the owner shall, within ninety (90) days after such event, give notice in writing to the Uniform Construction Code Official of his/her intention to restore or repair the structure, and within ninety (90) days after date of notice, commence and diligently proceed to the completion of the work.

**40:1-5-5.** In the construction of any definition in this Title, in its application to a nonconforming use, the definition shall be deemed a clarification of the applicable definition heretofore contained in any pre-existing ordinance.

#### **40:4-6. Additional Standards**

##### **40:4-6-1. Automotive Lifts**

###### **1. General Automotive Lift Standards.**

a. Automotive lifts shall be used only as expressly provided in this Section and as part of an approved site plan.

b. Automotive lifts shall comply with the applicable automotive lift requirements of the New Jersey Uniform Construction Code (NJAC 5:23).

d. The applicant shall certify that any permitted automotive lift shall comply with the most current ANSI/ALI ALOIM "Safety Requirements for the Operation, Inspection, and Maintenance of Automotive Lifts" and provide a plan for ongoing operation, inspection and maintenance.

e. Automotive lifts shall comply with noise limitations set forth in Title 20, Chapter 3 of the Municipal Code of the City of Newark, known as the "Noise Control Ordinance of the City of Newark."

f. Automotive lifts shall be exempt from the parking dimensions requirements of Chapter 7. Off Street Parking and Loading Requirements.

###### **2. Usage Standards.**

a. Automotive Lift Usage in Residential Buildings or Residential Use in Mixed-Use Buildings.

i. Automotive lifts shall not be permitted in the R-1, R-2, R-3, R-4, R-5, R-6, C-1, C-2 and C-3 Districts, or in conjunction with any exclusively residential building with six (6) or fewer residential dwelling units.

ii. Where permitted, automotive lifts proposed to serve any use in a historic district shall only be located within a fully enclosed building.

iii. Where permitted, automotive lifts proposed to serve any use outside of or any residential use within the Fourth Business District shall only be located within a fully enclosed building.

iv. Where permitted, automotive lifts may be used to satisfy minimum off-street parking requirements set forth in Chapter 7.

v. Where automotive lifts are utilized in enclosed garages for the purpose of satisfying minimum parking requirements, at least one (1) parking space for each residential dwelling unit in the building in which it is located shall be provided in a manner that would not require the moving of another vehicle. Otherwise, a 24-hour, 7-day a week valet attendant is required. Automotive

lifts may be used to satisfy the remaining parking requirements, or parking in excess of the minimum required standards.

vi. Permitted automotive lifts within residential buildings shall be operated only by a valet or an attendant employed by the owner or operator of the building or by an owner or resident of a dwelling unit within the building whose parking space is specifically assigned to use that automotive lift.

**b. Automotive Lift Usage in Non-Residential Buildings or Nonresidential Use in Mixed-Use Buildings.**

i. Only in the R-5, R-6, C-2, C-3, I-1, I-2, I-3, EWR, EWR-S, PORT, MX-2 and INST Districts automotive lifts may be used in conjunction with permitted non-residential or mixed use buildings for any parking required or permitted in the building or at the site.

ii. Allowed automotive lifts within nonresidential buildings or serving the non-residential uses of a mixed use building shall be operated only by a valet or an attendant employed by the owner or tenant of the building. Automotive lifts serving residential portions of a mixed use building shall be subject to the restrictions in Section 40:5-8b.1 of this Chapter.

**3. Height Standards**

a. Any automotive lift system used for a parking area shall be limited by the height standards of the zoning district in which the parking lot is located. But no automotive lift shall exceed thirty-five (35) feet in height from the floor of the enclosed space in which it is located or from at grade if the unit is not enclosed.

**40:4-6-2. Cemeteries**

1. Within a cemetery, the following activities, structures, and buildings shall be permitted:

a. Internment of the dead and related activities associated therewith.

b. Places of worship as an accessory use.

c. An office strictly related to activities of the cemetery or a residence to be used exclusively for an employee involved in caretaking, security or other activities of the cemetery.

d. Erection of tombstones and monuments.

e. Accessory maintenance buildings related to the operation of the cemetery not to exceed a height of twenty (20) feet.

f. Mausoleums and columbaria subject to the following requirements:

i. There shall be only one (1) mausoleum and one (1) columbarium per cemetery;

ii. Family mausoleums shall not be limited in number.

iii. All mausoleums and columbaria must be constructed in accordance with the requirements of Federal, State and local building codes, including fire prevention and health codes.

iv. No mausoleum or columbarium shall be constructed without written approval from the New Jersey Department of Community Affairs of plans and specifications and without a building permit from the City Construction Official.

g. Crematories are subject to the following requirements:

i. Pursuant to NJSA 45:27-40, a crematory shall be located only on dedicated cemetery property not exclusively devoted to: 1) the operation of a crematory; or 2) the operation of a crematory and the disposition of cremated remains. Crematoriums operated in conjunction with a funeral home prior to December 1, 1971 are excepted from the provisions of this paragraph.

ii. The crematorium shall receive all necessary approvals from applicable State and Federal agencies.

iii. The crematorium shall emit no visible emissions.

iv. All activity relating to the deceased shall be screened from public view, including delivery and storage of the corpse.

v. All exterior walls of any crematory shall set back at least two hundred (200) feet from the nearest property line of the cemetery or from the nearest street line, whichever is applicable.

2. All permanent structures in a cemetery shall adhere to the following area and bulk restrictions:

- a. Maximum height: Twenty (20) feet.
- b. Minimum front yard setback: Thirty (30) feet.
- c. Minimum side yard setback: Fifteen (15) feet.
- d. Minimum rear yard setback: Thirty (30) feet.

#### **40:4-6-3. Cigar Bars/Lounge & Cigar/Tobacco Retail Establishments**

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

2. A cigar bar or cigar lounge is exempt from the provisions of the New Jersey Smoke Free Air Act if the following conditions are met:

- a. The cigar bar or cigar lounge in the calendar year ending December 31, 2004, generated fifteen (15) percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines; and
- b. The cigar bar or cigar lounge is registered with the local board of health in the municipality in which the bar or lounge is located. The registration shall remain in effect for one year and shall be renewable only if:
  - i. In the preceding calendar year, the cigar bar or lounge generated fifteen (15) or more if its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and
  - ii. The cigar bar or cigar lounge has not expanded its size or changed its location since December 31, 2004.

#### **40:4-6-4 Composting (accessory use)**

1. No compost area may exceed 5 cubic yards in size. Any compost area must be placed at least 3 feet from any property line.
2. Organic waste must be generated on site.
3. All compost must be used on site.

4. Compost and raw materials shall not produce odor or attract mosquitos.

5. A rat, insect, rodent, bird and/or pest control such as screening or netting must be provided.

6. Surface water control to prevent composting materials from sitting in ponded surface water must be provided.

7. Compost must be turned at regular intervals to aid in physical breakdown until composting is complete.

8. Compost material shall not contain sewage.

#### **40:4-6-4 Donation Bin (accessory use)**

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

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

and well-lighted area to permit inspection and enforcement.

8. The donation bin may be placed in parking stalls only if the site exceeds its minimum parking requirement.

9. No donation bin shall be placed in a required buffer area or within three feet of a property line, or in a sight triangle or fire zone.

10. No donation bin shall be placed in a parking space designated as handicapped parking.

11. No clothes shall be stored outside the donation bin.

12. The person placing, using or employing a donation bin shall maintain the bin and the area surrounding the bin such that there shall be no accumulation of clothing or other donations outside the bin.

13. The bin shall be emptied no less than once a week and the area immediately surrounding shall be maintained in a clean and sanitary condition, and the clothing bin should remain in good working order and painted.

#### **40:4-6-5. Family Day Care Home**

1. The use shall be registered with the New Jersey Department of Children and Families as a family day care home and for which a certificate of registration has been issued pursuant to the "Family Day Care Provider Registration Act," P.L. 1987, c. 27 (C.30:5B-16 et seq.). The facility shall be in compliance with all State and City regulations including Chapter 126 Manual of Requirements for Family Child Care Registration (NJAC 10:126-1 et seq.) issued by the State of New Jersey Department of Children and Families.

2. The family day care provider shall be a resident of the home in which the service is to be provided.

3. There shall be no change in the appearance of the dwelling or premises, or any visible evidence of the conduct of a family day care home.

4. There shall be no storage of equipment, vehicles or supplies associated with the family day care home outside the dwelling.

#### **40:4-6-6. Home Occupations**

1. No persons outside of the residents who occupy the dwelling shall be permitted to work on the premises.

2. There shall be kept no stock in trade nor commodity sold upon the premises.

3. There shall be no change in the appearance of the dwelling or premises, or any visible evidence of the conduct of a home occupation including any artificial light.

4. There shall be no storage of equipment, vehicles or supplies associated with the home occupation outside the dwelling.

5. There shall be no display of products visible in any manner from outside the dwelling, nor shall any advertising display or identification signs be permitted; other than a name plate exceeding one (1) square foot in area.

6. The home occupation shall not involve the use of commercial vehicles or delivery service for delivery of materials to or from the premises or create more traffic than is customary for a residence of the type permitted in the zone.

7. No customer, clients, colleagues or members of the public shall visit the home in connection with the home occupation carried on within the dwelling.

8. Commercial newspaper, radio or television services or other forms of advertising including through the Internet, shall not be used to advertise the location of the home occupation to the public.

9. No equipment or process shall be used in a home occupation other than is customarily used for domestic and household purposes and no equipment shall be used or process conducted which creates noise, vibration, glare, fumes or odors detectable to the normal sense at the property boundary lines of the premise or within other dwelling units in the same building.

10. Any occupation or activity carried out for gain by a resident shall be conducted entirely within the dwelling unit and shall be clearly incidental to the use of the structure as a dwelling. No accessory structures or areas outside the principal structure shall be used for or in connection with the home occupation.

#### **40:4-6-7. Hotels**

1. A hotel shall not be a permanent or primary residence for its users.
2. A hotel shall not contain a self-service guest laundry.
3. Minimum rental period for each non-meeting room shall be twenty-four (24) hours, maximum period shall be eleven (11) months.
4. All rooms shall only have access by way of a common lobby and hallway. There can be no direct access to a room from a parking space by way of an outside doorway at the room or direct access to a garage. "Motels" or "motor hotels" shall not be permitted.
5. Outdoor recreational facilities such as swimming pools and tennis courts may be permitted but shall be no closer than twenty-five (25) feet to the property boundary of a residential use or residential zone boundary, and shall comply with Section 40:4-12 Buffers of this Chapter.
6. No outdoor public address or music system shall be used.

#### **40:4-6-8. Pet Shops**

1. Applicants wishing to operate a pet store shall obtain a license from the City of Newark pursuant to Title VI Animals and Fowl, Chapter 2, Other Animals, Fowl, Article 2, Bird Stores or Pet Shops of the Revised General Ordinances of the City of Newark.
2. Applicants shall comply with the applicable requirements of NJAC 8:23A-1.1 et seq. Sanitary Operation of Kennels, Pet Shops, Shelters and Pounds.

#### **40:4-6-9. Sheds & Other Accessory Storage Units**

1. Such structures shall be located closer to any street frontage than the principal building.
2. Such structure shall not exceed one (1) story or ten (10) feet in height.
3. Such structure shall be set back at least one and one half (1.5) feet from the rear or side lot lines.
4. The building footprint (ground level building coverage) of such structure may not exceed 200 square feet.

5. Such structure shall be set back at least ten (10) feet from all other accessory and principal buildings on the same tax lot.

6. There shall only be one such structure per tax lot.

#### **40:4-6-10. Sidewalk Cafes**

1. Eating and drinking establishments wishing to operate an accessory sidewalk café shall obtain a license from the City of Newark and operate and maintain the sidewalk café in accordance with the regulations of Title XXIX, Streets and Sidewalks, Chapter 26 Sidewalk Cafes of the Revised General Ordinances of the City of Newark.

2. No outdoor public address or outdoor music system shall be used.

#### **40:4-6-11. Urban Farms**

1. Urban farms must provide a water source from on site or off site.

2. Green houses and hoop houses shall not exceed 15 feet in height and shall be located at least three feet from side and rear property lines.

3. Equipment used for farming and selling shall be kept in enclosed structures.

4. The only animals permitted to live on-site is fowl and rabbits, except for roosters and any animals that make sounds. No fowl or rabbits shall be allowed, under any circumstances, to run at large. They shall be kept confined in a suitable house or coop with an enclosed runway. (R.O. 1966 § 6:2-25).

5. Compost may be collected on site and may be sold or given away to the public on-site.

6. A 10 square foot sign is permitted to be attached to a building, wall or a fence.





## **Chapter 5. Building Bulk & Design Requirements**

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

### **40:5-1. Permitted Building Types by Zoning District**

Table 5.1 below indicates which building types are permitted in which zones.

On the following pages, Tables 40:5-2 and 40:5-3 provide the specific bulk and design standards for each building type. Following that, graphic illustrations depict the rules for building type. In case of conflict or ambiguity, bulk and design standards provided in tables shall prevail.



### 40:5-3. General Bulk & Design Standards

Table 5.3 General Bulk & Design Standards								
	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage
<p><b>1-family</b></p> <p>For accessory buildings in residential districts see Note 7 on page 82.</p> <p>For fire escapes, see Note 9 on page 83.</p>	2500 SF (square feet)	28 feet	<p>3 stories and 36 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1 on page 82.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 6 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	3 feet minimum	30 feet	n/a	50%
<p><b>2-family</b></p> <p>For accessory buildings in residential districts see Note 7.</p>	2500 SF (square feet)	28 feet	<p>3 stories and 36 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 6 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p> <p>For stoops, see Note 8 on page 83.</p> <p>For porches, see Note 11 on page 83.</p>	<p>3 feet minimum</p> <p>For party walls and other exceptions, see Note 5 on page 82.</p> <p>For ornamental features, window sills, bay windows, and balconies, see Note 10 on page 83.</p> <p>For chimneys, see Note 12 on page 83.</p>	30 feet	1250 SF/du	50%

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Reqs
<p>Front Yard: 0g% Rear Yard: 30%</p> <p>Only one driveway no wider than 10 feet permitted in the front yard.</p> <p>A paved walkway is permitted along one side of a dwelling.</p>	<p>Primary Front Façade: 30%</p> <p>Street-Facing Side &amp; Rear Façades: 20%</p> <p>Non-Street-Facing Façades: 10% or the maximum allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Corner lots must include two entrances, one on each street-facing façade.</p>	<p>n/a</p>
<p>Front Yard: 0o% Rear Yard: 30%</p> <p>Only one driveway no wider than 10 feet permitted in the front yard area.</p> <p>A paved walkway is permitted along one side of a dwelling at the side yard.</p>	<p>Primary Front Façade: 30%</p> <p>Street-Facing Side &amp; Rear Façades: 20%</p> <p>Non-Street-Facing Façades: 10% or the maximum allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>All units must be accessible from front or side façade, Rear primary entrances are prohibited.</p>	<p>n/a</p>

**Table 5.3 General Bulk & Design Standards**

	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage
<p><b>3-family</b></p> <p>For accessory buildings in residential districts see Note 7 on page 82.</p>	3500 SF (square feet)	35 feet	<p>3 stories and 36 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1 on page 82.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 8 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	<p>3 feet minimum</p> <p>For party walls and other exceptions, see Note 5 on page 82.</p> <p>For ornamental features, window sills, bay windows, and balconies, see Note 10 on page 83.</p>	30 feet	1185 SF/du	55%
<p><b>Town House</b></p> <p>(At least 3 adjacent town houses with 1-3 families in each with shared side driveway)</p> <p>For accessory buildings in residential districts see Note 7 on page 82.</p>	7000 SF (square feet)	70 feet	<p>3 stories and 36 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1 on page 82.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 8 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	<p>3 feet minimum</p> <p>For party walls and other exceptions, see Note 5 on page 82.</p> <p>10-foot-wide driveway may be placed at side property line.</p>	30 feet	770 SF/du	60%

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Req
<p>Front Yard: 55% Rear Yard: 75%</p> <p>Only one driveway no wider than 10 feet permitted in the front yard area.</p> <p>A paved walkway is permitted along one side of a dwelling at the side yard.</p>	<p>Primary Front Façade: 30%</p> <p>Street-Facing Side &amp; Rear Façades: 20%</p> <p>Non-Street-Facing Façades: 10% or the maximum allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>All units must be accessible from front or side façade. Rear primary entrances are prohibited.</p>	<p>n/a</p>
<p>Front Yard: 55% Rear Yard: 15%</p> <p>Only one driveway no wider than 10 feet permitted in the front yard area.</p> <p>A paved walkway is permitted along one side of a dwelling at the side yard.</p>	<p>Primary Front Façade: 30%</p> <p>Street-Facing Side &amp; Rear Façades: 20%</p> <p>Non-Street-Facing Façades: 10% or the maximum allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p>	<p>Primary street-facing façade must include primary entrance for each town house.</p> <p>All units must be accessible from front or side façade. Rear primary entrances are prohibited.</p>	<p>n/a</p>

**Table 5.3 General Bulk & Design Standards**

	<b>Min Lot Size for Subdivision</b>	<b>Min Lot Width for Subdivision</b>	<b>Max Building Height</b>	<b>Front Yard</b>	<b>Side Yard</b>	<b>Min Rear Yard</b>	<b>Min Lot Area per Dwelling</b>	<b>Max Lot Coverage</b>
<p><b>Low-rise multifamily</b></p> <p>For accessory buildings in residential districts see Note 7 on page 82.</p>	10,000 SF (square feet)	100 feet	<p>4 stories and 48 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1 on page 82.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 8 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	8 feet minimum	30 feet	625 SF/du	80%
<p><b>Mid-rise multifamily</b></p> <p>For accessory buildings in residential districts see Note 7 on page 82.</p>	10,000 SF (square feet)	100 feet	<p>8 stories and 98 feet</p> <p>For towers, cupolas, and other elements of architectural character, see Note 1 on page 82.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 8 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	8 feet minimum	30 feet	650 SF/du	80%

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Reqs
<p>Front Yard: 55% Rear Yard: 30%</p>	<p>Primary Front Façade: 50%</p> <p>Street-Facing Side &amp; Rear Façades: 35%</p> <p>Non-Street-Facing Façades: 20% or the maximum allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p> <p>If there is retail, office or personal services on the ground floor between zero (0) and 14 feet, the front façade must have 65% transparency.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>All units must be accessible from front or side façade. Rear primary entrances are prohibited.</p> <p>If there is one or more units of retail, office, or personal services on the ground floor between zero (0) and 14 feet, each unit must have its own primary entrance on the street-facing façade.</p>	<p>If there is one or more units of retail, office or personal services on the ground floor, the ground floor shall have a 14 feet max floor-to-floor height.</p>
<p>Front Yard: 55% Rear Yard: 30%</p>	<p>Primary Front Façade: 50%</p> <p>Street-Facing Side and Rear Façades: 35%</p> <p>Non-Street Facing Walls: 20% or the maximum amount allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p> <p>If there is retail, office or personal services on the ground floor between zero (0) and 14 feet, the front façade must have 65% transparency.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>All units must be accessible from front or side façade. Rear primary entrances are prohibited.</p> <p>If there is one or more units of retail, office, or personal services on the ground floor between zero (0) and 14 feet, each unit must have its own primary entrance on the street-facing façade.</p>	<p>If there is one or more units of retail, office or personal services on the ground floor, the ground floor shall have a 14 feet max floor-to-floor height.</p>



**Table 5.3 General Bulk & Design Standards**

	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage
<b>High-rise multifamily</b>	10,000 SF (square feet)	100 feet	<p>10 stories and 120 feet</p> <p>An additional 1 story per 12 feet of height shall be permitted for each additional 1,000 SF of lot area up to 20,000 SF, for a maximum height of 20 stories and 243 feet.</p>	<p>Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 0 feet if no prevailing setback.</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p> <p>For through lots, see Note 3 on page 82.</p> <p>For corner lots, see Note 4 on page 82.</p>	10 feet minimum	30 feet	300 SF/du	80%
<b>Ground-floor commercial with commercial or residential above</b>	3,500 SF (square feet)	35 feet	<p>In C1 zone: 4 stories and 48 feet</p> <p>In C2 zone: 5 stories and 60 feet</p> <p>In C3 zone: 8 stories and 90 feet</p> <p>In MX-1 &amp; MX-2 zones: 4 stories and 48 feet</p>	<p>Minimum: 0 feet Maximum: 5 feet</p> <p>Regarding exceptions for bay windows, balconies, stoops, porches, and other elements of architectural character, see Note 2 on page 82.</p>	0 feet min and max	<p>Abutting a residential district or residential use: 25 feet</p> <p>Abutting a non-residential district: 20 feet</p>	<p>In C1 zone: 680 SF/du</p> <p>In C2 zone: 340 SF/du</p> <p>In C3 zone: 310 SF/du</p>	80%

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Reqs
<p>Front Yard: 65% Rear Yard: 30%</p>	<p>Primary Front Façade: 60%</p> <p>Street-Facing Side &amp; Rear Façades: 35%</p> <p>Non-Street Facing Walls: 20% or the maximum amount allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p> <p>If there is retail, office or personal services on the ground floor between zero (0) and 14 feet, the front façade must have 65% transparency.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>All units must be accessible from front or side façade. Rear primary entrances are prohibited.</p> <p>If there is one or more units of retail, office, or personal services on the ground floor between zero (0) and 14 feet, each unit must have its own primary entrance on the street-facing façade.</p>	<p>If there is one or more units of retail, office or personal services on the ground floor, the ground floor shall have a 14 feet max floor-to-floor height.</p>
<p>Front Yard: n/a Rear Yard: 50%</p>	<p>Ground-level street-facing façade below 14 feet in height: 65%</p> <p>Ground-level windows must allow views of indoor nonresidential space or product display areas.</p> <p>Corner uses having frontage on two streets shall meet this requirement for each of the street frontages.</p> <p>Primary Front Façade (excluding ground-level façade): 60%</p> <p>Street-Facing Side and Rear Façades: 35%</p> <p>Non-Street Facing Walls: 20% or the maximum amount allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p> <p>Reflective, mirrored, smoked and dark tinted glass are prohibited on façades facing a public street.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Buildings may have more than one principal façade and/or entry.</p> <p>Entries to non-residential uses shall have their own individual entrance from a sidewalk or walkway; mail-style interior retail entrances are prohibited.</p>	<p>Ground floor shall have a 14 feet min floor-to-floor height.</p>

**Table 5.3 General Bulk & Design Standards**

	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage
<b>Detached commercial</b>	5000 SF (square feet)	50 feet	8 stories and 96 feet	Minimum 0 feet Maximum 5 feet	0 feet or 5 feet	Abutting a residential district: 20 feet  Abutting a non-residential district: 20 feet	n/a.	85%
<b>Industrial</b>	5000 SF (square feet)	50 feet	8 stories and 100 feet	Front setback shall match the shorter front setback of the two closest principle buildings on each side of the project site on the same block as the site or 6 feet if no prevailing setback.	3 feet minimum	50 feet abutting a residential district; 20 feet abutting a non-residential district	n/a	85%

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Reqs
<p>Front Yard: 55% Rear Yard: 60%</p>	<p>Ground-level street-facing façade below 14 feet in height: 85% Ground-level windows must allow views of indoor nonresidential space or product display areas. Corner uses having frontage on two streets shall meet this requirement for each of the street frontages.</p> <p>Primary Front Façade (excluding ground-level façade): 50%</p> <p>Street-Facing Side and Rear Façades: 35%</p> <p>Non-Street Facing Walls: 20% or the maximum amount allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement. Reflective, mirrored, smoked and dark tinted glass is prohibited on façades facing a public street.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Buildings may have more than one principal façade and/or entry, (§40-17-2-2).</p> <p>Entries to non-residential uses shall have their own individual entrance from a sidewalk or walkway; mall-style interior retail entrances are prohibited (§40-2-2-16).</p>	<p>Ground floor shall have a 14 feet min floor-to-floor height.</p> <p>Maximum 30% of primary lot frontage may be used for parking.</p> <p>Minimum 50% of primary lot frontage must be occupied by building at front setback.</p>
<p>Front Yard: 55% Rear Yard: 30%</p>	<p>Primary Front Façade: 25%</p>	<p>Primary street-facing façade must include primary entrance.</p>	<p>n/a</p>

Table 5.3 General Bulk & Design Standards

	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage
University, Hospital or Medical Institution, & Schools (elementary, middle and high school)	10,000 SF (square feet)	100 feet	University & Hospital or Medical Institution: 20 stories, 210 feet  Schools: 5 stories, 55 feet	Minimum 5 feet Maximum 10 feet	5 feet	30 feet	n/a	University: 80%  Schools: 65%
Place of Worship	10,000 SF (square feet)	100 feet	2 stories and 30 feet, excluding steeple, tower or cupola element, which can be 30 feet above permitted height	Minimum 5 feet Maximum 10 feet	5 feet	20 feet	n/a	68%
Community Center & Standalone Daycare or Preschool in a non-residential area, and other civic uses	5,000 SF (square feet)	50 feet	Community Center, Stand-Alone Daycare or Preschool in a non-residential area: 2 stories, 30 feet	Minimum 5 feet Maximum 10 feet	5 feet	30 feet	n/a	65%
Utility Installation	n/a	n/a	The height of principal and accessory buildings, equipment and related facilities shall not exceed 80'; however safety facilities, such as a static or lightning mast shall not exceed 80'. Any wall, fence or similar enclosure shall have an aesthetic finish such as decorative brick or comparable quality material complementing surrounding neighborhood.	0 feet provided that the existing distance from the property line to the improved right of way is not changed by the redeveloper	10 feet	10 feet	n/a	n/a

Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground floor Reqs
<p>Front Yard: 55% Rear Yard: 30%</p>	<p>Primary Front Façade: 50%</p> <p>Street-Facing Side and Rear Façades: 35%</p> <p>Non-Street Facing Walls: 35% or the maximum amount allowed by construction code, whichever is greater.</p> <p>All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement. Reflective, mirrored, smoked and dark tinted glass is prohibited on façades facing a public street.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Rear primary entrances are prohibited.</p>	<p>n/a</p>
<p>Front Yard: 55% Rear Yard: 20%</p>	<p>Primary Front Façade: 50%</p> <p>Street-Facing Façades and Side: 35%</p> <p>Rear Façade: 20%</p> <p>Non-Street Facing Façades: 20% or the maximum allowed by construction code, whichever is greater. All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Rear primary entrances are prohibited.</p>	<p>n/a</p>
<p>Front Yard: 55% Rear Yard: 30%</p>	<p>Primary Front Façade: 50%</p> <p>Street-Facing Side and Rear Façades: 35%</p> <p>Non-Street Facing Façades: 35% or the maximum allowed by construction code, whichever is greater. All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement.</p>	<p>Primary street-facing façade must include primary entrance.</p> <p>Rear primary entrances are prohibited.</p>	<p>n/a</p>
<p>n/a</p>	<p>n/a</p>	<p>n/a</p>	<p>n/a</p>

**Note 1** Architectural elements such as towers and cupolas may break this limit but not by greater than 6 feet.

**Note 2** Bay windows (with no wall section greater than 6 feet), balconies, stoops, and porches are permitted to encroach into the front setback area.

**Note 3** For through lots, the street frontage where the closest principal buildings on each end of the lot that have the lesser setback shall be considered the front yard.

**Note 4** For corner lots, the following special setback requirements apply to the street frontages of the two intersecting streets in R-2, R-3, R-4, MX-1, and MX-2: 1) one of the setbacks of a new structure shall match the lesser front setback of the closest principal building on that block and on that street frontage; 2) the other frontage's setback shall be 6 feet or less.

**Note 5** 1) Side yard setback is allowed to be zero instead of 3 feet if the closest building on the adjacent lot has 3 feet of setback from the common lot line; 2) The side yard setback is also allowed to be zero instead of the minimum if the closest building on the adjacent lot has a zero setback from the common lot line and the new structure's wall can be built flush with the adjacent building's wall; 3) No new construction shall encroach within 3 feet of another building's windows or other fenestrations nor block emergency access to those fenestrations. In cases where the side yard setback is to be zero, the setback area from that adjacent building's fenestrations shall only extend from the location of the fenestration to the rear of the new structure; 4) No side yard shall be of a distance between zero and 3 feet.

**Note 6** 1) The side yard setback is allowed to be zero instead of 5 feet if the closest building on the adjacent lot has 5 feet of setback from the common lot line; 2) The side yard setback is also allowed to be zero instead of the minimum if the closest building on the adjacent lot has a zero setback from the common lot line and the new structure's wall can be built flush with the adjacent building's wall; 3) No new construction shall encroach within 5 feet of another building's windows or other fenestrations nor block emergency access to those fenestrations. In cases where the side yard setback is to be zero, the setback area from that adjacent building's fenestrations shall only extend from the location of the fenestration to the rear of the new structure; 4) No side yard shall be of a distance between zero and 5 feet.

**Note 7** 1) Accessory buildings may occupy forty (40%) percent of the required area of a rear yard up to a height of eighteen (18) feet above the curb level; 2) No accessory building shall be erected or altered in any interior lot fronting upon only one (1) street so as to encroach upon that half of the lot depth nearest the street; 3) No accessory building shall be erected or altered on an interior lot fronting upon two (2) streets so as to encroach upon that fourth of the lot depth nearest either street; 4) On corner lots, no accessory buildings shall be located within three (3) feet of its rear lot line or side lot line when such line forms part of the front half of the side line of an adjacent interior lot, or nearer any street line than the setback line to be observed by adjacent buildings, and in no case, less than four (4) feet from the street line; 5) The foregoing regulations shall not prohibit any accessory building fifty (50) feet or more from any street line. A private garage may be attached to an existing

building provided the front of the garage does not extend beyond the front of the main building, and the garage shall conform to the architectural design and construction of the main building.

**Note 8** Stoops may encroach into a front yard with the following dimensions: 1) Minimum depth: four feet; 2) Minimum length: ten (10) percent of building frontage; 3) Maximum length: twenty-five (25) percent of building frontage; 4) Maximum height: ninety-six inches.

**Note 9** An open or lattice enclosed iron fire-escape, fireproof outside stairway, or solid-floored balcony to a fire tower may project not more than four (4) feet into a rear yard, except that: 1) An open or lattice-enclosed iron fire-escape may project not more than eight (8) feet into a rear yard, when it does not occupy more than twenty (20%) percent of the area of such yard; 2) The construction of fire escapes on single-family dwellings shall be prohibited at any street exposure. In every district, the construction of fire escapes on single-family dwellings shall be prohibited at any street exposure.

**Note 10** The area required in a yard at any given level shall be open from such level to the sky unobstructed, except for the following: 1) Parapets, cornices and other ornamental features may extend into a yard no greater than eighteen (18) inches; 2) Window sills and belt courses may extend into a yard no greater than four (4) inches; 3) Bay windows with no wall section wider than six feet may extend into a front yard no greater than four (4) feet; 4) Upper-story balconies may extend into a yard no greater than five (5) feet.

**Note 11** A one-story open porch may project into a required front yard for a distance not greater than eight (8) feet.

**Note 12** Chimneys or flues may be erected within a side or rear yard, provided they do not project more than two (2) feet and they shall not obstruct ventilation.

**Note 13** In computing the depth of a rear yard when the rear yard opens onto a public alley, one-half (1/2) of the width of the alley may be considered to be a portion of the rear yard.

**Note 14** Utility Installations are exempted from on-site landscaping, site design, parking, conditional use and accessory use requirements; however appropriate landscaping and site design shall be provided. All development on Block 1830, bounded by Central Avenue, West Market Street, Littleton Avenue, 11th Avenue and South 7th Street, may be serviced by one (1) stormwater management facility which shall comply with City of Newark stormwater management regulations; however the requirement that stormwater facilities must be located onsite shall not apply.

**Note 15** Corner lots containing Utility Installations uses shall not have a rear yard setback; any side of the property facing a street shall comply with the front yard setback requirements and all other property sides shall comply with the side yard setback requirements.



# Single-family house

Minimum lot size for subdivision is

**2500**

square feet

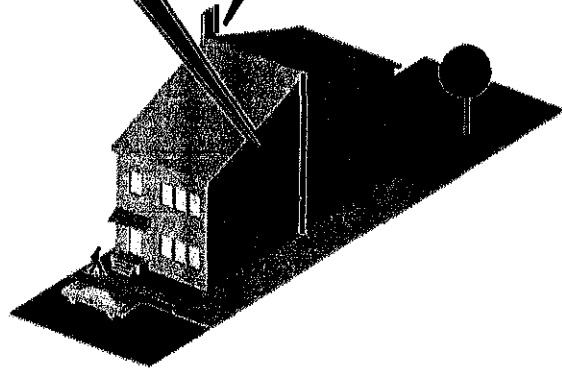
Minimum lot width for subdivision is

**25**

feet

Maximum building height is 3 stories and 36 feet.

Architectural elements such as towers and cupolas may break this limit but not by more than 6 feet.



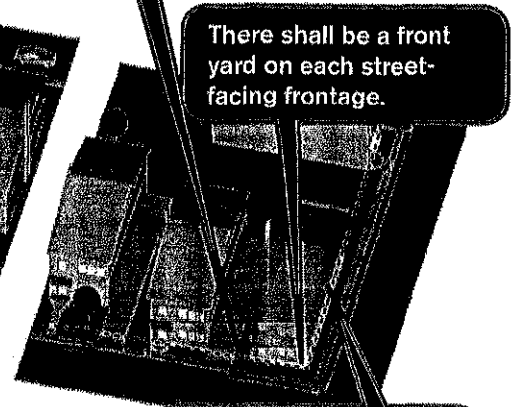
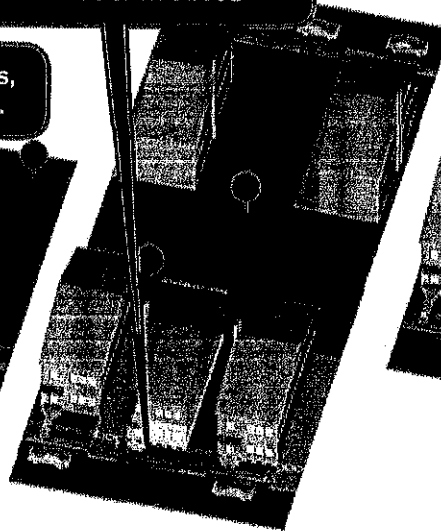
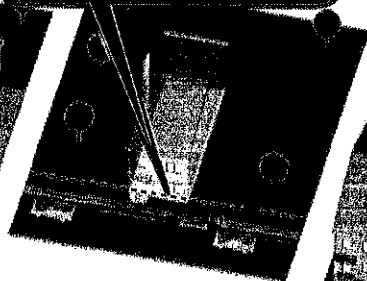
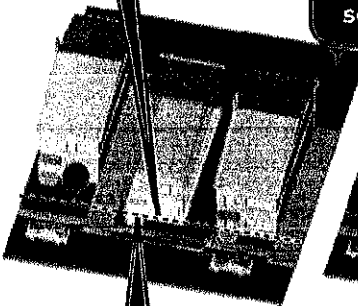
Front setback must match the smaller setback of its neighbors.

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

On corner lots, front setback must match the smaller front setback of its neighbors.

On undeveloped blocks, setback must be 6 feet.

There shall be a front yard on each street-facing frontage.

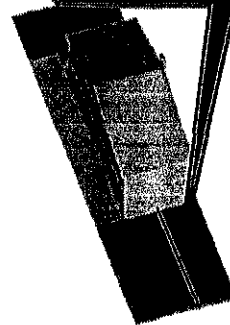
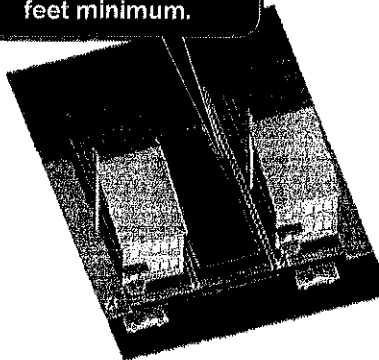


Bay windows, balconies, stoops, and porches are permitted to encroach into the front setback area.

No front yard on the longer side of a corner need exceed 6 feet.

Side setback is 3 feet minimum.

Rear yard setback is 30 feet minimum.



Maximum lot coverage by building is **50%**

**Maximum Impervious Yard Area**

REAR YARD  $\geq 30\%$

FRONT YARD  $\geq 65\%$

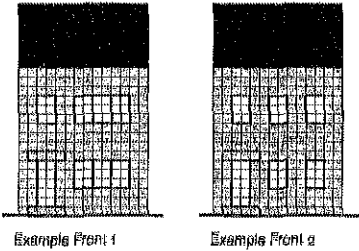


A paved walkway is permitted along one side of a dwelling.

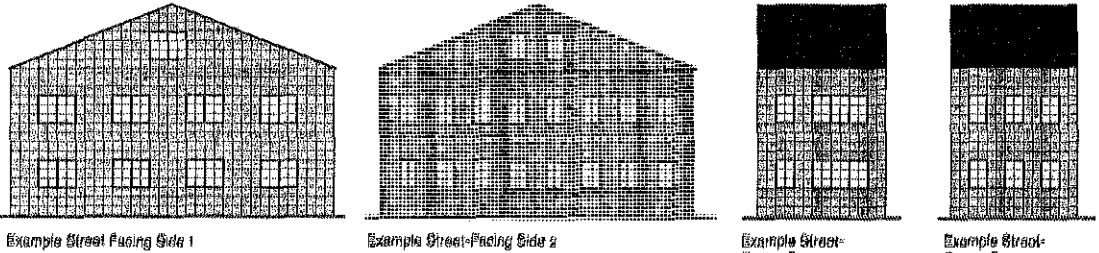
One driveway no wider than 10 ft permitted in the front yard.

**Transparency**

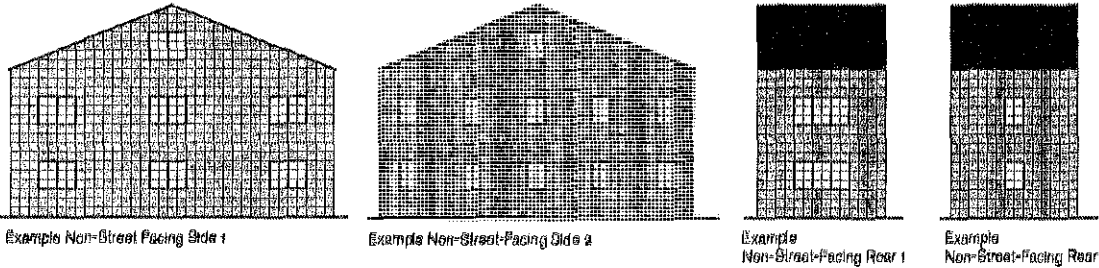
FRONT  $\geq 30\%$



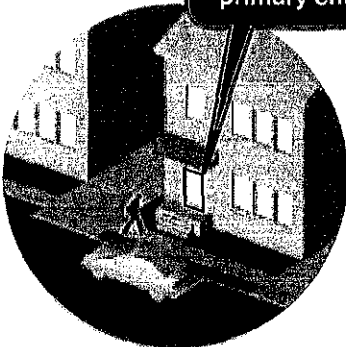
STREET FACING SIDE & REAR  $\geq 20\%$



NON-STREET FACING SIDE & REAR  $\geq 10\%$



Primary street-facing façade must include primary entrance at front setback.



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

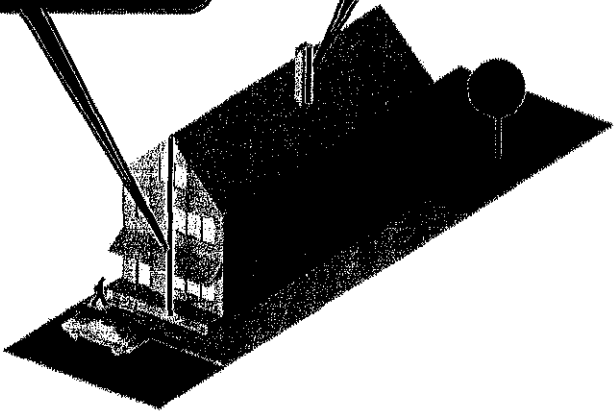
# 2-family house

Minimum lot size for subdivision is **2500** square feet

Minimum lot width for subdivision is **25** feet

Maximum building height is 3 stories and 36 feet.

Architectural elements such as towers and cupolas may break this limit but not by more than 6 feet.



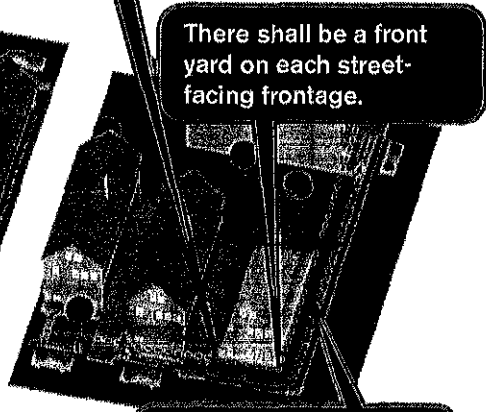
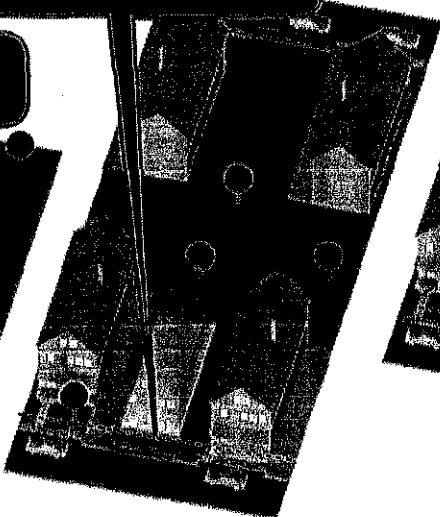
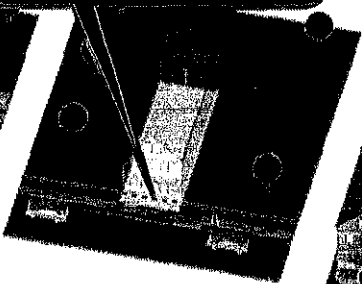
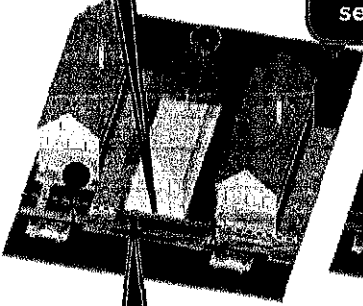
Front setback must match the smaller setback of its neighbors.

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

On corner lots, front setback must match the smaller front setback of its neighbors.

On undeveloped blocks, setback must be 6 feet.

There shall be a front yard on each street-facing frontage.



Bay windows, balconies, stoops, and porches are permitted to encroach into the front setback area.

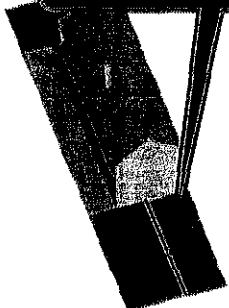
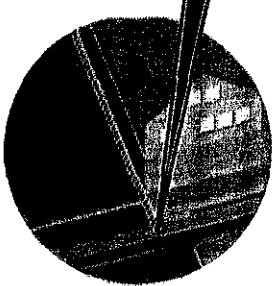
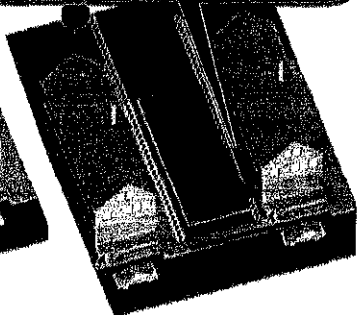
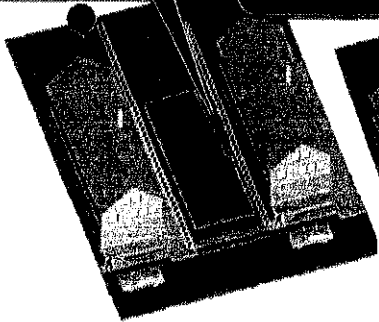
No front yard on the longer side of a corner need exceed 6 feet.

Side setback is 3 feet minimum...

...or can be 0 feet if neighbor has a side setback of 3 feet or more...

...or can be 0 feet if the neighbor has a side setback of 0 feet.

Rear yard setback is 30 feet minimum.



Maximum lot coverage by building is **50%**

Maximum Impervious Yard Area

REAR YARD  $\approx 30\%$

FRONT YARD  $\approx 60\%$

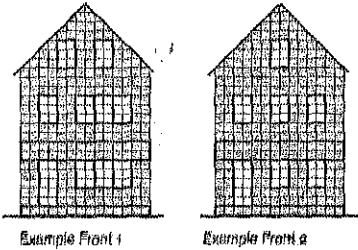


A paved walkway is permitted along one side of a dwelling.

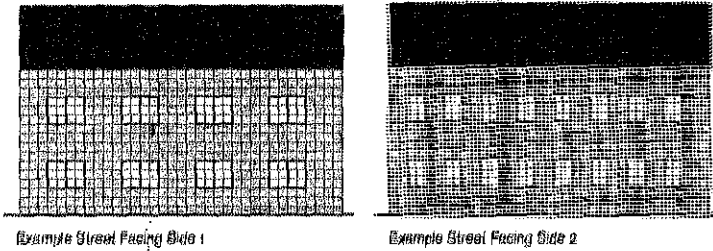
One driveway no wider than 10 ft permitted in the front yard.

Transparency

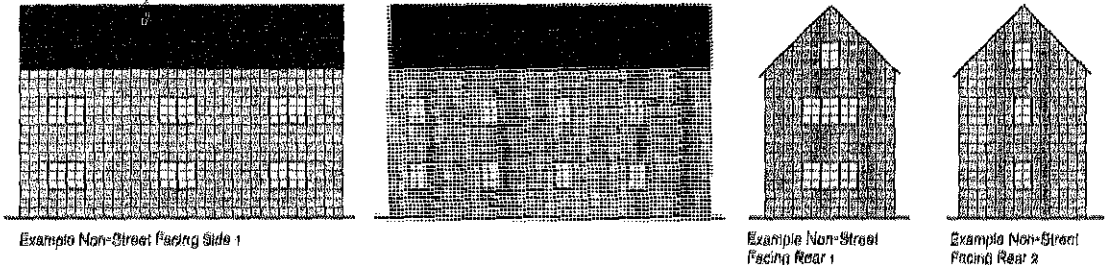
FRONT  $\approx 30\%$



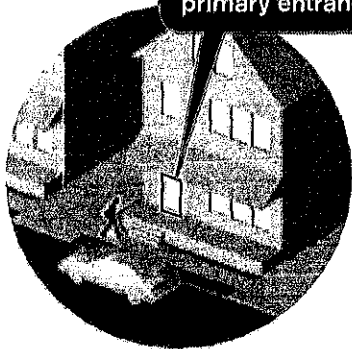
STREET FACING SIDE & REAR  $\approx 20\%$



NON-STREET FACING SIDE & REAR  $\approx 10\%$



Primary street-facing façade must include primary entrance at front setback.



All units must be accessible from front or side façade

Rear primary entrances are prohibited

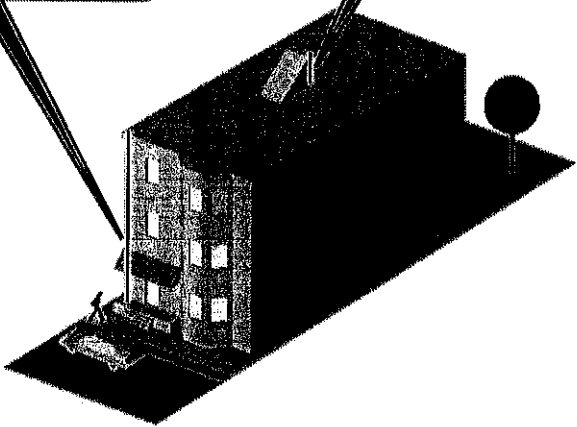
# 3-family house in all other zones

Minimum lot size for subdivision is **3500** square feet

Minimum lot width for subdivision is **35** feet

Maximum building height is 3 stories and 36 feet.

Architectural elements such as towers and cupolas may break this limit but not by more than 6 feet.



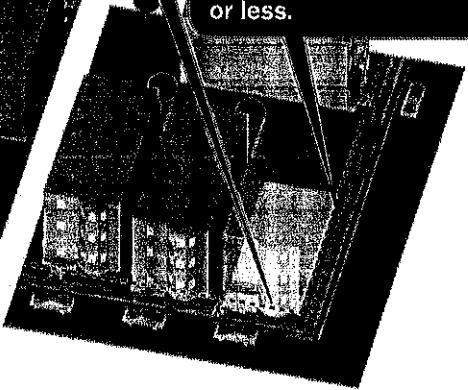
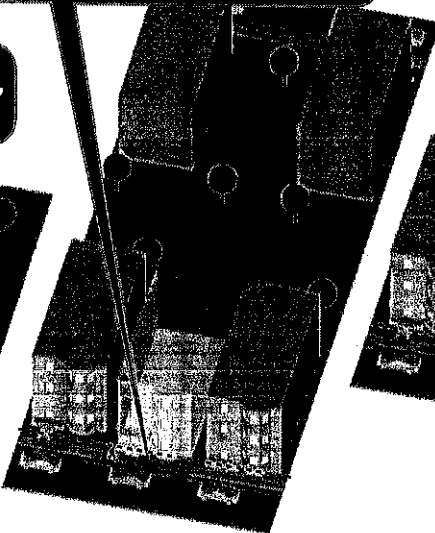
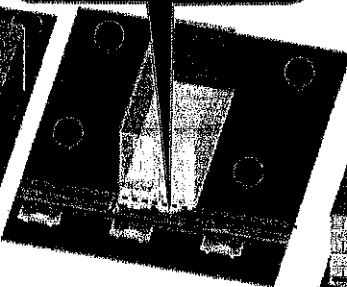
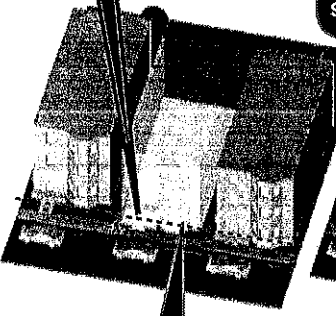
Front setback must match the smaller setback of its neighbors.

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

On corner lots, front setback must match the smaller front setback of its neighbors...

...the other frontage's setback shall be 6 feet or less.

On undeveloped blocks, setback must be 6 feet.



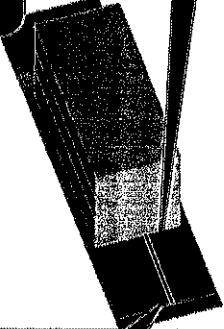
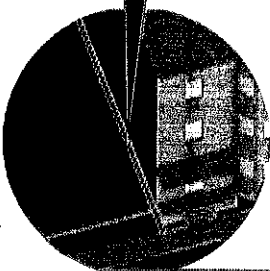
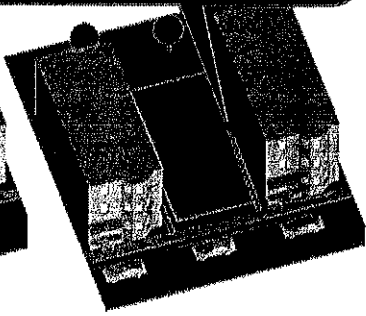
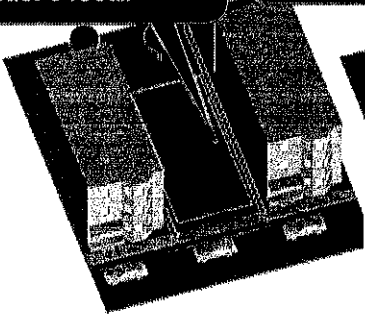
Bay windows, balconies, stoops, and porches are permitted to encroach into the front setback area.

Side setback must be at least 3 feet...

...or can be 0 feet if other side has a side setback of 3 feet

...or can be 0 feet if other side has a side setback of 0 feet.

Rear Yard setback must be at least 30ft.



When the rear yard opens onto a public alley, 1/2 of the alley's width may be considered to be a portion of the rear yard.

The maximum lot coverage is **55%**

**Maximum Impervious Yard Area**

REAR YARD  $\leq 75\%$

FRONT YARD  $\leq 55\%$

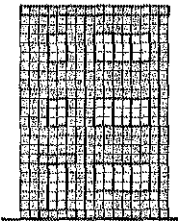


A paved walkway is permitted along one side of a dwelling.

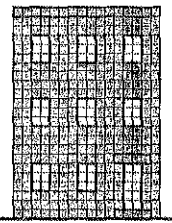
One driveway no wider than 10 ft is permitted in the front yard.

**Transparency**

FRONT  $\geq 30\%$

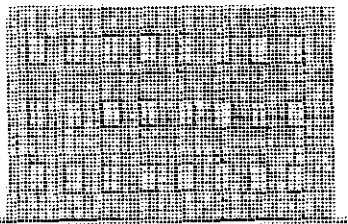


Example Front 1

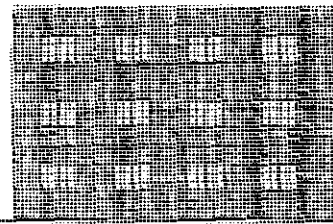


Example Front 2

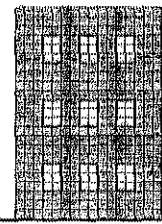
STREET FACING SIDE & REAR  $\geq 20\%$



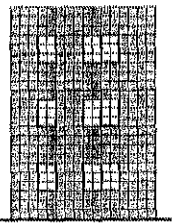
Example Street Facing Side 1



Example Street Facing Side 2

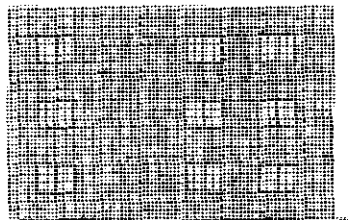


Example Street Facing Rear 1

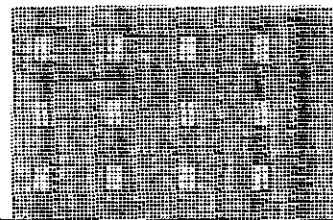


Example Street Facing Rear 2

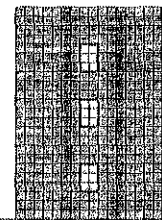
NON-STREET FACING SIDE & REAR  $\geq 10\%$



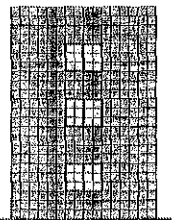
Example Non-Street Facing Side 1



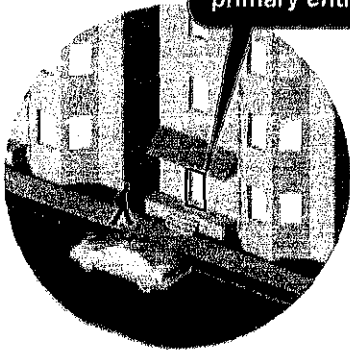
Example Non-Street Facing Side 2



Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2



Primary street-facing façade must include primary entrance at front setback.

All units must be accessible from front or side façade

Rear primary entrances are prohibited

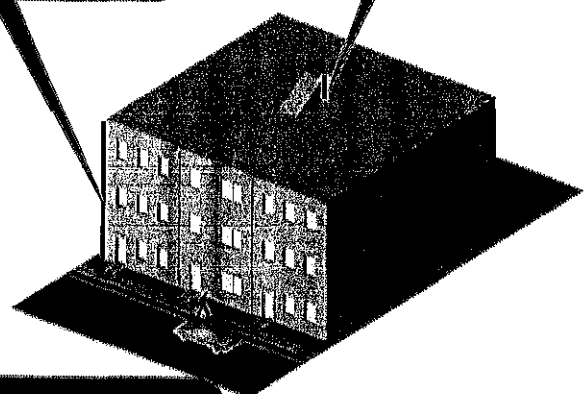
# Town House

Minimum lot size for subdivision is **7,000** square feet

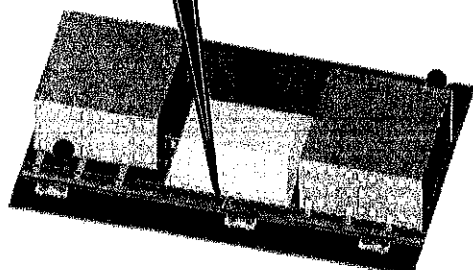
Minimum lot width for subdivision is **70** feet

Maximum building height is 3 stories and 36 feet.

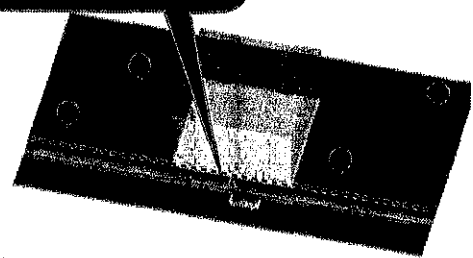
Architectural elements such as towers and cupolas may break this limit but not by greater than 6 feet.



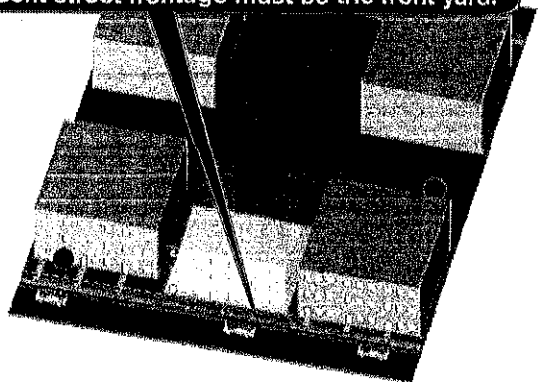
Front setback must match the smaller setback of its neighbors.



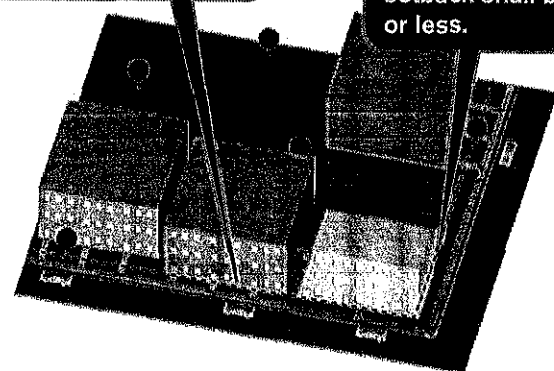
On undeveloped blocks, setback must be 6 feet.



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

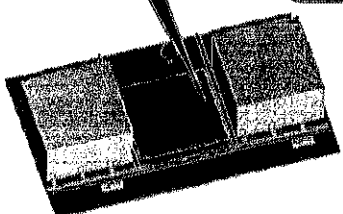


On corner lots, front setback must match the smaller front setback of its neighbors...

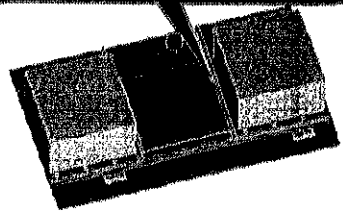


...the other frontage's setback shall be 6 feet or less.

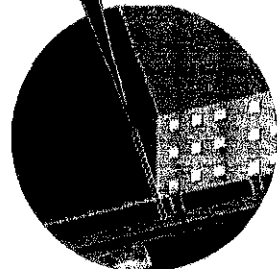
Side setback must be at least 3 feet...



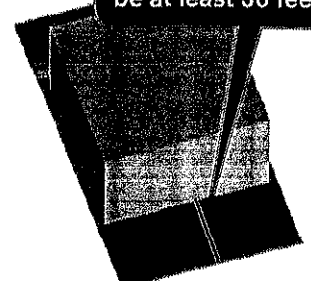
...or can be 0 feet if other side has a side setback of 3 feet...



...or can be 0 feet if other side has a side setback of 0 feet.



Rear Yard setback must be at least 30 feet.



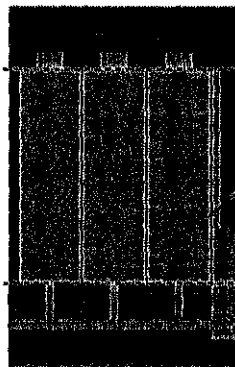


The maximum lot coverage is **60%**

Maximum Impervious Yard Area

REAR YARD  $\leq 15\%$

FRONT YARD  $\leq 55\%$

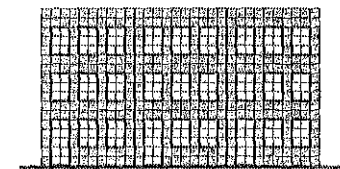


A paved walkway is permitted along one side of a dwelling.

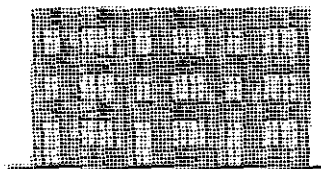
One driveway no wider than 10 ft permitted in the front yard.

Transparency

FRONT  $\leq 30\%$

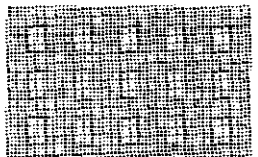


Example Front 1

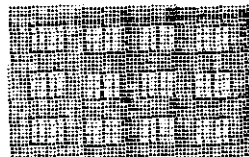


Example Front 2

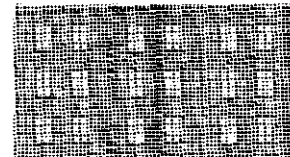
STREET FACING SIDE & REAR  $\leq 20\%$



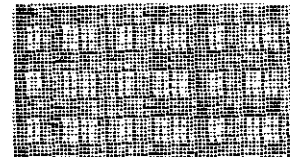
Example Street Facing Side 1



Example Street Facing Side 2

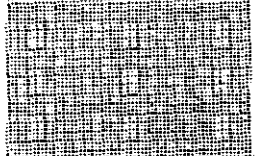


Example Street Facing Rear 1

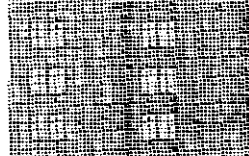


Example Street Facing Rear 2

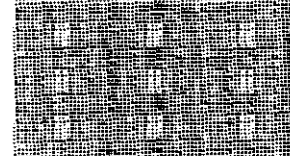
NON-STREET FACING SIDE & REAR  $\leq 10\%$



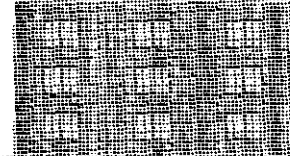
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2

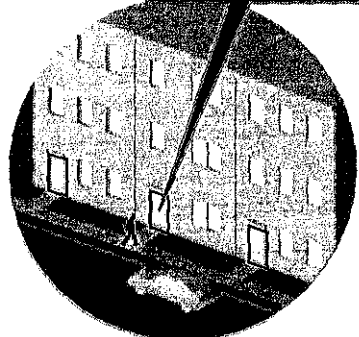


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrances at front setback.



All units must be accessible from front or side façade

Rear primary entrances are prohibited



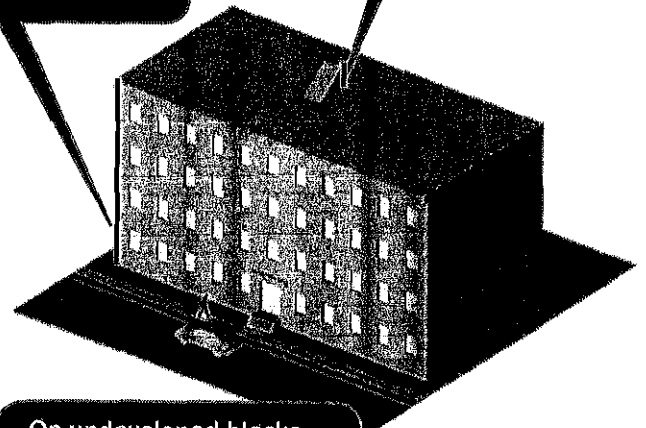
# Low-rise multifamily

Minimum lot size for subdivision is **10,000** square feet

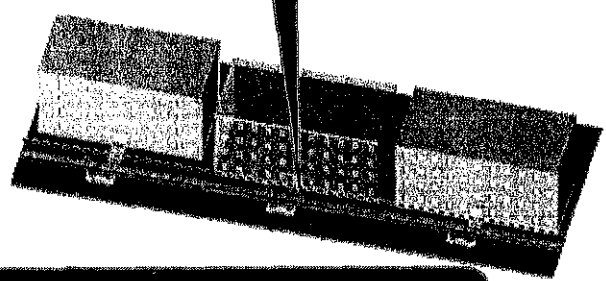
Minimum lot width for subdivision is **100** feet

Maximum building height is 4 stories and 48 feet.

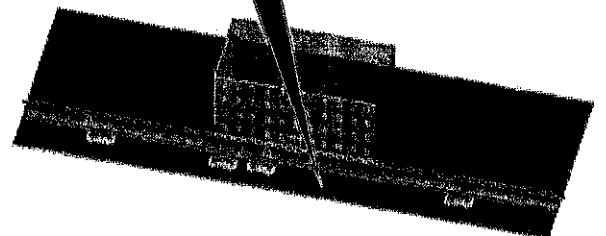
Architectural elements such as towers and cupolas may break this limit but not by greater than 6 feet.



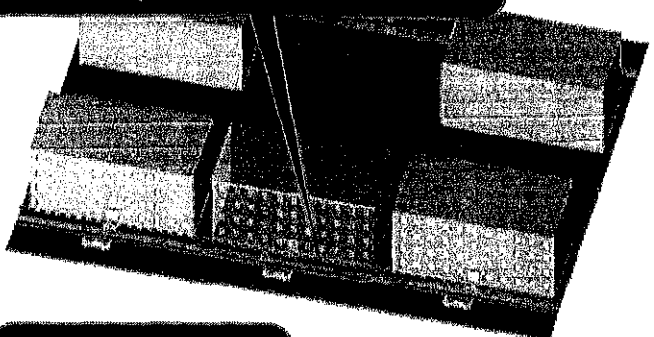
A new building must match the smaller setback of its neighbors.



On undeveloped blocks, setback must be 6 feet.

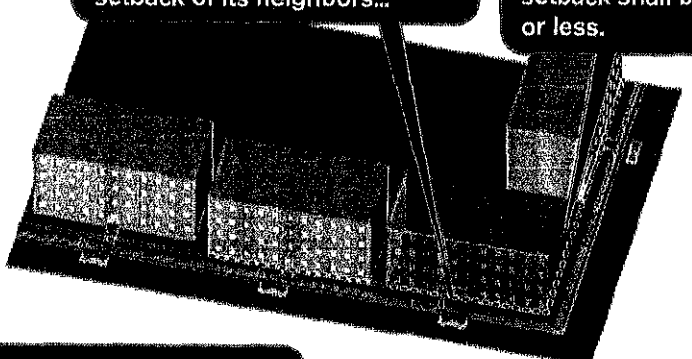


On through lots, the setback must match the smallest front setback of any neighbor, and the adjacent street frontage must be the front yard.

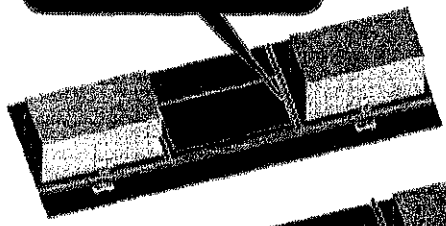


On corner lots, front setback must match the smaller front setback of its neighbors...

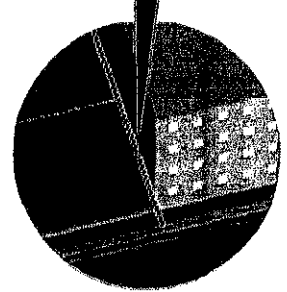
...the other frontage's setback shall be 6 feet or less.



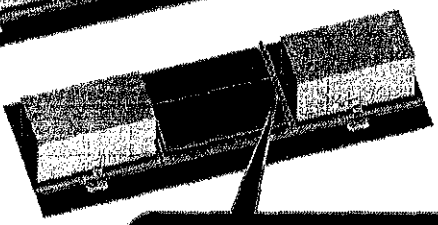
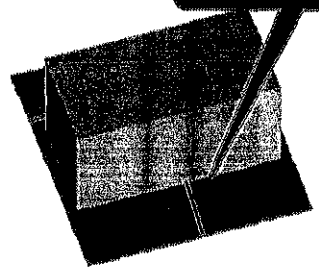
Side setback must be at least 5 feet...



...or can be 0 feet if other side has a side setback of 0 feet.



Rear Yard setback must be at least 30 feet.



...or can be 0 feet if other side has a side setback of 5 feet...

Maximum lot coverage is **66%**

Maximum Impervious Yard Area

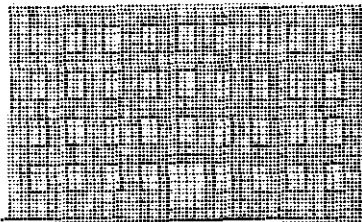
REAR YARD  $\leq 30\%$

FRONT YARD  $\leq 55\%$

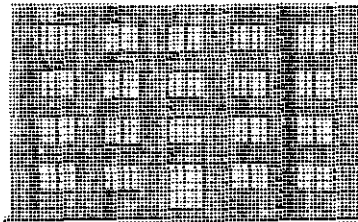


Transparency

FRONT  $\geq 50\%$

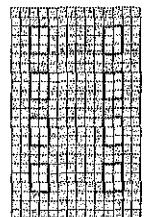


Example Front 1

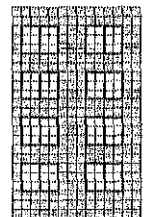


Example Front 2

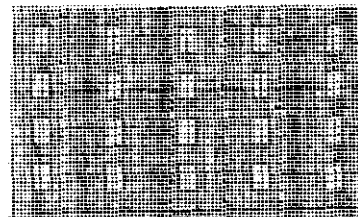
STREET FACING SIDE & REAR  $\geq 35\%$



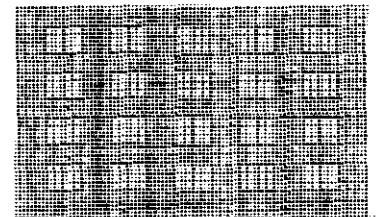
Example Street Facing Side 1



Example Street Facing Side 2

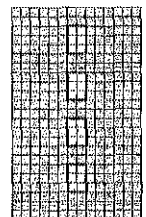


Example Street Facing Rear 1

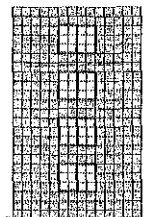


Example Street Facing Rear 2

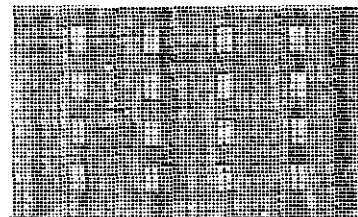
NON-STREET FACING SIDE & REAR  $\geq 20\%$



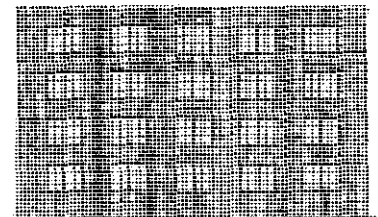
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2

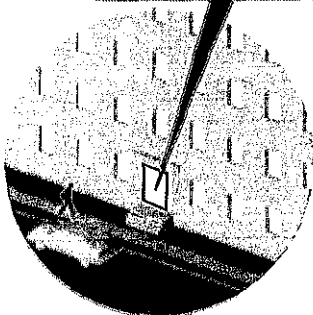


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



All units must be accessible from front or side façade

Rear primary entrances are prohibited

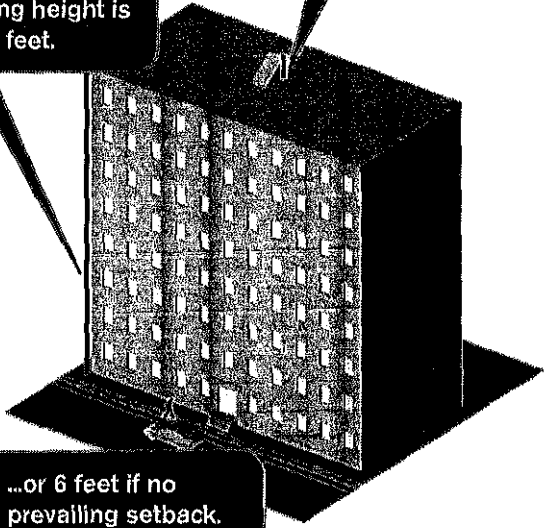
# Mid-rise multifamily

Minimum lot size for subdivision is **10,000** square feet

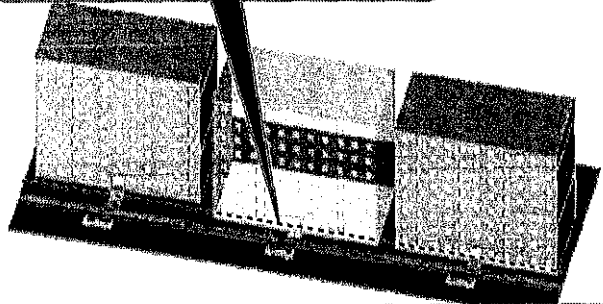
Minimum lot width for subdivision is **100** feet

Maximum building height is 8 stories and 96 feet.

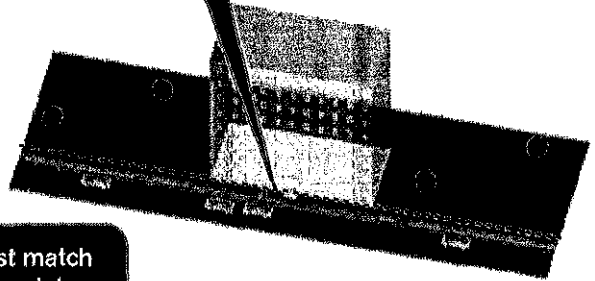
Architectural elements such as towers and cupolas may break this limit but not by greater than 6 feet.



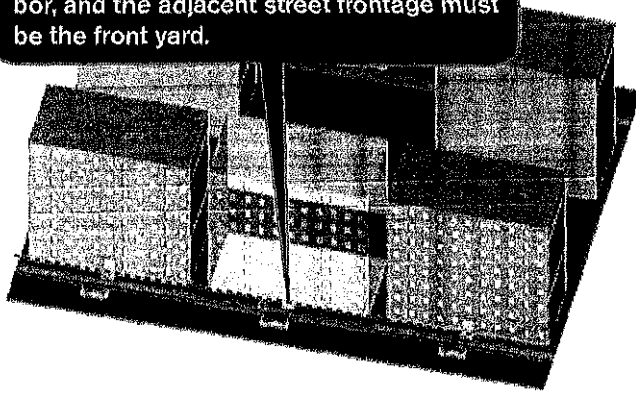
A new building must match the smaller setback of its neighbors...



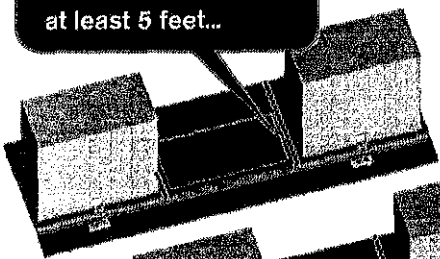
...or 6 feet if no prevailing setback.



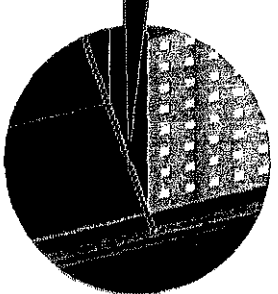
On through lots, the setback must match the smallest front setback of any neighbor, and the adjacent street frontage must be the front yard.



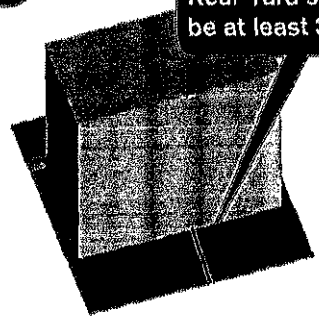
Side setback must be at least 5 feet...



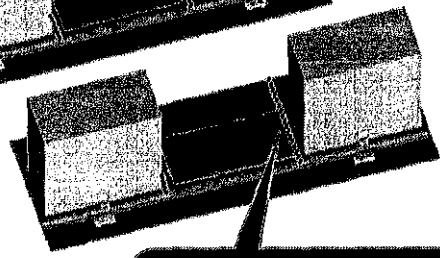
...or can be 0 feet if other side has a side setback of 0 feet.



Rear Yard setback must be at least 30 feet.



...or can be 0 feet if other side has a side setback of 5 feet...



Maximum lot coverage is **60%**

Maximum Impervious Yard Area

REAR YARD

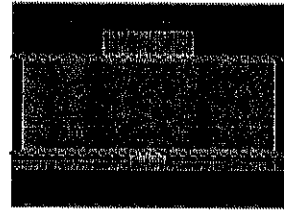


≤ 30%

FRONT YARD

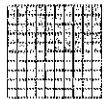


≤ 55%

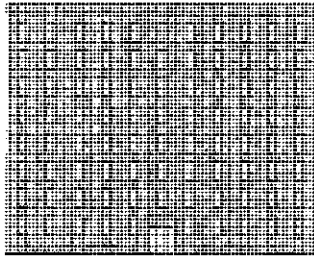


Transparency

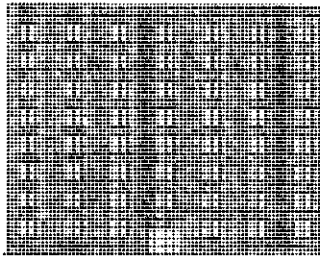
FRONT



≤ 50%



Example Front 1

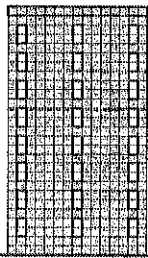


Example Front 2

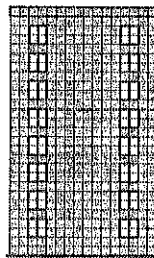
STREET FACING SIDE & REAR



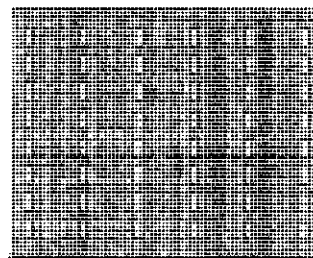
≤ 35%



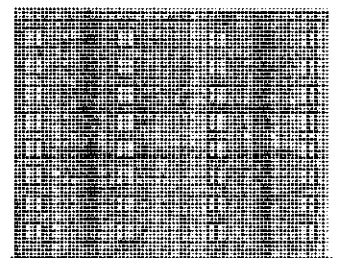
Example Street Side 1



Example Street Side 2



Example Street Facing Rear 1



Example Street Facing Rear 2

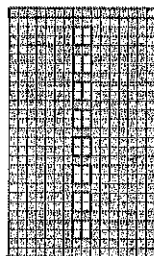
NON-STREET FACING SIDE & REAR



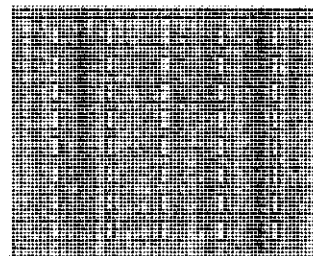
≤ 20%



Example Non-Street Side 1



Example Non-Street Side 2

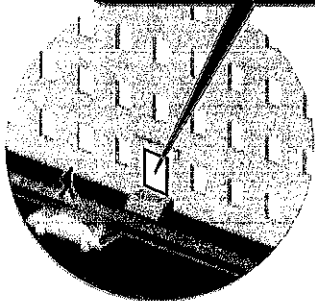


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



All units must be accessible from front or side façade

Rear primary entrances are prohibited

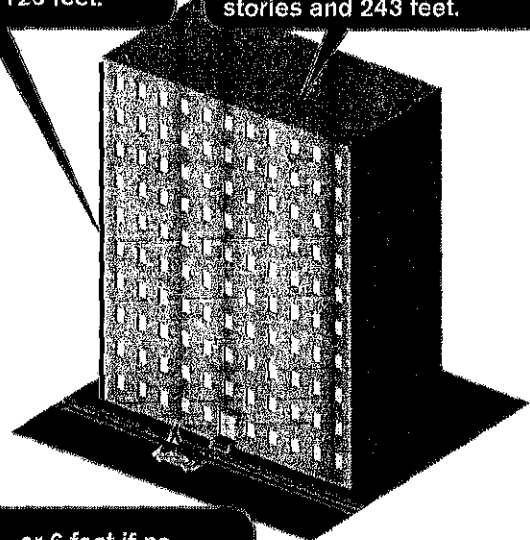
# High-rise multifamily

Minimum lot size for subdivision is **10,000** square feet

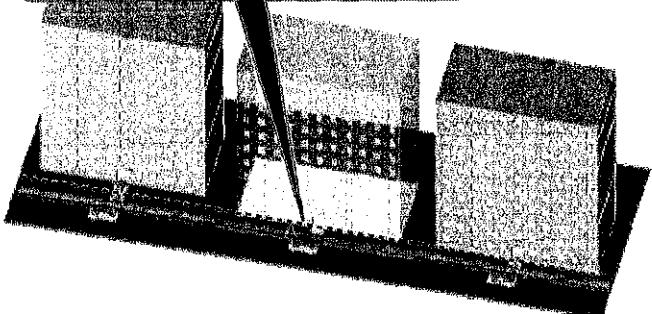
Minimum lot width for subdivision is **100** feet

Maximum building height is 10 stories and 120 feet.

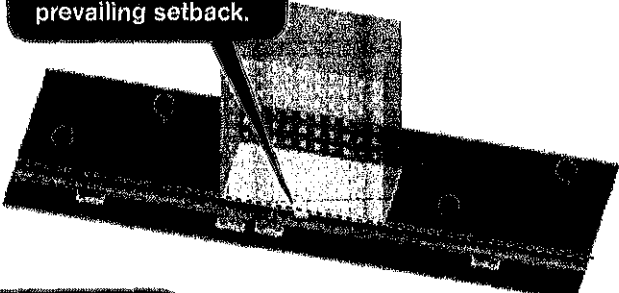
An additional 1 story per 12 feet of height shall be permitted for each additional 1,000 SF of lot area up to 20,000 SF, for a maximum height of 20 stories and 243 feet.



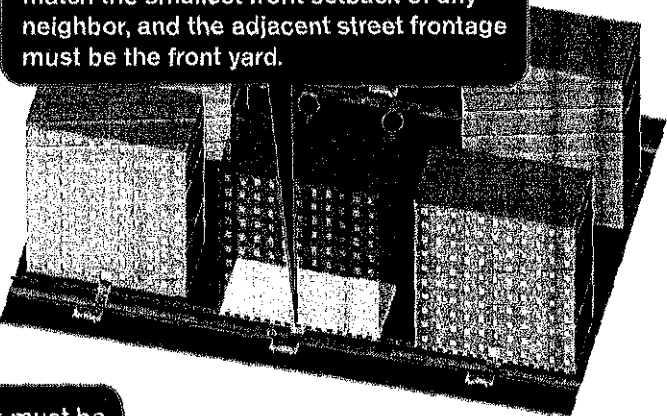
A new building must match the smaller setback of its neighbors...



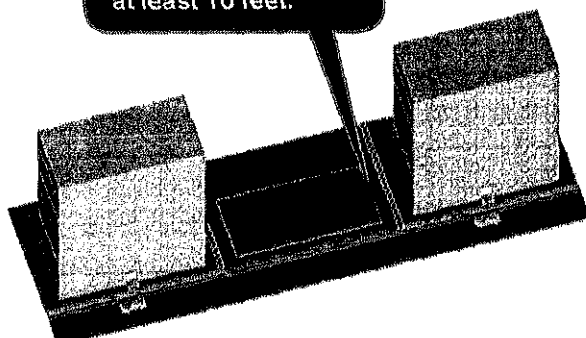
...or 6 feet if no prevailing setback.



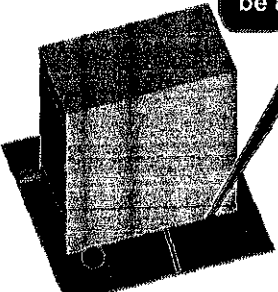
On through lots, the setback must match the smallest front setback of any neighbor, and the adjacent street frontage must be the front yard.



Side setback must be at least 10 feet.



Rear Yard setback must be at least 30 feet.



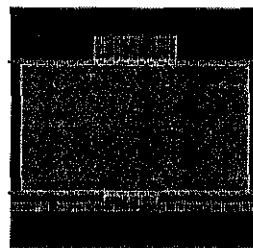
**Maximum Impervious Yard Area**

Maximum lot coverage is **60%**

REAR YARD  $\leq 30\%$



FRONT YARD  $\leq 55\%$

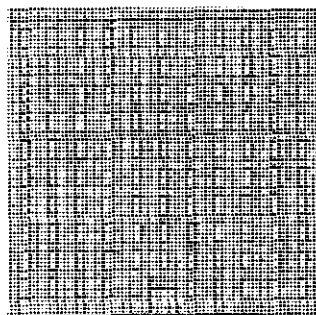


**Transparency**

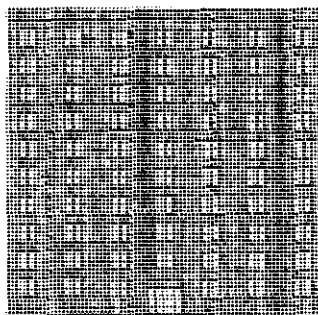
FRONT



$\geq 50\%$

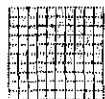


Example Front 1



Example Front 2

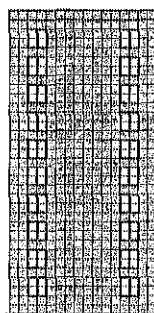
STREET FACING SIDE & REAR



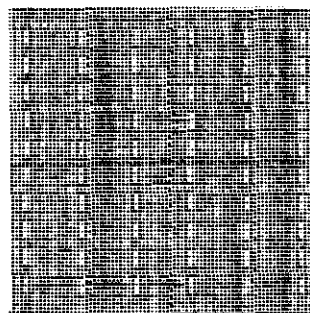
$\geq 35\%$



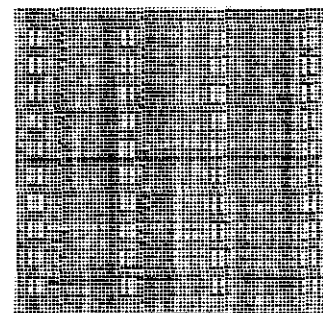
Example Street Side 1



Example Street Side 2



Example Street Facing Rear 1

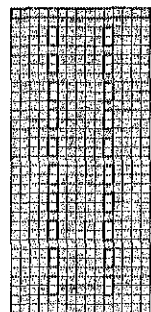


Example Street Facing Rear 2

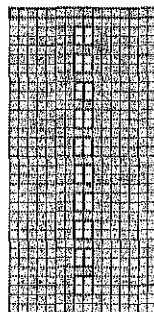
NON-STREET FACING SIDE & REAR



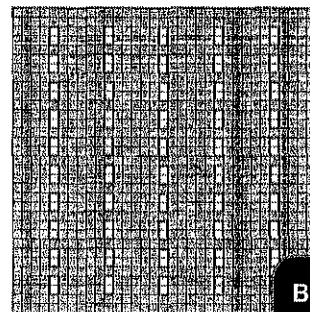
$\geq 20\%$



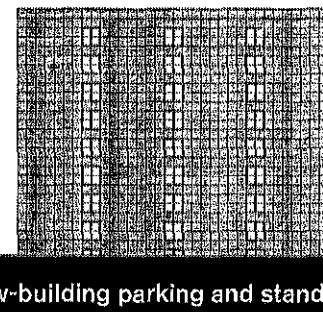
Example Non-Street Side 1



Example Non-Street Side 2

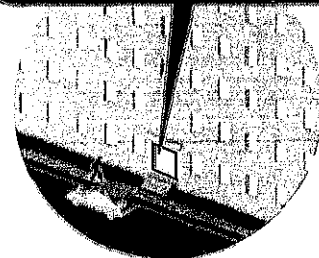


Example Non-Street Facing Rear 1

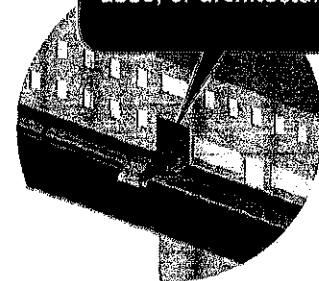


Below-building parking and stand-alone parking structures shall be screened from adjacent uses by either one or a combination of permitted uses including ground floor retail or office uses; or architectural detailing.

Primary street-facing façade must include primary entrance at front setback.



Ground floor units directly accessible from the street required





# Ground-floor commercial with commercial or residential above

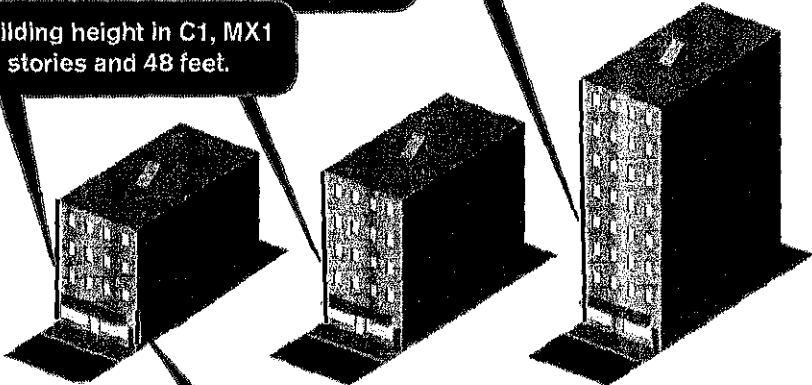
Minimum lot size for subdivision is **3,500** square feet

Minimum lot width for subdivision is **35** feet

Maximum building height in C1, MX1 and MX2 is 4 stories and 48 feet.

Maximum building height in C2 is 5 stories and 60 feet.

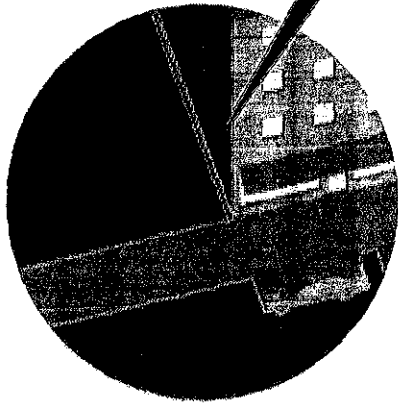
Maximum building height in C3 is 8 stories and 96 feet.



Ground floor must be 14 feet minimum.

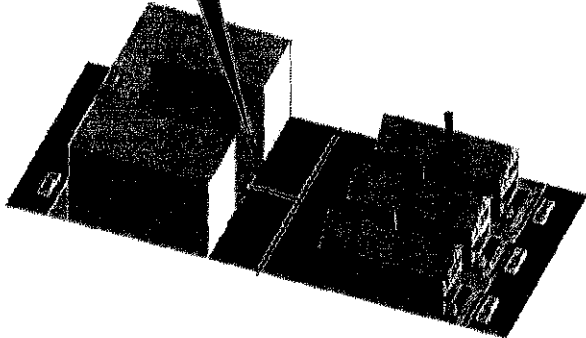
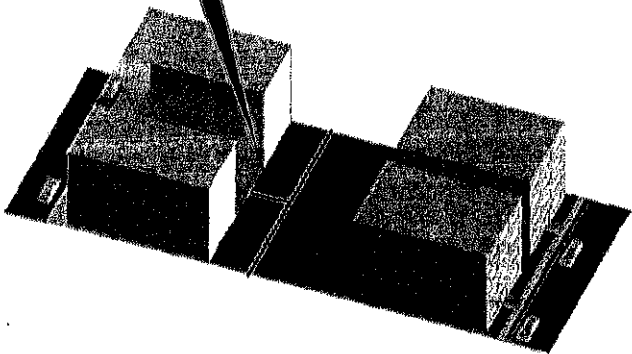
The side yard setback is 0 feet.

The front yard setback is 0 to 5 feet.



Rear setback is 20 feet if abutting non-residential.

Rear setback is 25 feet if abutting residential.



Maximum lot coverage is **80%**

Max Impervious Yard Area

REAR YARD



FRONT YARD

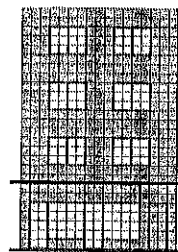
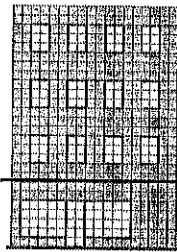
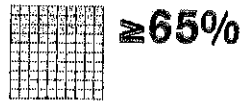


Transparency

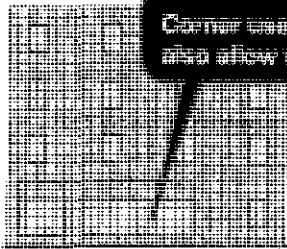
PRIMARY FRONT FAÇADE (EXCLUDING GROUND-LEVEL FAÇADE)



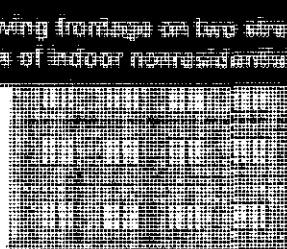
GROUND-LEVEL STREET-FACING FAÇADE BELOW 14 FEET IN HEIGHT



STREET-FACING SIDE AND REAR FAÇADES



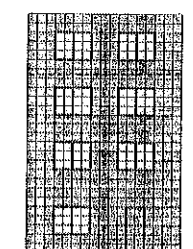
Example Street Facing Side 1



Example Street Facing Side 2



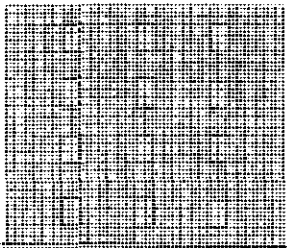
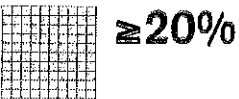
Example Street Facing Rear 1



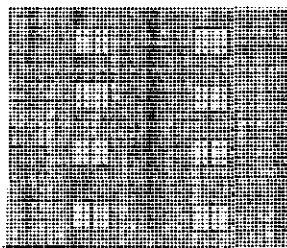
Example Street Facing Rear 2

Corner lots having frontage on two streets must also allow plans of indoor non-residential space.

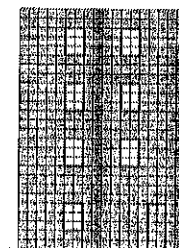
NON-STREET FACING WALLS



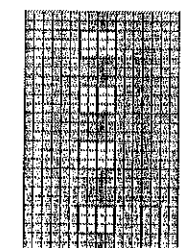
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2



Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



Entries to non-residential uses shall have their own individual entrance.

Buildings may have more than one principal façade and/or entry

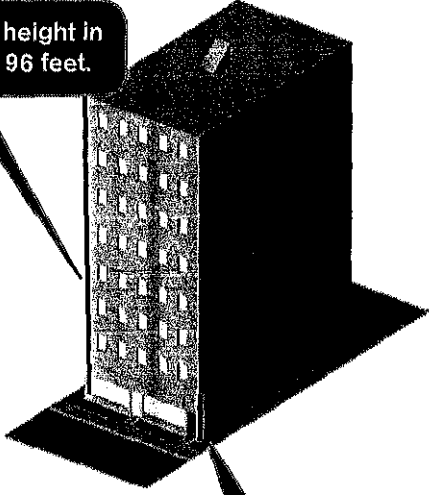


# Detached commercial

Minimum lot size for subdivision is **3,500** square feet

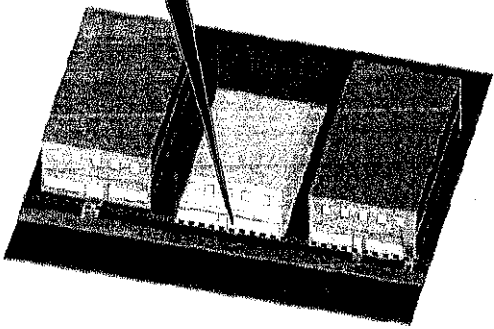
Minimum lot width for subdivision is **35** feet

Maximum building height in C3 is 8 stories and 96 feet.

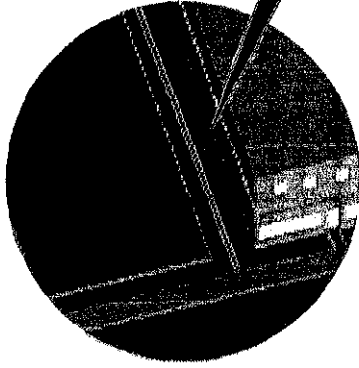


Ground floor must be 14 feet minimum

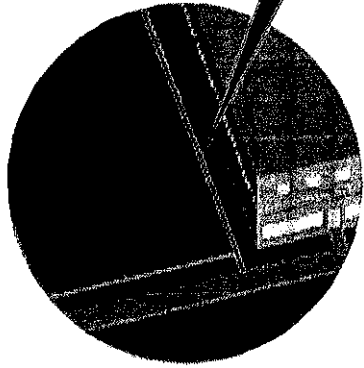
The front yard setback is 0 to 5 feet.



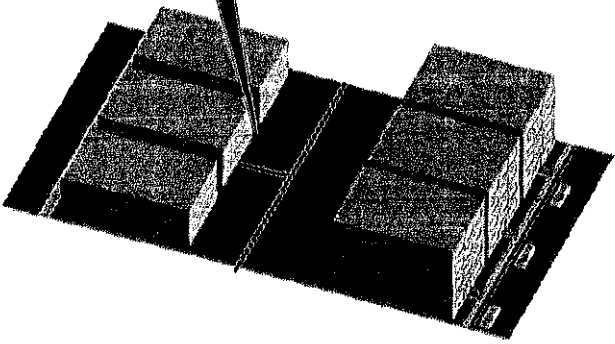
The side yard setback can be 5 feet...



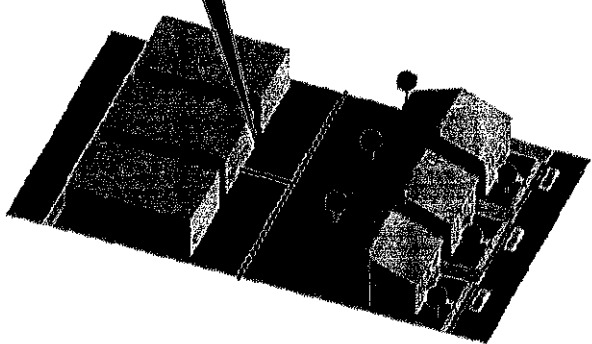
...or 0 feet.



Rear setback is 20 feet if abutting non-residential.



Rear setback is 25 feet if abutting residential.



Maximum lot coverage is **85%**

Max Impervious Yard Area

REAR YARD



≈ 60%

FRONT YARD

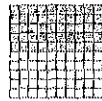


≈ 55%



Transparency

PRIMARY FRONT FAÇADE (EXCLUDING GROUND-LEVEL FAÇADE)

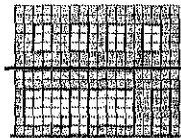


≈ 50%

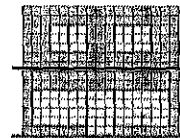
GROUND-LEVEL STREET-FACING FAÇADE BELOW 14 FEET IN HEIGHT



≈ 65%



Example Front 1

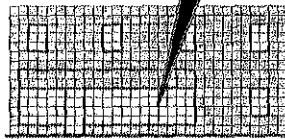


Example Front 2

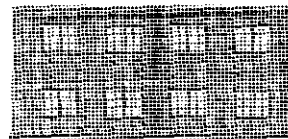
STREET-FACING SIDE AND REAR FAÇADES



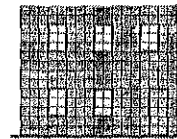
≈ 35%



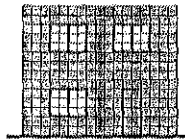
Example Street Facing Side 1



Example Street Facing Side 2



Example Street Facing Rear 1

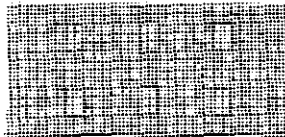


Example Street Facing Rear 2

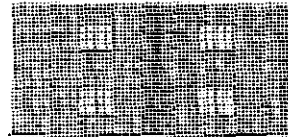
NON-STREET FACING WALLS



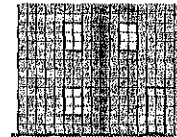
≈ 20%



Example Non-Street Facing Side 1



Example Non-Street Facing Side 2



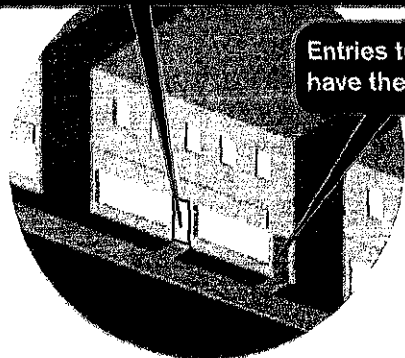
Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Corner uses having frontage on two streets must also allow views of indoor nonresidential space.

Primary street-facing façade must include primary entrance at front setback.



Entries to non-residential uses shall have their own individual entrance.

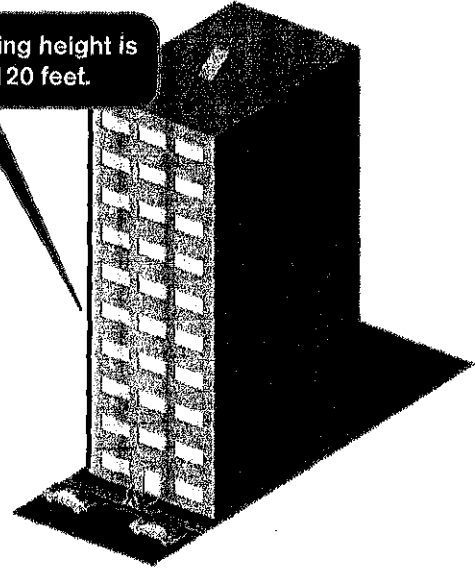
Buildings may have more than one principal façade and/or entry

# Industrial

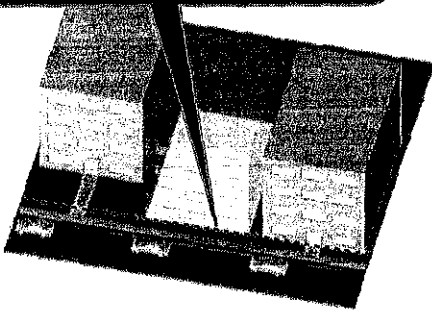
Minimum lot size for subdivision is **5,000** square feet

Minimum lot width for subdivision is **50** feet

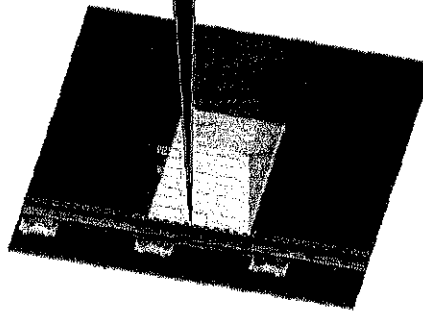
Maximum building height is 10 stories and 120 feet.



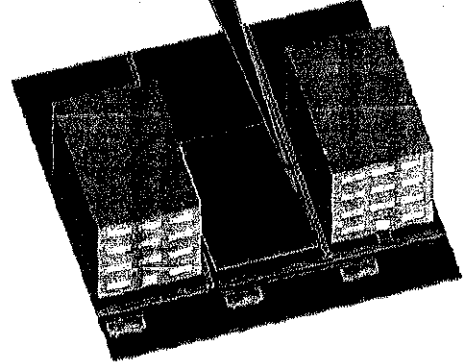
A new building must match the smaller setback of its neighbors...



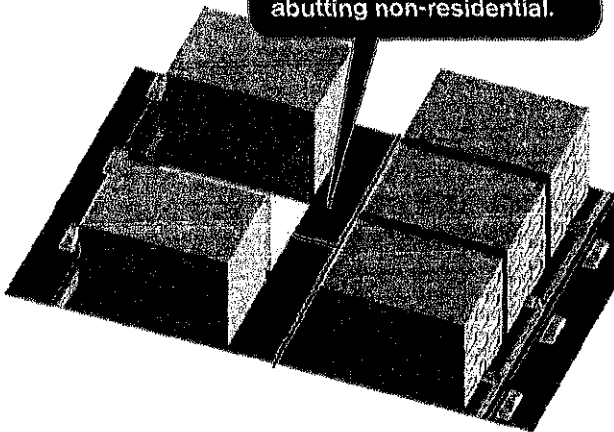
...or 6 feet if no prevailing setback.



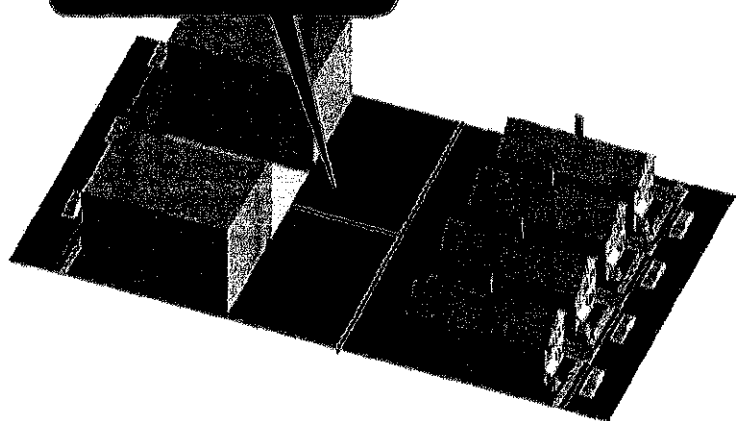
The side yard setback is 3 feet.



Rear setback is 20 feet if abutting non-residential.



Rear setback is 50 if abutting residential.



Maximum lot coverage is **80%**

Max Impervious Yard

REAR YARD  $\leq 30\%$

FRONT YARD  $\leq 55\%$

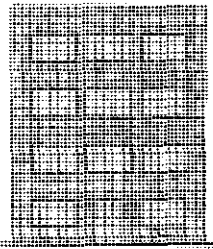


Transparency

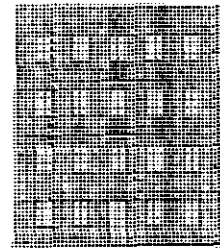
PRIMARY FRONT FAÇADE



$\geq 25\%$

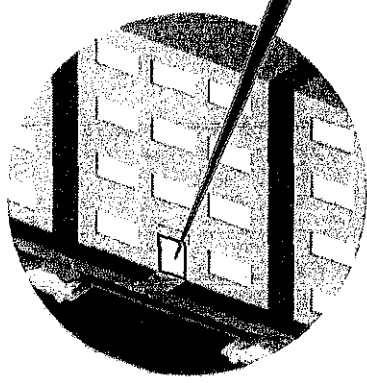


Example Front 1



Example Front 2

Primary street-facing façade must include primary entrance at front setback.



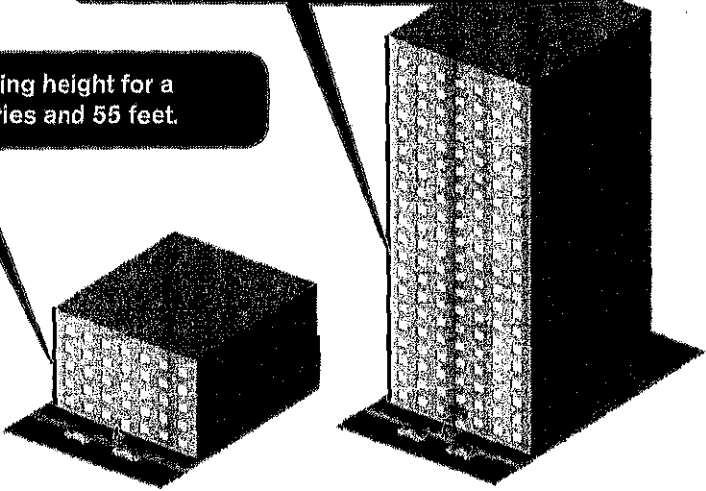
# University, Hospital or Medical Institution, and Schools (elementary, mid-

Minimum lot size for subdivision is **10,000** square feet

Minimum lot width for subdivision is **100** feet

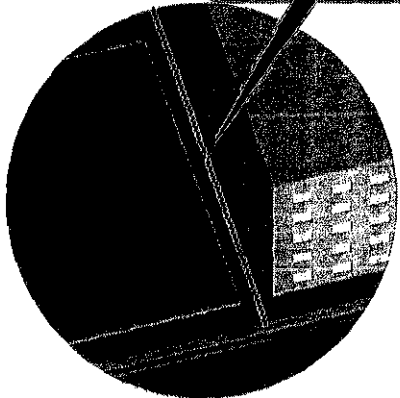
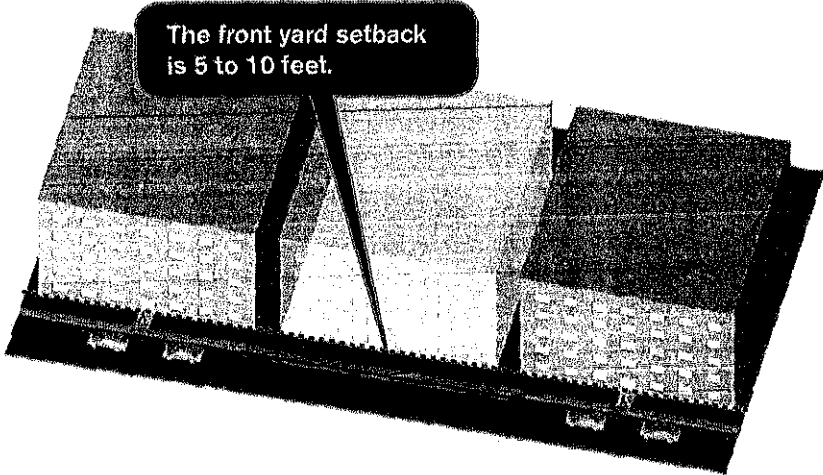
Maximum building height for a University or Hospital is 20 stories and 210 feet.

Maximum building height for a School is 5 stories and 55 feet.

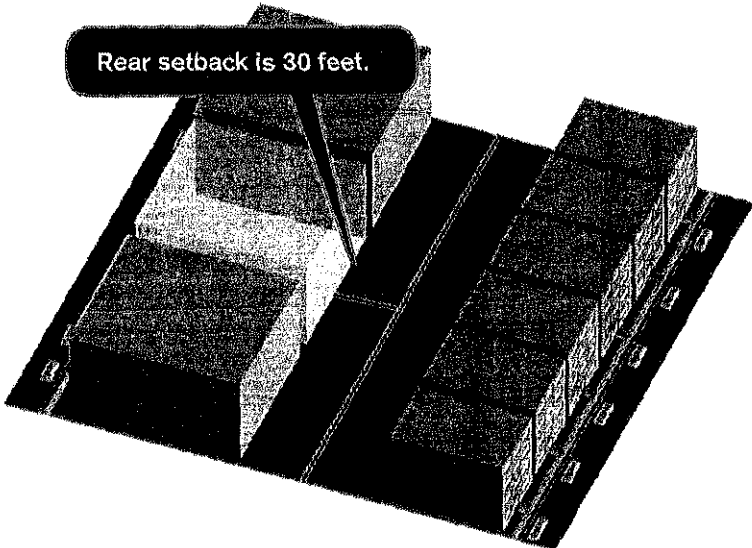


The front yard setback is 5 to 10 feet.

The side yard setback is 5 feet.



Rear setback is 30 feet.



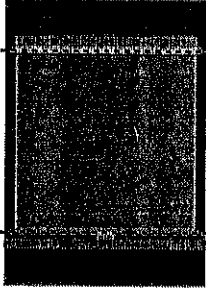
Maximum University lot coverage is **80%**

Maximum School lot coverage is **65%**

Max Impervious Yard Area

REAR YARD  $\leq 30\%$

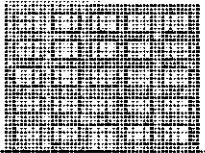
FRONT YARD  $\leq 55\%$



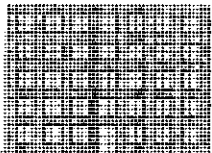
Transparency

PRIMARY FRONT FAÇADE (EXCLUDING GROUND-LEVEL FAÇADE)

$\geq 50\%$



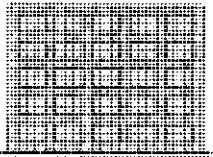
Example Front 1



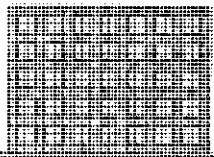
Example Front 2

STREET-FACING SIDE AND REAR FAÇADES

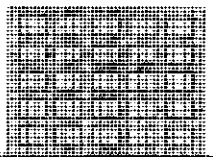
$\geq 50\%$



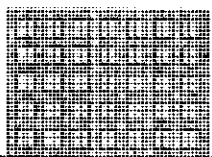
Example Street Facing Side 1



Example Street Facing Side 2



Example Street Facing Rear 1



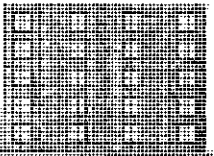
Example Street Facing Rear 2

NON-STREET FACING WALLS

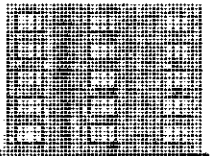
$\geq 35\%$



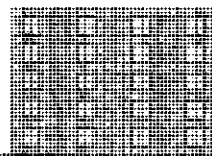
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2

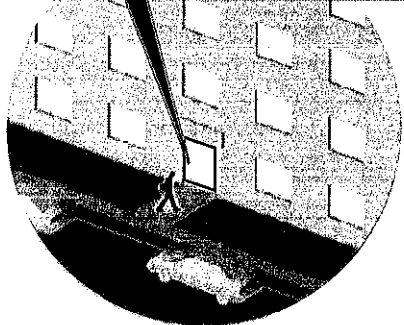


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



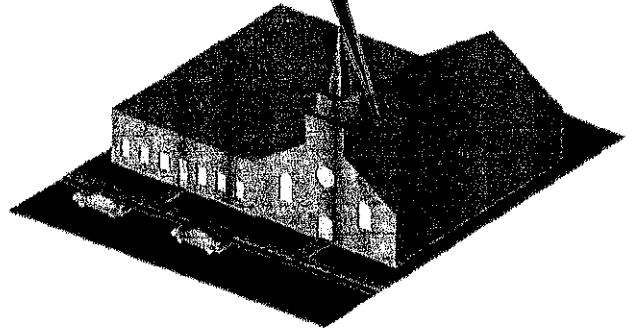
Rear primary entrances are prohibited

# Place of Worship

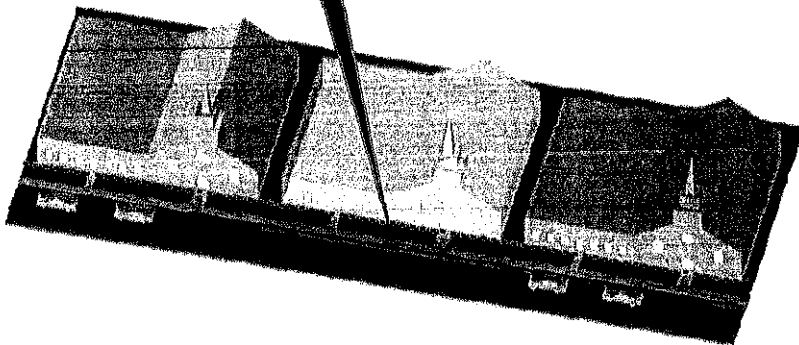
Minimum lot size for subdivision is **10,000** square feet

Minimum lot width for subdivision is **100** feet

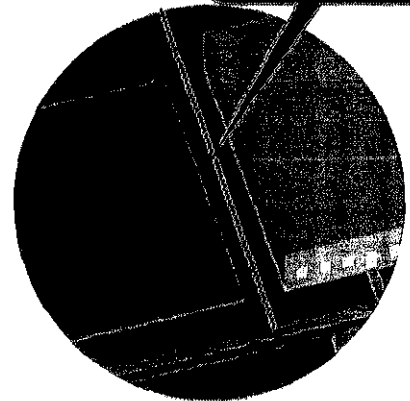
Architectural elements such as towers & cupolas may break this limit but not by greater than 30 feet.



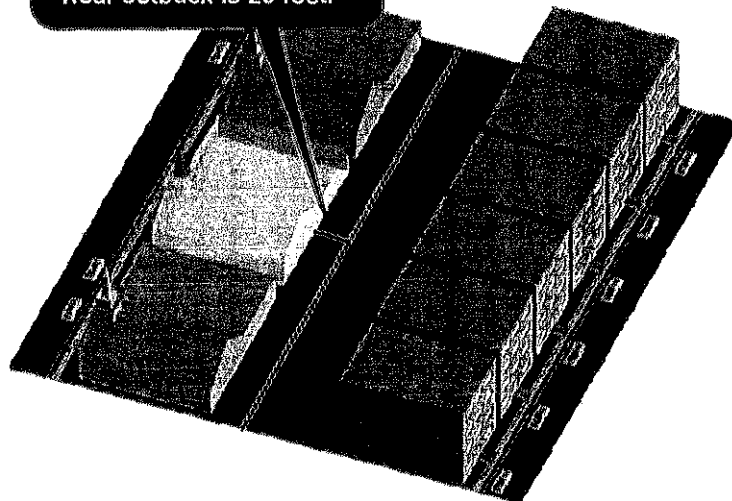
The front yard setback is 10 feet.



The side yard setback is 5 feet.



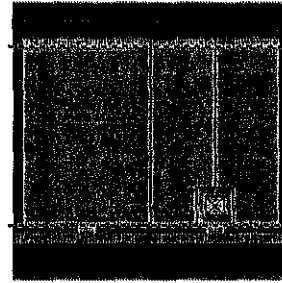
Rear setback is 20 feet.



Max Impervious Yard Area

The maximum lot coverage is **65%**

REAR YARD  $\leq 20\%$   
FRONT YARD  $\leq 55\%$

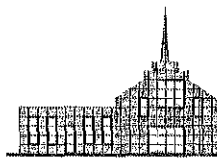


Transparency

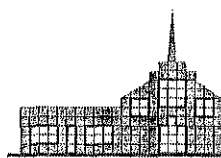
PRIMARY FRONT FAÇADE (EXCLUDING GROUND-LEVEL FAÇADE)



$\geq 50\%$



Example Front 1

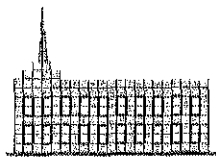


Example Front 2

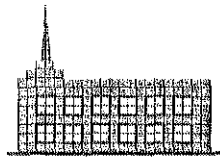
STREET-FACING SIDE AND REAR FAÇADES



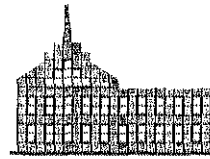
$\geq 35\%$



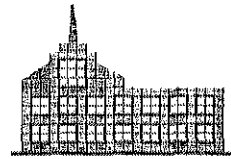
Example Street Facing Side 1



Example Street Facing Side 2

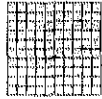


Example Street Facing Rear 1

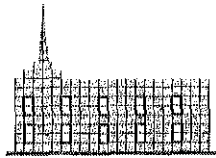


Example Street Facing Rear 2

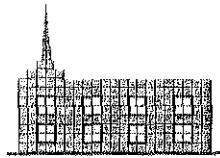
NON-STREET FACING WALLS



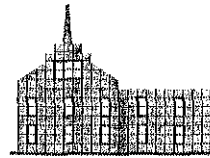
$\geq 20\%$



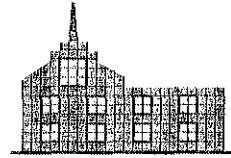
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2

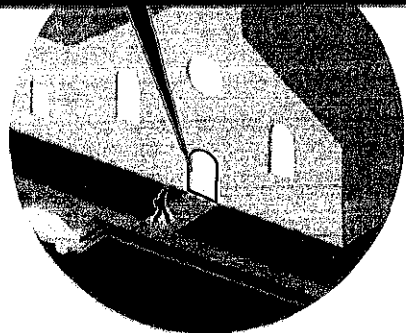


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



Rear primary entrances are prohibited



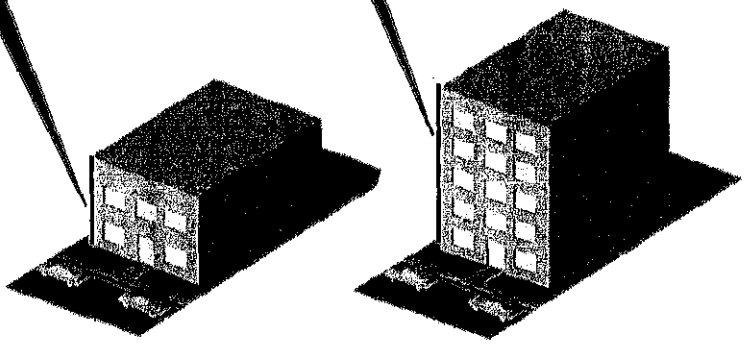
# Community Center and Stand-Alone Daycare or preschool in a non-residential area, and other civic uses

Minimum lot size for subdivision is **5,000** square feet

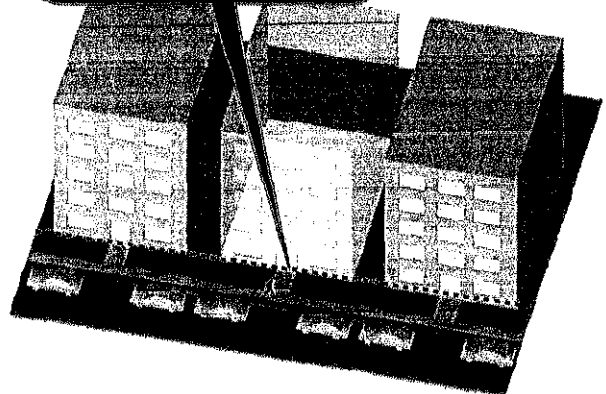
Minimum lot width for subdivision is **50** feet

Maximum building height for a School is 2 stories and 30 feet.

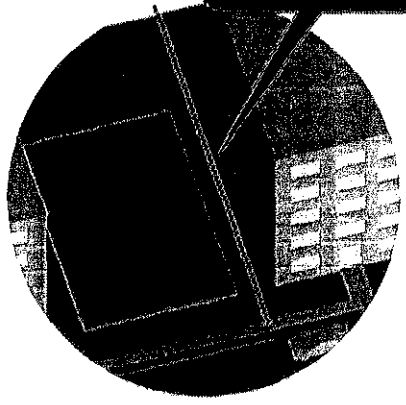
Maximum building height for a University or Hospital is 5 stories and 55 feet.



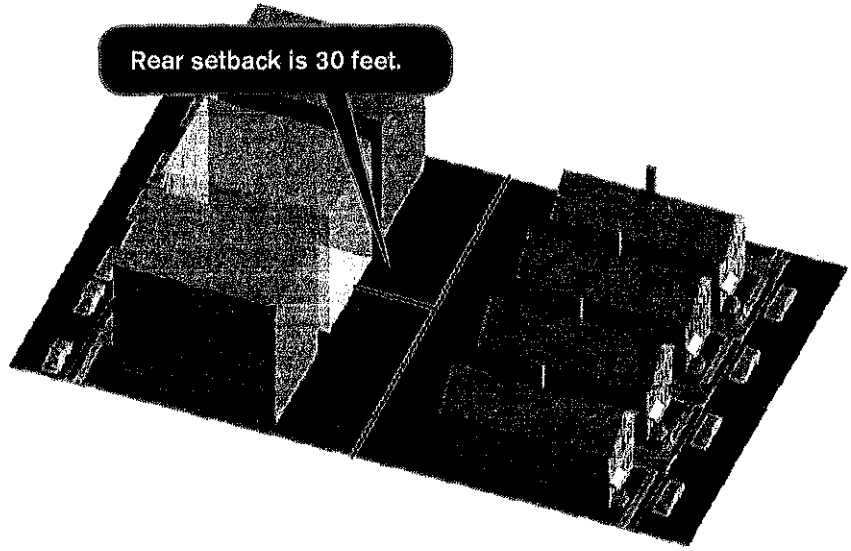
The front yard setback is 5 to 10 feet.



The side yard setback is 5 feet.



Rear setback is 30 feet.



Maximum lot coverage is  
**65%**

Max Impervious Yard Area

REAR YARD



≤ 30%

FRONT YARD



≤ 55%

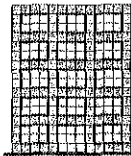


Transparency

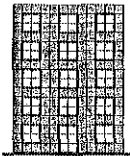
PRIMARY FRONT FAÇADE (EXCLUDING GROUND-LEVEL FAÇADE)



≥ 50%



Example Front 1

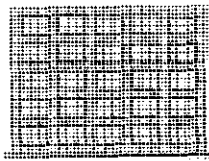


Example Front 2

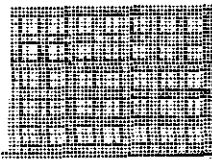
STREET-FACING SIDE AND REAR FAÇADES



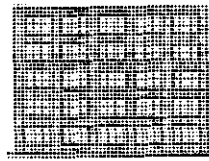
≥ 50%



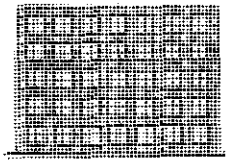
Example Street Facing Side 1



Example Street Facing Side 2



Example Street Facing Rear 1

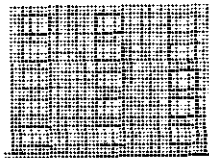


Example Street Facing Rear 2

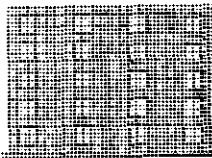
NON-STREET FACING WALLS



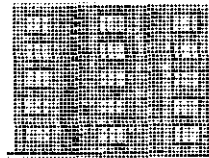
≥ 35%



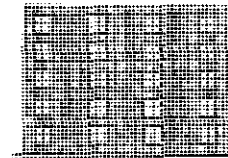
Example Non-Street Facing Side 1



Example Non-Street Facing Side 2

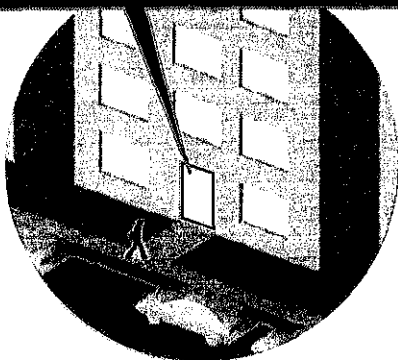


Example Non-Street Facing Rear 1



Example Non-Street Facing Rear 2

Primary street-facing façade must include primary entrance at front setback.



Rear primary entrances are prohibited

[THE FOLLOWING EXHIBIT IS SUBJECT TO INTERNAL REVIEW BY PSE&G ENVIRONMENTAL STAFF]

## **EXHIBIT B**

### **Remediation Work Limit and Environmental Standards**

**Note that nothing contained in this Exhibit B or the Settlement Agreement to which Exhibit B is a part of, shall be considered as a waiver of any rights PSE&G may have to seek reimbursement, contribution, and/or indemnification from any prior property owners, operators, occupiers, or lessees, their successors or assigns, for any sums expended or to be expended by PSE&G to investigate and remediate the Property**

#### 1. Soil Remediation Work Limit

PSE&G will undertake or cause a third-party to undertake the investigation and remediation of soil on both Lots 1 and 10 of Block 1830 in accordance with New Jersey Department of Environmental Protection ("NJDEP") Technical Requirements for Site Remediation at N.J.A.C. 7:26E et seq. ("NJDEP Technical Requirements") and relevant guidance, as required for the delivery of a soils only area of concern restricted use Response Action Outcome ("RAO") determination based on non-residential soil remediation standards. The investigation and remediation work will be done under the supervision of a Licensed Site Remediation Professional ("LSRP") and include active remediation work, in the form of soil excavation and off-site disposal of free-product contaminated soils. For soils that contain contaminants at concentrations above the NJDEP non-residential Soil Remediation Standards as the result of historic fill, these contaminants will be addressed by the use of engineering controls, such as a cap in the form of pavement and/or clean soil and the recording of a Deed Notice. PSE&G or the PSE&G Entity will maintain responsibility for the inspection and reporting requirements stipulated by the Deed Notice.

##### a. Ground Water Remediation Work Limit

A ground water classification exception area ("CEA") for groundwater contamination has already been approved by the NJDEP for Lot 10 (see the attached NJDEP CEA Approval Letter dated May 1, 2014). NJDEP approval will be sought by PSE&G for a groundwater CEA on Lot 1 to the extent allowable pursuant to the NJDEP Technical Requirements. Other than the removal of free-product contaminated soils that could be the source of ground water contamination, there will be no active remediation of ground water.

##### b. NJDEP Case Closure for Block 1830, Lot 1

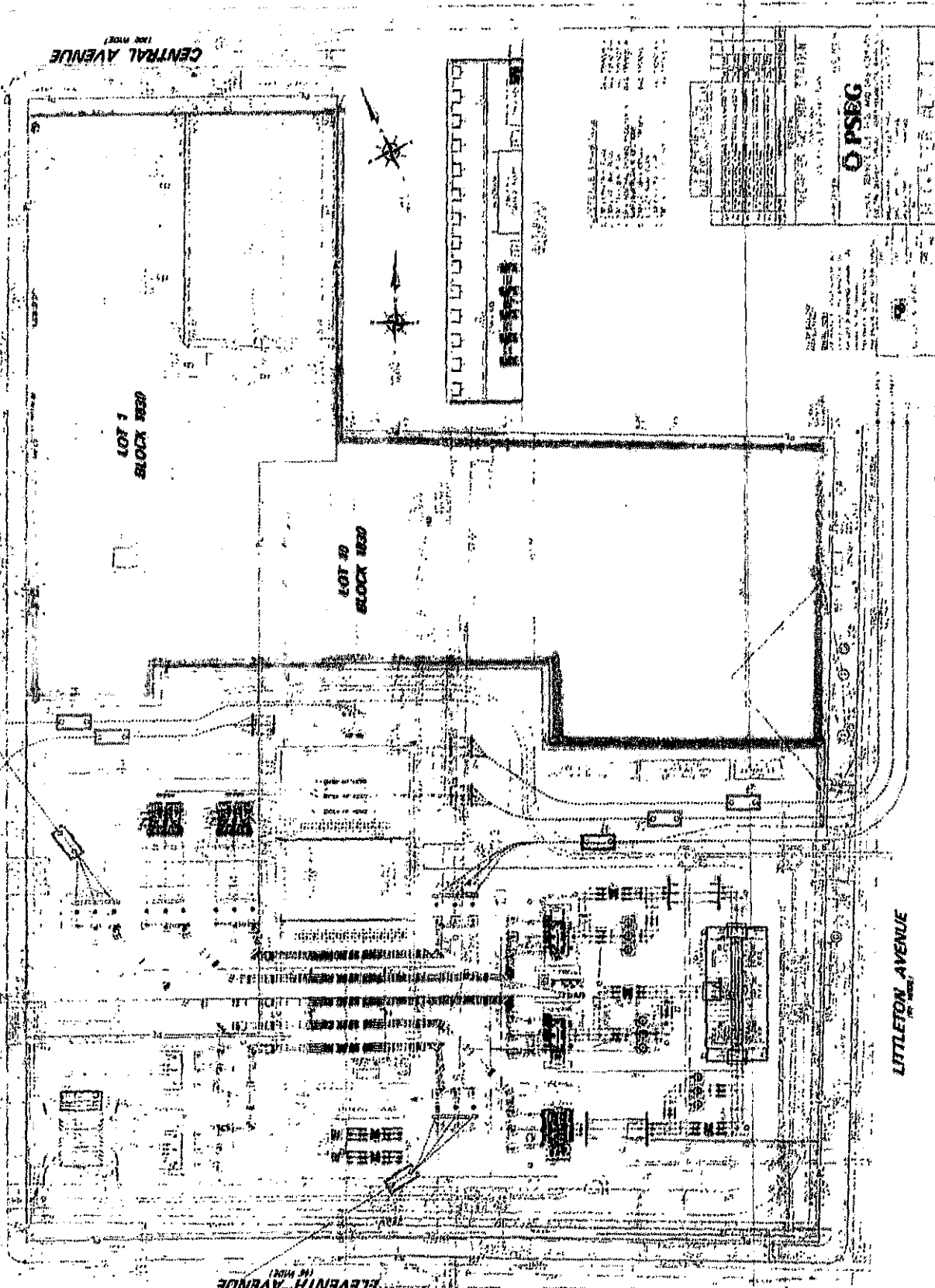
PSE&G will retain a Licensed Site Remediation Professional ("LSRP") who will supervise the environmental remediation of Lot 1 and who shall deliver to the City a restricted use, soils-only area of concern RAO based on NJDEP's non-residential soil remediation standards and all necessary and related regulatory filings with the NJDEP. The RAO may be based on the use of a Deed Notice for historic fill soils. The Deed Notice shall specifically prohibit the construction of a child care or child educational facility on the Excess Property.

**EXHIBIT C**

**Excess Property Description (To be conveyed to the City)**

EXCESS PROJEKTI I DESCRIPTION (TU NE CONVELEU I O THE CIT)

SOUTH SEVENTH STREET  
100 FEET



CENTRAL AVENUE  
100 FEET

LOT 1  
BLOCK 1820

LOT 10  
BLOCK 1820

O PSEG

LITTLETON AVENUE  
100 FEET

ELEVENTH AVENUE  
100 FEET

**EXHIBIT D**

**Facility Site Description and Re-oriented Facility**



**EXHIBIT E**

**Form of Financial Agreement**



Record and Return to:

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**FINANCIAL AGREEMENT**

**THIS FINANCIAL AGREEMENT** (hereinafter the "Agreement" or the "Financial Agreement"), is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ (the "Effective Date"), by and between [insert NAME OF URE], an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law as amended and supplemented, *N.J.S.A. 40A:20-1 et seq.* (the "Exemption Law"), with an address of [insert URE address] (together with its successors and assigns, the "Entity") and **THE CITY OF NEWARK**, a municipal corporation in the County of Essex and the State of New Jersey (the "City").

**WITNESSETH:**

**WHEREAS**, in accordance with the Exemption Law, the Entity has made application to the City (the "Application", a copy of which is attached as Exhibit A hereto) for a long term tax exemption for a redevelopment project located within the City, on real property commonly known as [insert street address], Newark, New Jersey and identified on the official tax map of the City as Block \_\_\_\_\_, Lots \_\_\_\_\_ (the "Property" or the "Land"), consisting of the construction of [insert project description], all as described more fully within the Application (collectively, the "Project"); and

**WHEREAS**, on [Ordinance approval date], the Municipal Council of the City adopted Ordinance No. [\_\_\_\_], entitled "ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH [URE NAME] AND DETERMINING CERTAIN MATTERS IN CONNECTION THEREWITH" (the "Ordinance", a copy of which is attached hereto as Exhibit B), accepting and approving the Application and authorizing the execution and delivery of this Financial Agreement,

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and for other good and valuable consideration, it is mutually covenanted and agreed as follows:

**ARTICLE I**  
**GENERAL PROVISIONS**

**SECTION 1.01      Governing Law.**

This Agreement shall be governed by the provisions of: (a) the Exemption Law, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"), and such other statutes as may be the sources of relevant authority; (b) the municipal code; and (c) the Ordinance, pursuant to which the Municipal Council approved the Application, including the Annual Service Charge (as defined herein), and authorized the execution of this Agreement (all of the foregoing collectively, "Applicable Law"). It is expressly understood and

{00235936.DOCX}

agreed that the City expressly relies upon the facts, data, and representations contained within the Entity's Application in granting this tax exemption.

**SECTION 1.02 Definitions and Construction.** (a) The recitals hereto are hereby incorporated herein as if set forth at length.

(b) Capitalized terms shall have the meanings ascribed to them in the recitals hereto or as set forth below. To the extent that a capitalized term shall be utilized but not defined in this Agreement, it shall have the meaning ascribed to such term by the Exemption Law.

Annual Service Charge – means the amount that the Entity has agreed to pay to the City in lieu of conventional taxation on the Project, as set forth in Article IV of this Agreement, comprised of Annual Service Charge A and Annual Service Charge B.

Annual Service Charge A – means that portion of the Annual Service Charge that shall be due and payable by the Entity as set forth in Section 4.02 hereof and Schedule 2 attached hereto.

Annual Service Charge B – means that portion of the Annual Service Charge that shall be due and payable by the Entity as set forth in Section 4.03 hereof and Schedule 3 attached hereto.

Annual Service Charge Start Date – means the date of Substantial Completion of the Project.

Auditor's Report – means a complete financial statement, the contents of which have been prepared in a manner consistent with generally accepted accounting principles and the Exemption Law, and that fully details all items as required by the Exemption Law, and that has been certified as to its conformance with such standards by a certified public accountant who is, or whose firm is, licensed to practice that profession in the State. For the purposes of this Agreement, the term "Auditor's Report" shall include a consolidated schedule for the Entity attached to an audited Form 10-K produced for its parent entity or other alternative audited statement relating to the Entity generated by or on behalf of the parent.

[Certificate of Occupancy – means a temporary or permanent certificate of occupancy issued by the City authorizing occupancy of the Project pursuant to *N.J.S.A. 52:27D-133.*]

County – means the County of Essex, New Jersey.

County Amount – means five percent (5%) of any Annual Service Charge received by the City, as set forth at *N.J.S.A. 40A:20-12.*

Event of Default - means a breach of or the failure of any party to this Agreement to perform any obligation imposed upon it by the terms of this Agreement beyond any applicable grace or cure periods.

Improvements – means any building, structure or fixture permanently affixed to the Land upon which the Project is located.

In Rem Tax Foreclosure – means a summary proceeding by which the City may enforce a lien for taxes due and owing by a tax sale. Said foreclosure is governed by *N.J.S.A. 54:5-1 to 54:5-129 et seq.*

Land Taxes – means the amount of taxes assessed on the value of the Land pursuant to *N.J.S.A. 54:4-1 et seq.*

Land Tax Payments – means payments made of Land Taxes.

Payment Dates – means February 1, May 1, August 1 and November 1 of each year.

Pay-to-Play Ordinance - means Ordinance 6PSF-a 050411 adopted by the Municipal Council of the City on May 4, 2011 establishing pay-to-play requirements for redevelopers.

Substantial Completion – means the determination by the City that the Project is ready for the use intended, as further set forth at *N.J.S.A. 54:4-63.1 et seq.* [The issuance of a Certificate of Occupancy for the Project shall be conclusive evidence of Substantial Completion.]

Tax Sale Law – means *N.J.S.A. 54:5-1 et seq.*

Termination – means any action or omission which by operation of the terms of this Agreement shall cause the Entity to relinquish its tax exemption.

**SECTION 1.03**      Exhibits Incorporated

All exhibits and schedules referred to in this Financial Agreement and attached hereto are incorporated herein and made part hereof:

- Schedule 1      Current Tax Map Designations and Metes and Bounds Description of the Property
- Schedule 2      Annual Service Charge A
- Schedule 3      Annual Service Charge B
  
- Exhibit A      Exemption Application
- Exhibit B      Ordinance

**SECTION 1.04**      Designation as Redeveloper

The Entity is hereby designated to act as redeveloper for the Project, in accordance with the Fairmount Urban Renewal Plan (as amended and supplemented, the “Redevelopment Plan”) and the contents of the Application, with such modification or deviation from the Application as

may be consented to by the Deputy Mayor/Director of the Department of Economic and Housing Development from time to time.

## **ARTICLE II** **APPROVAL**

### **SECTION 2.01**      **Purpose and Benefits of the Agreement and the Exemption**

In accordance with Section 11 of the Exemption Law, the City by approving the Ordinance and executing this Agreement hereby finds and determines that:

(a) the conventional real estate taxes on the Property prior to the execution of this Agreement and the implementation of the Project are [\$ \_\_\_\_\_], with only [\$ \_\_\_\_\_] of that amount accruing to the benefit of the City;

(b) the implementation of the Project will generate significant payments in lieu of taxes while, due to the nature of the Project, generating only nominal need for City services;

(c) the implementation of the Project will add critical infrastructure supporting the reliable and efficient delivery of electricity to the City, the County and the region;

(d) implementation of the Project will bring significant private investment to the City;

(e) without the exemption, the Project is not likely to be undertaken;

(f) the exemption thereby assists in the implementation of critical infrastructure, with very little demand on municipal services, strengthening core utility services to the City's residents and businesses, and encouraging the investment of significant private capital in the City; and

(g) for all of the foregoing reasons, the benefits of the exemption outweigh any costs of the exemption.

### **SECTION 2.02**      **City Approval of Tax Exemption**

The City by approval of the Ordinance has granted and does hereby grant its approval for a tax exemption for the Project to be developed and maintained in accordance with the provisions of the Exemption Law on the Property. Any and all Improvements shall be exempt from taxation as provided for herein and in the Exemption Law. In accordance with *N.J.S.A. 40A:20-12*, such tax exemption shall constitute a single continuing exemption from local property taxation for the duration of this Agreement.

### **SECTION 2.03**      **City Approval of Project**

The City by approval of the Ordinance has granted and does hereby grant its approval to the Entity for the development, financing, acquisition, construction, management and operation

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of the Project, which is hereby acknowledged to be a redevelopment project under and consistent with the Redevelopment Plan, and which shall in all respects materially comply and conform to the Redevelopment Plan and Applicable Law.

**ARTICLE III**  
**DURATION OF AGREEMENT**

**SECTION 3.01**      Term

Absent Termination of this Agreement, it is understood and agreed by the parties hereto that this Agreement shall remain in effect for [thirty (30) years] from Substantial Completion of the Project, but in no event for more than [thirty-five (35) years] from the Effective Date (collectively, the "Term"), after which time the tax exemption shall expire and the Land and Improvements shall thereafter be assessed and taxed in accordance with generally applicable principles including as set forth at *N.J.S.A. 54:4-1 et seq.*

**SECTION 3.02**      Voluntary Termination

NEITHER THE ENTITY NOR THE CITY MAY AT ANY TIME TERMINATE THIS AGREEMENT PRIOR TO THE EXPIRATION OF THE TERM. THE ENTITY FURTHER EXPRESSLY ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT IN ACCORDANCE WITH *N.J.S.A. 40A:12A-66(a)*, THE RELINQUISHMENT PROVISIONS SET FORTH IN *N.J.S.A. 40A:20-9(g)* AND *N.J.S.A. 40A:20-13*, SHALL NOT BE APPLICABLE IN ACCORDANCE WITH PURSUANT TO, AND UNDER THIS FINANCIAL AGREEMENT.

**ARTICLE IV**  
**ANNUAL SERVICE CHARGE**

**SECTION 4.01**      Annual Service Charge

The Annual Service Charge shall consist of Annual Service Charge A and Annual Service Charge B, as both terms are defined herein. Pursuant to *N.J.S.A. 40A:12A-66*, the terms of *N.J.S.A. 40A:20-12(b)(2)* requiring a minimum annual service charge and staged increases in the Annual Service Charge shall not apply during the Term of this Agreement.

Pursuant to *N.J.S.A. 40A:12A-67(h)* the City has requested, and the Entity has consented to, the City's assignment of its rights, title and interest in a portion of the Annual Service Charge ("Annual Service Charge A"), which shall be paid to the City's assignee as identified and set forth on Schedule 2 attached hereto. Pursuant to *N.J.S.A. 40A:12A-67(h)* the City has further requested, and the Entity has consented to, the City's assignment of its rights, title and interest in the remaining portion of the Annual Service Charge ("Annual Service Charge B"), which shall be paid to the City's assignee as identified and set forth on Schedule 3 attached hereto.

**SECTION 4.02**      Annual Service Charge A

Commencing on the Annual Service Charge Start Date, the Entity hereby agrees to pay to the City's assignee as set forth at Schedule 2 attached hereto Annual Service Charge A, in the annual amounts as set forth at Schedule 2, with one quarter of the annual amount in each year being due and payable on the Payment Dates in such year.

The City may, at any time during the term of this Agreement, provide written notice to the Entity in accordance with the provisions of Article X hereof, informing the Entity that the assignment of Annual Service Charge A has been terminated and that the next quarterly installment of Annual Service Charge A occurring no less than thirty (30) days after receipt of such notice, and all succeeding quarterly installments of Annual Service Charge A, shall thereafter be paid directly to the City.

**SECTION 4.03**      Annual Service Charge B

Commencing on the Annual Service Charge Start Date, the Entity hereby agrees to pay to the City's assignee as set forth at Schedule 3 attached hereto Annual Service Charge B, in the annual amounts as set forth at Schedule 3, with one quarter of the annual amount in each year being due and payable on the Payment Dates in such year.

The City may, at any time during the term of this Agreement, provide written notice to the Entity in accordance with the provisions of Article X hereof, informing the Entity that the assignment of Annual Service Charge B has been terminated and the next quarterly installment of Annual Service Charge B occurring no less than thirty (30) days after receipt of such notice, and all succeeding quarterly installments of Annual Service Charge B, shall thereafter be paid directly to the City.

**SECTION 4.04**      Intentionally Left Blank.

**SECTION 4.05**      Land Taxes, Credits and Waivers; Other Charges

(a) THE ENTITY HEREBY EXPRESSLY ACKNOWLEDGES, UNDERSTANDS AND AGREES THAT THE TAX EXEMPTION PROVIDED FOR HEREIN SHALL ONLY APPLY TO IMPROVEMENTS AND THAT LAND TAXES SHALL BE SEPARATELY ASSESSED BY THE CITY ON THE PROPERTY IN ACCORDANCE WITH APPLICABLE LAW, AND THAT IT SHALL MAKE LAND TAX PAYMENTS ON THE PAYMENT DATES.

(b) THE ENTITY HEREBY EXPRESSLY REJECTS, REFUSES, RELINQUISHES, SURRENDERS, AND OTHERWISE WAIVES ANY AND ALL CREDITS AGAINST, OR REDUCTIONS OF, THE ANNUAL SERVICE CHARGE THAT IT MAY HAVE OTHERWISE BEEN ENTITLED TO IN ACCORDANCE WITH N.J.S.A. 40A:20-12, BUT ONLY TO THE EXTENT PROVIDED IN SECTION 4.04 HEREOF.

(c) The Entity hereby expressly acknowledges, understands, and agrees that, in addition to Land Taxes and Annual Service Charge, it shall be responsible for the payment (without any credit whatsoever hereunder) of all other applicable municipal charges that may, from time to time, be lawfully assessed upon its property, including, without limitation, any and

all special benefit assessments, water and sewer charges, and other municipal charges, whether presently existing or hereinafter imposed, and that the City may enforce such assessments and charges in any manner (including, but not limited to, foreclosure or tax sale) permitted by applicable law.

**SECTION 4.06**      Material Conditions

It is expressly agreed and understood that payment of Land Taxes and Annual Service Charge and any interest payments, penalties or costs of collection due thereon, are material conditions of this Agreement ("Material Conditions"). If any other term, covenant or condition of this Financial Agreement or the Application, as to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable by virtue of a non-appealable order of a court of competent jurisdiction, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term, covenant or condition of this Financial Agreement shall be valid and enforced to the fullest extent permitted by law.

**SECTION 4.07**      Annual Service Charge as Municipal Lien

(a) The parties hereby expressly acknowledge, understand and agree that in accordance *N.J.S.A. 40A:12A-68* and other Applicable Law, upon the recordation of the Ordinance and this Agreement, the Annual Service Charge shall be a continuous, municipal lien on the Property and any subsequent Annual Service Charge, including any interest, penalties or costs of collection thereof, that shall thereafter become due or accrue, shall be added and relate back to and be part of the initial municipal lien.

(b) The Entity hereby expressly acknowledges, understands and agrees, and the City acknowledges, without making any representation, warranty or covenant, that (i) the Annual Service Charge shall constitute an automatic, enforceable and perfected statutory municipal lien for all purposes, including specifically and without limitation, the Federal bankruptcy code, and (ii) any applicable process, procedure or action of any court, government body or other relevant authority, including without limitation any confirmation hearing, to determine the amount of the Annual Service Charge due shall not affect the commencement or validity of the municipal lien.

**SECTION 4.08**      Consent to Annual Service Charge

The Entity hereby acknowledges, consents and agrees (i) to the amount of the Annual Service Charge and to the liens established in this Agreement, (ii) that it shall not contest the validity or amount of any such lien, and (iii) that its remedies shall be limited to those specifically set forth herein and otherwise provided by law.

**SECTION 4.09**      Tax Exemption and Annual Service Charge

(a) The City hereby expressly covenants, warrants, represents and otherwise agrees that the tax exemption granted and provided herein shall continue in accordance with the terms hereof notwithstanding any permissive provision of the Exemption Law.

(b) The City hereby expressly covenants, warrants, represents and otherwise agrees that the Annual Service Charge shall be calculated in accordance with the terms hereof, and shall not otherwise be increased for any reason, regardless of any permissive provision of the Exemption Law.

**SECTION 4.10**      County Amount

In accordance with *N.J.S.A.* 40A:20-12, with respect to any Annual Service Charge received directly by the City, the City shall remit the County Amount promptly to the County. With respect to any Annual Service Charge received by the City's assignee, the City shall direct its assignee to remit the County Amount promptly to the County.

**[ARTICLE V  
PROJECT ISSUES**

**SECTION 5.01**      Removal of Certain Liens

The Entity shall promptly pay and satisfy any and all valid mechanic's liens, materialmen's liens or other liens which could create liens on any portion of the Property which would, or could, be superior or equal in priority to the lien or security of title of this Financial Agreement.]

**[ARTICLE VI  
CERTIFICATE OF OCCUPANCY**

**SECTION 6.01**      Certificate of Occupancy

It is understood and agreed that the Entity shall make application for and make all good faith efforts which are reasonable to obtain Certificate(s) of Occupancy in a timely manner for the Project.]

**ARTICLE VII  
ANNUAL AUDITS**

**SECTION 7.01**      Accounting System

The Entity hereby expressly covenants and agrees to maintain a system of accounting and internal controls established and administered in accordance with GAAP consistently applied, and as otherwise prescribed in the Exemption Law, during the term of this Agreement.

**SECTION 7.02**      Periodic Reports

In accordance with the Exemption Law, specifically *N.J.S.A.* 40A:20-9(d), the Entity shall submit, on an annual basis and within ninety (90) days after the close of the Entity's fiscal year, its Auditor's Report certified by an independent certified public accountant for the preceding fiscal year to the Mayor, the Municipal Council and the City Clerk, who shall advise

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those municipal officials required to be advised, and to the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs. The provision of a consolidated schedule for the Entity attached to an audited Form 10-K produced for its parent entity or other alternative audited statement relating to the Entity generated by or on behalf of its parent shall constitute compliance with this Section.

**SECTION 7.03**      Inspection

In accordance with the Exemption Law, specifically *N.J.S.A. 40A:20-9(e)*, upon the request of the City or the State, the Entity shall permit the inspection of the Property, including any Improvements related thereto, by the requesting party or its agents. It also shall permit, upon request of the City or the State, reasonable examination and audit of its books, contracts, records, documents and papers by representatives duly authorized by the City or the State. Such inspection, examination or audit shall be made during the hours of the business day, in the presence of any officer or agent of the Entity. To the extent reasonably possible, the inspection will not materially interfere with the construction or operation of the Project.

**SECTION 7.04**      Payment of Dividends and Profits

In accordance with the Exemption Law, specifically *N.J.S.A. 40A:20-9(a)* and 15, during the period of tax exemption as provided herein, the Entity (as a limited dividend entity) shall not make any distribution of profits, or pay or declare any dividend or other distribution on any shares of any class of its stock, unless, after giving effect thereto, the cumulative allowable Net Profit preceding the date of the proposed dividend or distribution would otherwise equal or exceed the amount of all dividends and other distributions paid or declared on any shares of its stock since its incorporation or establishment.

**SECTION 7.05**      Limitation on Profits and Reserves

In accordance with the Tax Exemption Law, specifically *N.J.S.A. 40A:20-9(a)* and 15, the Entity (as a limited dividend entity), shall, within one hundred and twenty (120) days of the close of its fiscal year, or in accordance with *N.J.S.A. 40A:20-13* upon termination of this Financial Agreement, within ninety (90) days of the close of its fiscal year, pay any Excess Net Profit to the City.

**SECTION 7.06**      Gross Revenue

The City hereby expressly acknowledges and agrees that in accordance with the Tax Exemption Law, specifically *N.J.S.A. 40A:20-3(a)*, any gain realized by the Entity on the sale of all or a portion of the Property, in fee simple or otherwise, shall not constitute Gross Revenue, regardless whether any such gain shall be taxable under Federal or State law.

**ARTICLE VIII**  
**SALE AND/OR TRANSFER OF PROPERTY**

**SECTION 8.01**      Approval

(a) The Entity may sell, transfer, lease, or otherwise convey all or a portion of the Property, including any Improvements related thereto, provided that (for as long as this Agreement is in effect) such sale, transfer, lease, or other conveyance is to an Urban Renewal Entity and is in compliance with the Exemption Law. A Declaration of Restriction on Transfer to such effect will be recorded against the Property in office of the Essex County Register simultaneously with the recordation of this Financial Agreement. Any purported sale, transfer, conveyance or lease of the Property, including any Improvement related thereto, in violation of this Section 8.01(a) shall be void *ab initio*. Subject to the satisfaction of the conditions set forth above, the City hereby expressly consents to (i) any sale, transfer, conveyance or lease of the Property, including any Improvements related thereto, and (ii) the continuation of the tax exemption of the Improvements as provided for herein.

(b) In accordance with the Exemption Law, specifically *N.J.S.A. 40A:20-6* and *N.J.S.A. 40A:20-15*, in the event of any sale or other transfer of fee title ownership, in accordance with subsection (a) above, by the Entity (as a limited dividend entity), such Entity shall no longer be subject to, bound by, or otherwise governed by this Agreement, provided however, that within ninety (90) days after the date of the end of the Entity's fiscal year in which such sale or other transfer of fee title occurred, such Entity shall pay to the City any reserves it was authorized to maintain, if any, and any and all Excess Net Profits, if any, all in accordance with Section 7.05 hereof.

(c) THE CITY AND THE ENTITY HEREBY EXPRESSLY ACKNOWLEDGE, UNDERSTAND AND AGREE THAT UPON THE CONVEYANCE, WHETHER BY SALE, GRANT, AWARD, GIFT, TRANSFER OR OTHERWISE, OF FEE TITLE TO THE PROPERTY, INCLUDING ANY IMPROVEMENTS RELATED THERETO, WHETHER IN ACCORDANCE WITH AND PURSUANT TO THE TERMS HEREOF, THE TAX SALE LAW, OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY STATE INSOLVENCY LAW, THE CONSTRUCTION LIEN LAW (*N.J.S.A. 2A:44A-1 ET SEQ.*) OR ANY LAW OF SIMILAR EFFECT, OR THE FEDERAL BANKRUPTCY CODE, THE PROPERTY, INCLUDING ANY IMPROVEMENTS RELATED THERETO, AND THE RELEVANT ENTITY, SHALL CONTINUE TO BE SUBJECT TO, GOVERNED AND BOUND BY THE TERMS OF THIS FINANCIAL AGREEMENT. ANY ACCEPTANCE OR CLAIM OF TITLE OR OWNERSHIP OF THE PROPERTY, INCLUDING ANY IMPROVEMENTS RELATED THERETO, SHALL CONSTITUTE AN ACKNOWLEDGEMENT AND ASSUMPTION, FOR ALL PURPOSES OF LAW, BY SUCH PERSON OR ENTITY ACCEPTING OR CLAIMING TITLE OR OWNERSHIP, THAT IT, INCLUDING ITS SUCCESSORS IN INTEREST IN THE PROPERTY, AND THE PROPERTY, INCLUDING ANY IMPROVEMENTS RELATED THERETO, SHALL BE SUBJECT TO, GOVERNED AND BOUND BY THIS FINANCIAL AGREEMENT.

A Declaration of Restriction on Transfer to such effect will be recorded against the Property in office of the Essex County Register simultaneously with the recordation of this Financial Agreement on or after the Effective Date.

**SECTION 8.02**      Operation of Project

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The Property, including any Improvements related thereto, shall be operated in accordance with all applicable laws.

**SECTION 8.03      Subordination of Fee Title**

It is expressly acknowledged, understood and agreed that the Entity has the right, subordinate to the lien of the Annual Service Charge and to the rights of the City, to encumber the fee title to the Property, including any Improvements related thereto, and that any such subordinate encumbrance shall not be deemed to be a violation of this Agreement. This section shall not prohibit the encumbrance of a mortgage lien on the Property, it being expressly understood that a mortgage lien takes subject to the municipal lien created by the Annual Service Charge under the Exemption Law.

**ARTICLE IX  
WAIVER**

**SECTION 9.01      Waiver**

Nothing contained in this Financial Agreement or otherwise shall constitute a waiver or relinquishment by the City or the Entity, as applicable, of any rights and remedies provided by law, except as may expressly be set forth herein. Nothing herein shall be deemed to limit any right of recovery that the City or the Entity, as applicable, has under law, in equity, or under any provision of this Financial Agreement.

**ARTICLE X  
NOTICE**

**SECTION 10.01      Notice**

A notice required hereunder by any party to another party, or to all other parties, shall be sufficiently given or delivered if dispatched by United States certified or registered mail, postage prepaid and return receipt requested, or hand delivered (and receipt acknowledged), or delivered by a reputable overnight delivery service for next business day delivery, to another party, or all other parties simultaneously, at their respective addresses, as follows, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the other(s) as provided by this Article X:

(a) When sent to the Entity, it shall be addressed as follows:

[Address]  
Attn: [            ]

With copies to:

[Address]  
Attn: [            ]

And:

[Address]

Attn: [ ]

(b) When sent to the City, it shall be addressed to the City Clerk, City of Newark, City Hall, 920 Broad Street, Newark, New Jersey 07102, with copies sent to the City Attorney, Tax Collector, Tax Assessor, and the Chief Financial Officer. The notice to the City shall identify the subject, as well as the street address or block and lot number of the Property.

(c) Rejection or refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. Any party shall have the right from time to time and any time upon at least ten (10) days' written notice thereof, to change its respective address, and each shall have the right to specify as its address any other addresses within the United States of America.

## **ARTICLE XI** **COMPLIANCE**

### **SECTION 11.01**      **Statutes and Ordinances**

The Entity hereby expressly agrees at all times prior to the expiration or other termination of this Financial Agreement to remain bound by applicable provisions of Federal and State law, including Applicable Law. The Entity's failure to comply with any such statutes, ordinances or resolutions shall constitute a violation and breach of this Financial Agreement.

## **ARTICLE XII** **CONSTRUCTION**

### **SECTION 12.01**      **Construction**

This Financial Agreement shall be construed and enforced in accordance with the laws of the State, and without regard to or aid or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Entity and the City have combined in their review and approval of same.

## **ARTICLE XIII** **INDEMNIFICATION**

### **SECTION 13.01**      **Indemnification**

(a) It is understood and agreed that, in the event that the City shall be named as a defendant in any action brought against the Entity by reason of any breach, default or violation of the provisions of this Agreement or the Exemption Law by the Entity, the Entity shall indemnify and hold the City harmless, and the Entity agrees to defend the suit at its own expense.

(b) Notwithstanding the foregoing subsection (a), the Entity shall not be so obligated to provide any such indemnity, to the extent that such action is brought as a result of the gross

negligence or willful misconduct of the City or any of its officers, elected officials, employees or agents, although in either such case, should the Entity be a named party to any such action, the Entity shall defend itself in such suit at its sole cost and expense.

## **ARTICLE XIV** **DEFAULT**

### **SECTION 14.01**     Default

A default hereunder shall be deemed to have occurred if the Entity fails to conform to the terms of this Agreement or fails to perform any obligation imposed upon the Entity by applicable statute, ordinance or lawful regulation.

### **SECTION 14.02**     Cure Upon Default

Should the Entity be in default of any obligation under this Agreement, the City shall notify the Entity in writing of said default. Said notice shall set forth with particularity the basis of said default. Except as otherwise limited by law, the Entity shall have ninety (90) days to cure any default (other than a default in payment of any installment of the Annual Service Charge in which case the Entity shall have twenty (20) days to cure such payment default). In the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced, within the time periods set forth herein, the Entity shall have such additional time as reasonably necessary to remedy or cure such default provided that the Entity shall at all times be acting with diligence, and in good faith, to remedy or cure such default as soon as practicable.

### **SECTION 14.03**     Remedies

Where an Event of Default has occurred and is continuing with respect to the nonpayment by the Entity of the Annual Service Charge and/or the Land Taxes, in accordance with the Exemption Law and Applicable Law, the City shall have the right to proceed with an In Rem Foreclosure action consistent with the terms of the Tax Sale Law and this Agreement. Whenever the word taxes appears or is applied directly or impliedly to mean taxes or municipal liens on land such statutory term shall be read, as far as pertinent to this Agreement, as if the Annual Service Charge constitutes taxes or municipal liens on land. In such event, however, the Entity does not waive any defense it may have to contest the right of the City to proceed in the above-referenced matter.

No default hereunder by the Entity shall terminate the tax exemption described herein and the Entity's obligation to make payment of the Annual Service Charge shall continue in effect for the duration set forth in this Financial Agreement.

### **SECTION 14.04**     Arbitration

In accordance with the Exemption Law, in the event of a breach of this Agreement (other than a payment default) or a dispute arising between the parties in reference to the terms and provisions as set forth herein, either party shall submit the dispute to the American Arbitration

Association in New Jersey to be resolved in accordance with its rules and regulations in such a fashion as to accomplish the purposes of the Exemption Law. The cost of arbitration shall be borne equally by the parties.

**[ARTICLE XV  
ADDITIONAL COVENANTS**

**SECTION 15.01. First Source Hiring**

(a) The Entity, or any operator or management company, as applicable, shall include a provision in any and all agreements with companies engaged or working at the Facility including any transferee, assigns security personnel ("Contractors") that may be entered into by the Owner, operator or management company, as applicable, that:

"If the Contractor intends to hire a new or replacement employee for either part time or full time employment, the Contractor shall make documented good faith efforts to hire Newark residents, with a first preference for individuals residing in the West Ward, to fill these jobs as specified below. The City, through its employment One Stop Center NewarkWorks, and/or through a nonprofit community organization located in or around the Project area and authorized by the City to serve as a Job Referral Center, shall be available to assist in providing qualified candidates for this 'first source' interviewing and hiring. The good faith efforts shall include, but not be limited to, the following:

(1) Provide written notification to NewarkWorks (at 990 Broad Street, Newark, NJ) and/or to any designated Job Referral Centers of any new full or part-time job opportunities at least two business days (five (5) business days for initial hiring at commencement of business operations at inception of agreement term) prior to the commencement of the interviewing process. Such notification shall include, but not be limited to, the number of positions available, projected start date, estimated level of compensation, the skills and experience required for successful applicants, and the anticipated term of employment; and

(2) Hold a First-Source Interview window of at least two business days (five (5) business days for initial hiring at commencement of business operations at inception of agreement term) during which only candidates referred by Newark Works and/or a designated Job Referral Center shall be interviewed. These First Source interviews shall take place prior to interviewing candidates from the general public. The Contractor shall maintain records of this 'first source' notification, interviewing and hiring activity for review by the City upon the City's written request. Failure of the Contractor to comply with this 'first source' requirement shall be considered by the lessor to be a material breach of the agreement and shall entitle the lessor to exercise any and all remedies provided for in the agreement for a material breach, including eviction."

(b) The Entity agrees to enforce the agreement provisions set forth within Paragraph 15.01(a) above to ensure compliance by all Contractors. The Entity also agrees to include the terms of this Paragraph 15.01 within any contract for the sale, transfer or assignment

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during the term of this Financial Agreement of the Property to any other person or entity and to explicitly provide within such contract that these terms shall survive the closing and that the City shall be a third party beneficiary as to the enforcement of these terms. The Entity also agrees to abide by all of the provisions set forth within Paragraph 15.01(a).

(c) In addition to any other remedy provided under this Agreement and any other remedy provided by law, the parties hereby agree that the provisions of this Section 15.01 may be enforced by the City through specific performance.

**SECTION 15.02. Local/Minority/Women Participation in Construction**

(a) The Entity agrees that it shall be subject to the terms and conditions of the City Affirmative Action Plan for Construction and to the City's Revised Ordinance 2:2-28 et seq., as amended and supplemented, concerning affirmative action requirements to the extent they are consistent or otherwise do not conflict with this Agreement.

(b) Agreement as to Newark Resident Participation in Construction.

If necessary, the Entity will seek to enter into a Project Labor Agreement or other binding agreement with the Essex County Building Trades that contains provisions that provide for Newark resident participation in the construction of this Project. Prior to entering into any such agreement, the Entity shall submit a copy to the Deputy Mayor/Director of the Department of Economic and Housing Development for his review and approval, in his sole and absolute discretion. The Deputy Mayor/Director of the Department of Economic and Housing Development shall not approve any such agreement unless it contains language substantially as follows (capitalized terms shall have the respective meanings ascribed thereto in such agreement):

**"APPRENTICESHIP UTILIZATION AND LOCAL/MINORITY HIRING GOALS**

Apprenticeship Utilization. The Contractor shall make good faith efforts to ensure that at least 20% of the work hours on the Project shall be performed by Apprentices enrolled in a local Federally registered apprenticeship program. The Contractor shall make good faith efforts to provide that 50% of those Apprentices shall be Newark residents, with a first preference for West Ward residents. The Contractor may fulfill the good faith efforts requirements through the following activities:

- (a) Sign this agreement and obtain Letters of Assent from each contractor/sub-contractor.
- (b) Convene pre-bid and pre-construction meetings to educate construction manager and subcontractors about the Apprenticeship Utilization Goals.
- (c) Cooperate with City Representative. The Contractor shall cooperate with City Representative designated by the City to ensure compliance with this Section. The City Representative shall provide services in support of the Contractor's Apprentice Hiring Goals. Among other things, the City Representative will:

- (1) establish a point of contact to provide information about available job opportunities;
  - (2) develop and maintain an up-to-date list of qualified Local Residents by trade and confirm Local Residency;
  - (3) facilitate relationships among approved apprenticeship programs and Contractors to enable prompt referrals;
  - (4) assist Contractors with reporting by working with Contractors and the City where appropriate.
- (d) Regularly contact and document contacting of City Representative, and provide certified payroll and other records on a regular basis to the City Representative.
  - (e) Use and document use of City-approved Craft Request Forms sent to both unions and City Representative. Craft Request Form means a document through which Contractors shall request workers from Unions.
  - (f) Request apprentices that are Newark residents from union hiring halls.
  - (g) Document reasons for not hiring referred candidates from target populations, if applicable.
  - (h) Allow City Representative prompt and willing access to documentation of all of the above activities and to the work site if requested.

Local/Minority Hiring. The Contractor shall make its good faith effort to ensure that at least 30% of all project work hours shall be performed by Newark residents, with a preference for West Ward residents and at least 30% of all project work hours shall be performed by minorities and/or women. The Contractor may fulfill the good faith effort requirements through the following activities:

- (a) Sign this agreement and obtain Letters of Assent from each contractor/sub-contractor.
- (b) Convene pre-bid and pre-construction meetings to educate construction manager and subcontractors about the Local/Minority Hiring Goals.
- (c) Cooperate with City Representative. The Contractor shall cooperate with a City Representative designated by the City. The City Representative shall provide services in support of the Contractor's Local/Minority Hiring Goals. Among other things, the City Representative will:
  - (1) establish a point of contact to provide information about available job opportunities;
  - (2) develop and maintain an up-to-date list of qualified Local Residents by trade, and confirm Local Residency;



- (3) assist Contractors with reporting by working with Contractors and the City where appropriate.
- (d) Regularly contact and document contacting of City Representative, and provide certified payroll and other records on a regular basis to the City Representative.
- (e) Use and document use of City-approved Craft Request Forms sent to both unions and City Representative. Craft Request Form means a document through which Contractors shall request workers from Unions.
- (f) Request local and minority hires from union hiring halls.
- (g) Document reasons for not hiring referred candidates from target populations, if applicable.
- (h) Allow City Representative prompt and willing access to documentation of all of the above activities and to the work site if requested.

#### **UNION REFERRALS**

The Entity anticipates that one or more of the following unions may provide work with respect to the Project: Laborers International Union of North America, International Union of Operating Engineers, International Brotherhood of Electrical Workers and International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers (collectively, the "Unions"). The Entity agrees to require that the Contractors request that the Unions refer any and all Newark residents who are already in the union or an apprenticeship program to contractors who request them, even if those Newark residents were not in line for referral under the normal hiring hall procedures."

#### **SECTION 15.03. Entity's Representative**

As evidence of the Entity's best efforts to satisfy the obligations set forth in Sections 15.01 and 15.02 hereof, the Entity has retained the services of [ ] to interface on behalf of the Entity with all Contractors providing contractual services with respect to the construction of the Project.

#### **SECTION 15.04. Waste and Refuse Disposal**

(a) The Entity hereby expressly agrees that it shall comply with the City Mandatory Recycling Ordinance 6S&FA 120689 to ensure that used corrugated cardboard, glass bottles and jars, food and beverage cans, newspapers and magazines and other recyclables deemed mandatory by the City are separated from waste and refuse emanating from its respective Property for the purpose of recycling.

(b) The Entity hereby expressly agrees that it shall be responsible to cause all solid waste, refuse and recyclable materials generated by the Property to be collected and disposed of at the sole expense of the Entity. Such collection and disposal shall be performed by a collector, hauler or scavenger licensed for such activities by the State. The Director of the Department of Engineering of the City may establish regulations for the collection, storage, disposal and recycling of solid waste, refuse and recyclable materials, with which the Owner hereby expressly agrees to comply.

**SECTION 15.05**      Commencement of Construction

The Entity shall commence the construction of the Project by no later than \_\_\_\_, 2014. For purposes of this section, construction shall be deemed to have commenced on the date that the construction force and machinery is mobilized for construction of the Project in accordance with the Redevelopment Plan and governmental approvals.

**SECTION 15.06**      Modification of City Policies

The parties hereby agree that if on or after the date of approval of this Agreement, the City shall adopt revisions to the policies set forth in this Article XV, which modifications shall reduce or remove the duties imposed on the Entity pursuant to this Article, then the policies as thereafter adopted shall govern and the more restrictive provisions of this Article shall cease to be in force and effect.]

**ARTICLE XVI**  
**MISCELLANEOUS**

**SECTION 16.01**      Conflict

The parties agree that in the event of a conflict between the Application and this Financial Agreement, the language in this Financial Agreement shall govern and prevail.

**SECTION 16.02**      Oral Representations

There have been no oral representations made by any of the parties hereto which are not contained in this Financial Agreement. This Financial Agreement, together with the Ordinance and the Application, constitute the entire agreement between the parties and there shall be no modifications thereto other than by a written instrument executed by the parties hereto and delivered to each of them.

**SECTION 16.03**      Municipal Services

The Entity shall make payments for municipal services, including water and sewer charges, to the extent that such water and sewer charges are not otherwise included in the real property taxes generally assessed upon property within the City, and any other services that create a lien on a parity with or superior to the lien for the Land Taxes and Annual Service Charge, as required by law. Nothing herein is intended to release the Entity from its obligation to

make such payments. The obligation to make payment of the Annual Service Charge herein shall entitle the Entity, the Property, and any Improvements related thereto, to the benefit of all of the municipal services that any other commercial property within the City that is subject to generally applicable real property taxes generally enjoys.

**SECTION 16.04**      Compliance with *N.J.S.A.* 40A:20-9

The information required by the final paragraph of *N.J.S.A.* 40A:20-9 is set forth in the Application.

**SECTION 16.05**      Filing with Local Government Services

In accordance with *N.J.S.A.* 40A:20-12, upon execution of this Agreement, the City shall cause this Agreement and the Ordinance to be filed with the Director of the Division of Local Government Services in the Department of Community Affairs.

**SECTION 16.06**      Recording

This entire Agreement and the Ordinance, together with the Declaration(s) of Restriction on Transfer referenced in Section 8.01 hereof, shall be filed and recorded with the Essex County Register by the City, at the Entity's expense.

**SECTION 16.07**      Delivery to Tax Assessor

Upon the Effective Date, the Clerk of the City shall deliver to the Tax Assessor a certified copy of the Ordinance along with an executed copy of this Financial Agreement. Such delivery by the City Clerk to the Tax Assessor shall constitute the certification as required in accordance with the Exemption Law, specifically *N.J.S.A.* 40A:20-12. Upon such delivery, the Tax Assessor shall implement the tax exemption granted and provided herein and shall continue to enforce the tax exemption, without further certification by the City Clerk, until the expiration of the tax exemption in accordance with the terms hereof.

**SECTION 16.08**      Amendments

This Agreement may not be amended, changed, modified, altered or terminated, other than as may be set forth herein, without the written consent of the parties hereto.

**SECTION 16.09**      Good Faith

In their dealings with each other, the parties agree that they shall act in good faith.

**SECTION 16.10**      Entire Document

All conditions in the Ordinance and the Exemption Application are incorporated in this Agreement and made a part hereof.

**SECTION 16.11**    Counterparts

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

DRAFT

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed as of the day and year first above written.

[SEAL]  
ATTEST:

\_\_\_\_\_

By: \_\_\_\_\_

APPROVED AS TO LEGALITY  
AND FORM:

**THE CITY OF NEWARK**

\_\_\_\_\_

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

By: \_\_\_\_\_



**SCHEDULE 1**

**CURRENT TAX MAP DESIGNATIONS AND  
METES AND BOUNDS DESCRIPTIONS OF THE PROPERTY**

**DRAFT**

**SCHEDULE 2**

**ANNUAL SERVICE CHARGE A**

**Payment Instructions:**

[Name of Institution]

[Wiring Instructions or Mailing Address]

**Schedule of Payments:**

Year	Annual Amount	Quarterly Amount	Year	Annual Amount	Quarterly Amount
1			16		
2			17		
3			18		
4			19		
5			20		
6			21		
7			22		
8			23		
9			24		
10			25		
11			26		
12			27		
13			28		
14			29		
15			30		



**SCHEDULE 3**

**ANNUAL SERVICE CHARGE B**

**Payment Instructions:**

[Name of Institution]

[Wiring Instructions or Mailing Address]

**Schedule of Payments:**

<b>Year</b>	<b>Annual Amount</b>	<b>Quarterly Amount</b>	<b>Year</b>	<b>Annual Amount</b>	<b>Quarterly Amount</b>
1			16		
2			17		
3			18		
4			19		
5			20		
6			21		
7			22		
8			23		
9			24		
10			25		
11			26		
12			27		
13			28		
14			29		
15			30		

**EXHIBIT A**

**EXEMPTION APPLICATION**

**DRAFT**

**EXHIBIT B**  
**ORDINANCE**

DRAFT

**EXHIBIT F**

**PILOT Payments**

**Cost of Improvements****\$ 37,970,548 \***

Escalation	3.75%
RAB Monetization at 5% Interest	\$24,339,398
RAB Monetization at 5% Interest (70% of available payments)	\$17,037,578
RAB Monetization at 5% Interest (45% of available payments)	\$10,952,729

11/01/2017											
11/01/2018											
11/01/2019											
11/01/2020											
11/01/2021											
11/01/2022											
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11/01/2046											
5,332,529	2,052,382	3,437,741	10,822,653	59,788,700	3,716,387	63,505,087	65,121,229	5,768,769	3,437,741	74,327,739	

\* The payment in lieu of tax schedule set forth herein is based upon total project costs of \$37,970,548 including the cost of an architectural screening wall in the amount of \$15,300,000. As set forth in Article I. A.(iv.) and Article I. A.(xii.) of the Settlement Agreement, PSE&G has agreed to fund, respectively the cost of the stormwater retention measure up to \$300,000 and the cost of the wall up to \$20,000,000. In the event that the assessed value of all taxable improvements at the date of completion of the Modified Facility, including the Stormwater Management Measure and the architectural screening wall, shall exceed \$37,970,548, then the payment in lieu of tax set forth herein shall be upwardly adjusted to reflect the assessed value of all of the improvements. The City agrees that in its efforts to monetize the PILOTs prior to the date of completion of the Facility, the payments that will be the subject of that monetization in the RAB financing will be the payments set forth in this schedule as of the date of execution of the Settlement Agreement.

## EXHIBIT G

- (1) Normal working hours are expected to be Monday through Friday, 6am to 6pm.
- (2) Notwithstanding the above, PSE&G must maintain a measure of flexibility with working days/hours subject to City regulations. This flexibility is particularly necessary during systems outages required when Company crews may be required to work in shifts around the clock depending on the system exigency. While not contemplated at this time, additional work hours also may be necessary to maintain the construction schedule. In such cases referred to above, PSE&G will request relief from City regulations at the start of construction activities.
- (3) PSE&G agrees that upon required changes to the work hours set forth in paragraph (1) above or in the case of extraordinary construction events, it will notify the following:
  - a. The office of the West Ward Councilman;
  - b. The President of the Fairmount Heights Neighborhood Association; and
  - c. The President of the Georgia King Village Tenants Association.



*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION SETTLEMENT**

**I/M/O PETITION OF PUBLIC SERVICE  
ELECTRIC AND GAS COMPANY  
PURSUANT TO N.J.S.A. 40:55D-19 FROM  
A DECISION OF THE CITY OF NEWARK  
ZONING BOARD OF ADJUSTMENT DENYING  
AN APPLICATION FOR PRELIMINARY AND  
FINAL SITE PLAN APPROVAL AND VARIANCES  
NECESSARY FOR THE CONSTRUCTION OF A  
260/26/13kV SWITCHING STATION  
(McCARTER SWITCHING STATION).**

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OAL DKT. NO. PUC 04056-14  
AGENCY DKT. NO. EO14020185

**David K. Richter**, Assistant General Regulatory Counsel, for petitioner Public Service Electric & Gas Company (PSEG Services Corporation, attorneys)

**Kathleen Barnett Einhorn, Esq., and Kenneth J. Sheehan, Esq.**, for petitioner Public Service Electric & Gas Company (Genova, Burns, Giantomasi & Webster, attorneys)

**Alex Moreau and David Wand**, Deputy Attorneys General, for respondent Board of Public Utilities (John J. Hoffman, Acting Attorney General of New Jersey, attorneys)

**Henry Ogden**, Assistant Deputy Rate Counsel for respondent Division of Rate Counsel (Stefanie A. Brand, Director, attorneys)

**Renee Steinhagen, Esq.**, for intervenor New Jersey Appleseed PILC (Renee Steinhagen, Executive Director, attorneys)

**Aaron Kleinbaum, Esq.**, for intervenor Eastern Environmental Law Center (Aaron Kleinbaum, Director, attorneys)

**Angelo Cifelli, Esq.**, for participant City of Newark Zoning Board of Adjustment (Piro, Zinna, Cifelli, Paris & Genitempo, attorneys)

Record Closed: November 26, 2014

Decided: December 1, 2014

BEFORE **GAIL M. COOKSON**, ALJ:

This matter was filed by Public Service Electric and Gas Company (PSE&G) on or about February 27, 2014, as an appeal to the New Jersey Board of Public Utilities (BPU) from a resolution of the City of Newark Zoning Board of Adjustment denying its site plan and use variance application for development of the proposed McCarter Switching Station project. The file was transmitted to the Office of Administrative Law (OAL), on or about April 3, 2014, for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to -13.

A prehearing conference was convened telephonically on April 15, 2014, at which time discovery, witnesses and other prehearing matters were discussed. By Order entered on June 26, 2014, interested public interest groups were given leave to intervene and/or participate. The hearings for the presentation of the pre-filed direct testimony and cross-examination of the witnesses were held on September 15, 17, 18 and 19, 2014. On the first day of hearings, the City of Newark was granted also leave to intervene. After the conclusion of those hearings, the parties reported further progress on settlement and requested an adjournment of the deadlines for submission of post-hearing briefs, which I granted.

On November 26, 2014, I received electronically a Stipulation of Settlement fully-executed by all parties to this matter with a request that I enter an Initial Decision Settlement and transmit same to the Board. The agreement more completely sets forth the terms and conditions of the settlement of all issues raised by the appeal of PSE&G but in sum, gives PSE&G the ability to construct the proposed switching station subject to certain specified modifications, enhancements, and a Community Benefits Package.

I have reviewed the record and terms of the Stipulation of Settlement and **FIND**:



1. The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties or their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with law.

I **CONCLUDE** that the Stipulation of Settlement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the matter be deemed dismissed with prejudice and that these proceedings be and are hereby concluded.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.



\_\_\_\_\_  
December 1, 2014

\_\_\_\_\_  
DATE

\_\_\_\_\_  
**GAIL M. COOKSON, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

id