

## Chapter 2. Definitions

### 40:2-1. General

Whenever the following terms, words or phrases are used in this Title, they shall have the meaning and scope herein given. Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular. The word "lot" includes the word "plot;" the word "building" includes the word "structure;" the word "zone" includes the word "district;" the word "occupied" includes the words "designed or intended to be occupied" and the word "used" includes the words "arranged, designed or intended to be used."

### 40:2-2. Definitions

**Accessory Building** (See "Structure, Accessory").

**Accessory Storage Structure** shall mean a shed, accessory structure or building used primarily for storage purposes. Shed is defined herein.

**Accessory Structure** (See "Structure, Accessory").

**Accessory Use** (See "Use, Accessory").

**Active Recreation Park** (See "Park: Recreation Park, Active").

**Addition** shall mean an extension or increase in floor area or height to an existing building or structure.

**Adjoining Lot or Land** shall mean a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

**Adult Day Care** (See "Community Center" or "Adult Family Care home").

**Adult Family Care Home** shall mean a residence regulated by the New Jersey Department of Health and Senior Services (NJDHSS) and housing no more than three (3) clients which offers 24-hour per day living arrangements for persons who, because of age or physical disability, need assistance with activities of daily living, and for whom personal care and other supportive services designed to meet their individual needs are provided by caregivers licensed

by NJDHSS, pursuant to NJSA 26:2Y-1 et seq., "New Jersey Adult Family Care Act."

**Airport** shall mean and include the Newark Liberty International Airport, flight training schools, aircraft hangers, airport repair and maintenance facilities, aircraft chartering operations, air freight operations, and accessory maintenance, storage, and commercial uses that directly serve airport users on airport property.

**Aisle or Parking Aisle** shall mean the traveled way by which cars enter and depart parking spaces.

**Alley** shall mean a minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Alterations** shall mean any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

**Animal** shall mean a living organism other than a plant or bacterium, including fish, amphibians, reptiles, birds, and other mammals, excluding humans.

**Animal Boarding or Kennel** shall mean any establishment wherein or whereupon the business of boarding or selling or breeding of dogs and/or cats for sale is carried on, except a pet shop.

**Animal Day Care** shall mean any place kept or maintained for the care, grooming, training, exercising, and socializing of live dogs or cats for less than twenty-four (24) hours per day by a person other than the owner of the live animal. Animal day care does not include facilities that provide animal boarding, breeding or selling of animals, or facilities whose primary source of revenue is licensed veterinarian services.

**Animal, Domesticated** shall mean an animal no larger than the largest breed of dogs. This term includes fish,

birds, and mammals customarily kept as domestic pets within a dwelling unit.

**Animal Grooming** shall mean any place or establishment whose primary service offered is to be a place where cats or dogs are bathed, clipped or combed for the purpose of enhancing their aesthetic value and/or health. Such use shall not include animal boarding, kennels or animal daycare.

**Animal Market, Live** shall mean a retail sales food market where, in the regular course of business, non-domesticated animals are stored alive for the purpose of on-site slaughtering, dressing and/or evisceration to be sold to consumers for the purpose of human consumption.

**Animal Shelter** shall mean any establishment where stray, homeless, abandoned, or unwanted domesticated animals are received, housed and distributed. Such use shall be owned, operated, or maintained by a public body, established humane society, animal welfare society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**Apartment House.** See “Dwelling, Multi-Family/ Multiple Dwelling”).

**Applicant** shall mean a developer submitting an application for development.

**Application for Development** shall mean the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L. 1975, c.291 (C.40:55D-34 or C.40:55D-36).

**Approved Plan** shall mean a plan that has been granted final approval by the appropriate approving agency.

**Approving Agency** shall mean the planning board of the municipality, unless a different agency is designated by ordinance when acting pursuant to the authority of P.L. 1975, c. 291 (C.40:55D-1 et seq).

**Aquaculture Farms** (See “Urban Farm”).

**Aquaponic Farms** (See “Urban Farm”).

**Array** shall mean a linked collection of photovoltaic modules which are in turn made of multiple interconnected solar cells.

**Artist Live/Work Studio (Nuisance Producing)** shall mean a place designated to be used as both a dwelling place and a place of work by artists and craftspersons for the production of (a) paintings, drawings, jewelry, pottery or sculpture involving the use of fiberglass, epoxy and other toxic or hazardous materials or one or more of the following processes: welding, woodworking, spray painting, silk screening or fired ceramics, (b) dance or live music involving electronically amplified sound, or (c) moving or still photography (excluding video) involving on-site film processing. Artists engaged in their residence in the production of dance, live music, creative writing, painting, drawings, pottery or sculpture, video, moving or still photography, or any other art form or craft which does not involve amplified sound or one (1) or more of the materials or processes listed above shall not be considered an artist live/work studio for the purpose of this Chapter.

**Assisted Living Facility** shall mean a facility or portion thereof which is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, for four (4) or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one (1) unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

**Attic** shall mean that part of a building which is immediately below, and wholly or partly within, the roof framing.

**Attic, Habitable** shall mean an attic that has a stairway as a means of access and egress and in which the ceiling area at a height of seven (7) feet above the attic floor is not more than one-third (1/3) of the area of the next floor below.

**Automobile** shall mean a self-propelled, free-moving vehicle with four (4) wheels, usually used to transport not more than eight (8) passengers, and licensed by an appropriate agency as a passenger vehicle.

**Automobile Car Wash** shall mean an establishment that provides for the washing, cleaning, waxing or detailing of passenger vehicles, either by means of employees or by means of automated or semi-automated methods or cleaning, or by a combination thereof.

**Automobile Paint & Body Repair** shall mean those establishments which provide wrecker service; collision services including body frame or fender straightening; customizing; vehicle steam cleaning; undercoating and rust proofing; or repair and painting of the exterior or interior of vehicles by spraying, dipping flow-coating or similar means; and other similar uses. Automobile paint and body repair may also include diagnostic services, general repair associated with automobile repair shops.

**Automobile Repair & Tire Repair** A facility for the servicing or minor mechanical repair of motor vehicles. This use may include the retail sale of lubricating oils, tires, or parts for use in motor vehicles. This use does not include as its primary function the disassembly, rebuilding, and replacement of motor vehicle engines, transmissions, or other major machinery components, nor auto body repair or painting.

**Automobile Rental** shall mean an establishment used for the purpose of renting automobiles, small trucks or vans, trailers, motorcycles, or recreational vehicles. Automobile Repair shall mean those establishments, excluding automobile paint and body repair shops, that repair, install, or maintain the mechanical components or the bodies of autos, small trucks or vans, motorcycles, or recreational vehicles inclusive of recreational boats.

**Automobile Sales** shall mean those uses that provide for the sale of new or used automobiles, small trucks or vans, trailers, motorcycles, or recreational vehicles. And including any vehicle preparation, warranty, or repair work conducted as an accessory use.

**Automobile Towing Facility** (See "Vehicle Towing Facility").

**Automotive Lift** shall mean equipment designed to

deposit motor vehicles in a parking space or to serve as the mechanism to provide a parking space by moving motor vehicles vertically and/or horizontally above floor level on pallets or platforms equipped with tracks, channels or similar devices to hold the vehicle's wheels, not the vehicle frame or designated support points, in place while the vehicle is being moved vertically or horizontally.

**Auto-Sharing Organization** shall mean a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short term use through a self-service fully automated reservation system. An auto-sharing organization does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.

**Bail Bond Agency** shall mean a person or establishment who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised there for money or other things of value.

**Bars, Taverns, Lounges** shall mean an establishment licensed by the New Jersey Division of Alcoholic Beverage Control to sell alcoholic beverages for consumption by patrons on the premises. Pursuant to NJSA 33:1-12, packaged crackers, chips, nuts and similar snacks may be sold as an accommodation to patrons. For the purposes of this Chapter, a "bar, tavern or lounge" shall be deemed an "eating and drinking establishment" only if food is prepared, served and consumed on the premises.

**Basement** shall mean a space having more than one-half its floor-to-ceiling height above the average level of the adjoining ground. A basement shall be counted as a story if the distance between the grade elevation to the floor immediately above equals or exceeds seven (7) feet.

**Bedroom** shall mean a private room intended or used for sleeping separate from other rooms by a door or other physical barrier.

**Billboard** shall mean an outdoor sign or combination of signs with size greater than sixteen (16) square feet that directs attention to or advertises a business,

commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. This definition does not include advertising placed on a public bus or railroad shelter, inside an athletic or performing arts facility, or other signs erected by the City of Newark, its designee, or a State or municipal public transportation agency. This definition also does not include artistic murals with no commercial purpose nor does it include wayfinding or neighborhood welcome signs erected with the Department of Engineering's approval. This definition shall also not apply to any official sign established pursuant to the provisions of the Manual of Uniform Traffic Control Devices erected on any public highway by the public authority having jurisdiction over that public highway. For the purpose of this ordinance, the terms "billboard" and "billboard facility" shall both mean the sign face, border, support hardware, mounting hardware, and all other physical items constructed for the purpose of facilitating a billboard. Board of Adjustment means the board established pursuant to section 56 of P.L. 1975, c. 291 (C.40:55D-69).

**Body Art Studio** shall mean any establishment where tattooing, permanent make-up and/or body piercing (other than ear piercing) takes place and that meets the requirements of NJAC 8:27-1 et. seq. This definition does not include practices that are considered medical procedures by the New Jersey State Board of Medical Examiners.

**Building** shall mean a combination of materials to form a construction adapted to permanent, temporary, or continuous use or occupancy and having a roof.

**Building, Accessory** (See "Structure, Accessory").

**Building, Attached** shall mean a building that abuts two (2) side lot lines or is one (1) of a row of abutting buildings.

**Building, Detached** shall mean a freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the zoning lot.

**Building, Principal** shall mean a building in which is conducted a principal use of the lot on which it is located.

**Building, Semi-Detached** shall mean a building that abuts or shares a wall, on a side lot line, with another building on an adjoining zoning lot and where the remaining sides of the building are surrounded by open areas or street lines.

**Building Coverage** shall mean the ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor of all principal building and accessory buildings on a lot to the total lot area.

**Building Footprint** shall mean the area encompassed by a building's outer wall at ground level.

**Building Height** (See "Height of Building").

**Business, Specialized or Vocational Schools** shall mean and include institutions engaged in specialized instructional areas such as but not limited to driving, trade, language school, art, music, and dance schools.

**Cabarets** (See "Nightclubs, Discotheques & Cabarets").

**Cable Television Company** means a cable television company as defined pursuant to Section 3 of P.L. 1972, c. 186 (C.48:5A-3).

**Capital Improvement** means a governmental acquisition of real property or major construction project.

**Cellar** shall mean that portion of a building below the first floor level having more than one-half (1/2) of its height below the curb level at the center of the street in front of the building. Where the walls of a building do not adjoin a street or building line, then a cellar is a story having more than one-half (1/2) of its height below the average level of the ground on which the building stands.

**Cemetery** shall mean property used for the interment of the dead.

**Central Planning Board** shall mean the municipal planning board of the City of Newark established pursuant to NJSA 40:55D-1 et seq.

**Certificate of Code Compliance** shall mean a certificate issued by the Director of the Department of

Neighborhood & Recreational Services that indicates that a structure intended for human habitation including any dwelling, residence or apartment building has been inspected and appears to be in compliance with the minimum standards for habitation described by the Director in his/her housing and zoning regulations.

**Check-Cashing Establishment** shall mean a person or business that for compensation engaged, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. Such facility does not include a state or federally chartered bank, savings association, credit union, or industrial loan company.

**Child, Children** shall mean a person under the age of eighteen (18) years.

**Child Care Center** shall mean any facility which is maintained for the care, development, supervision of six (6) or more children who attend the facility for less than twenty-four (24) hours a day and that is licensed by the State of New Jersey pursuant to NJSA 30:5B-1 et seq. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the New Jersey Department of Human Services prior to the enactment of the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

- A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;
- Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such

children are attending religious services;

- A program of specialized activity or instruction for children that is not designed or intended for child care purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;
- Youth camps required to be licensed under the "New Jersey Youth Camp Safety Act," P.L.1973, c.375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health and Senior Services. A youth camp sponsor who also operates a child care center shall secure a license from the Department of Children and Families for the center;
- Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services;
- Programs operated by the board of education of the local public school district that is responsible for their implementation and management;
- A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;
- A child care program operating within a geographical area, enclave or facility that is owned or operated by the Federal government;
- A family day care home that is registered pursuant to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.); and
- Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.18A:46-1 et seq.

**Cigar Bar/Lounge** shall mean any bar, or area within a bar, designated specifically for the smoking of tobacco products, purchased on the premises or elsewhere, except that a cigar bar that is in an area within a bar shall be an area enclosed by solid walls or windows, a ceiling and a solid door and equipped with a ventilation system which is separately exhausted from the nonsmoking areas of the bar so that air from the smoke area is not recirculated to the nonsmoking areas and smoke is not backstreamed into the nonsmoking areas.

**Cigar/Tobacco Retail Sales Establishment** shall mean a retail sales establishment in which at least 51% of the business is the sale of tobacco products and accessories, and in which the sale of other products is merely incidental.

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

**City** shall mean the City of Newark.

**City Clerk** shall mean the Clerk of the City of Newark.

**Coldframe** shall mean an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

**College/University** shall mean and include private or public colleges, universities or junior colleges, or other institutions of higher learning, which primarily teach classes that would count toward any bachelor degree, and the institutions associated dormitories. "College/university" shall not include "business or vocational schools," as defined herein.

**Colocation site** shall mean locating two (2) or more transmission antennas, microwave dishes or related equipment on the same cellular antenna tower or building.

**Columbarium** shall mean a building or structure containing niches for the placement of cremated human remains.

**Commercial** shall mean a land use category that consists of a place of activity involving the sale of goods or services or the operation of an office.

**Commercial, Industrial Truck & Bus Services** shall mean those establishments which repair, install or maintain the mechanical components or bodies of; or provide for the sale and rental of large trucks, mass transit vehicles, large construction or agricultural equipment, or commercial boats. Commercial, industrial

truck and bus services include truck stops and fueling facilities. Such uses may have as an accessory use facilities for washing the vehicles.

**Commercial, Industrial Truck & Bus Wash** shall mean an establishment that provides for the washing of tractor-trailer trucks, busses and other large commercial vehicles by means of automated or semi-automated methods of cleaning, or by a combination thereof.

**Commercial Antenna Equipment Housing Structure** shall mean any structure or part of a structure used to store, maintain, or operate equipment involved in the operation of a commercial antenna including electronic equipment.

**Commercial Antenna Project** shall mean any installation of commercial antennas within the City of Newark. This shall include mounting on existing structures, construction of any type of tower or other structure for commercial antenna purposes, installation of electronic equipment, construction or creation of cabinets, rooms or sheds for electronic equipment.

**Commercial Antennas & Microwave Dishes** shall mean any combination of antennas and support accessory structures and buildings and antennas designed in whole or in part for the reception and/or transmission of wireless communications including cellular and personal communications systems (PCS) signals or other form of radio frequency energy as part of a licensed radio television microwave, or other wireless communication facility, any system or reception devices including an amateur radio operation that is subject to license by the Federal Communication Commission, shall fall under the definition and regulations of commercial antennas.

**Commercial Garage** shall mean any building or premises used for the storage of one (1) or more buses, trucks, tractors, trailers, bulldozers and other heavy motor-driven equipment, including storage for manufacture, repair, demonstration, sale, rental, painting, adjustment or inspection of the foregoing.

**Commercial Recreation** shall mean a building, group of buildings or outdoor facilities used for recreational purposes and operated as a business and open to the public for a fee, including skating and roller rinks, bowling alleys, pool and billiard halls, indoor batting

cages, rock climbing, indoor play areas, sports fields, recreation centers, and indoor swimming pools or tennis courts, arcades, paintball and laser tag.

**Common Open Space** shall mean an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

**Community Center** shall mean a building used for recreational, social, educational and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency. A community center shall include those facilities with regular operating hours and staff that provide a broad spectrum of health, social, nutritional and educational services and recreational activities. This use shall also include a Senior Center. This use shall not include Child Care Centers, Substance Abuse Treatment Centers, or Private Clubs.

**Community Farmers' Market** shall mean an established area with multiple stalls where three (3) or more farmers/growers gather on a regular, recurring basis to sell food crops and non-food crops directly to the consumer.

**Community Garden** shall mean an area less than one (1) acre managed and maintained by a group of individuals to grow and harvest food crops or non-food ornamental crops, such as flowers, for personal or group consumption or donation. A community garden area may be divided into separate garden plots or orchard areas for cultivation by more than one (1) individual or may be farmed collectively by members of the group for a minimum of 15 hours a week during the growing season. A community garden may include common areas maintained and used by the group. Community gardens may be principal or accessory uses and may be located on a roof or within a building.

**Community Residence for the Developmentally Disabled** shall mean any community residential facility licensed pursuant to P.L.1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than fifteen (15) developmentally disabled or mentally ill persons,

who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et al.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in R.S.30:4-23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

**Community Residence for Persons with Head Injuries** shall mean a community residential facility licensed pursuant to P.L.1977, c.448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than fifteen (15) persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et al.). "Person with head injury" means a person who has sustained an injury, illness or traumatic changes to the skull, the brain contents or its coverings which results in a temporary or permanent physiobiological decrease of mental, cognitive, behavioral, social or physical functioning which causes partial or total disability.

**Community Residence for the Terminally Ill** shall mean any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under such supervision as required, to not more than fifteen (15) terminally ill persons.

**Community Shelter for Victims of Domestic Violence** shall mean any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L.1979, c.337 (C.30:14-1 et seq.), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than fifteen (15) persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

**Community-Supported Farms** (See “Urban Farm”).

**Composting** shall mean combining organic waste in proper ratios into rodent-resistant containers, adding moisture and bulking agents to accelerate the breakdown of organic materials to create compost, the organic materials that can be used as soil amendment or as a medium to grow plants.

**Conditional Use** shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance and upon the issuance of an authorization therefor by the Central Planning Board. Where, however, the applicant fails to meet one (1) or more of the conditions set forth in the ordinance, the application must be to the Zoning Board of Adjustment in accordance with the provisions of NJSA 40:55D-70d(3).

**Consignment Store** shall mean a retail sales establishment where previously-owned merchandise, such as clothing, jewelry or other apparel and accessories is consigned to a dealer who collects a fee and pays the seller after the merchandise is sold, but shall not include stores selling used furniture, appliances, vehicles, auto parts, scrap or waste. Consignment shops shall not include any provisions for after-hours drop-off of merchandise such as outdoor donation bins. See also “Resale or Thrift Shop.”

**Consumer Repair Services** shall mean and include the provision of repair services directly to the consumer which shall include, but not be limited to, appliance repair; locksmiths; shoe and apparel repair including tailors; jewelry, watch and clock repair;

bicycle repair; musical instrument repair; and other closely-related uses as determined by the Zoning Officer. This use shall not include automobile paint and body repair, automobile repair. Dry cleaning and laundry establishment, laundromats, or a commercial/wholesale laundry facility are defined herein.

**Convenience Retail** shall mean a retail sales establishment offering prepackaged food products, toiletries, household items, tobacco products, newspapers and magazines, flower arrangements, and freshly prepared foods for off-site consumption. Such use includes bodegas. Such uses do not include take-out restaurants, as defined herein, or any other establishment where the primary use is the retail sale of food. Convenience retail establishments shall not include any commercial cooking appliances for heating or cooking food which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through an independent exhaust system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers (charbroilers); ovens; barbeques; rotisseries; and similar appliances.

**County** shall mean County of Essex, New Jersey.

**County Master Plan** shall mean a composite of the master plan for the physical development of Essex County with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to R.S. 40:27-2 and R.S. 40:27-4.

**County Planning Board** shall mean the Essex County Planning Board.

**Crematorium, Human** shall mean a structure containing cremation chambers used to cremate human remains.

**Crematorium, Animal** shall mean a stand-alone facility dedicated to the disposition of dead animal remains by means of cremation.

**Curb Level** shall mean the permanently established grade of the street curb in front of the lot.

**Danceclub** (See “Nighclubs, Discotheques & Cabarets”).

**Dance Halls** (See “Nightclubs, Discotheques & Cabarets”).

**Data Center** shall mean a centralized repository for the storage, management, and dissemination of data and information. It houses critical computer systems and associated components for companies and organizations. Often data centers are referred to as “collection data centers” which means that several businesses may rent space to house their servers in a common location. A data center generally includes environmental controls (air conditioning, fire suppression, etc.), redundant/backup power supplies, redundant data communications connections and high security.

**Day Care Facilities** (See “Child Care Center”).

**Days** shall mean calendar days.

**Density** shall mean the permitted number of dwelling units per gross area of land to be developed.

**Department Store** shall mean a business which is conducted under a single owner’s name wherein a variety of unrelated merchandise and services are housed, enclosed, and are exhibited and sold directly to the customer for whom the goods and services are furnished. This use shall not include a flea market or bazaar as defined herein.

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

**Development** shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill, and any use or change in the use of any building or structure, or land or extension of use of land, for which permission may be required pursuant to this Title.

**Development Regulation** shall mean the zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this Title.

**Discotheques** (See “Nightclubs, Discotheques & Cabarets”).

**Donation Bin** shall mean any enclosed receptacle or container made of metal, steel, plastic or a similar product and designed or intended for the donation through a slot in the receptacle and the temporary storage of clothing, eyeglasses or other materials.

**Dormitory** shall mean a building, or portion thereof, containing rooms which are provided as residences or for overnight sleeping for individuals or groups, and includes those residences utilized by fraternities or sororities which are recognized by or owned by a school or institution of higher education, but does not include those residences or multiple dwellings utilized by students which are not recognized by or owned by a school or institution of higher education. A dormitory is not to include a building used primarily to house faculty or a multiple dwelling in which occupancy of each dwelling unit is limited to persons who are members of a single-family group.

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

**Drainage Right-Of-Way** shall mean the land required for the installation of storm water sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

**Drive-Through Facility** shall mean a commercial facility or structure that is designed to allow patrons to order and receive goods and services via a service window or mechanical device, while remaining in their vehicles at all times and the consumption or utilization of which shall be off premises. Such facilities shall include banks, pharmacies, and eating and drinking establishments. Drive-through facilities may be either a principal or accessory use. This use shall not include

an automobile car wash or the selling of fuel at a gasoline service station.

**Driveway** shall mean a private roadway providing access to a street or highway.

**Dry cleaning and laundry establishment** shall mean an establishment where on-site drycleaning is performed. A dry cleaning and laundry establishment does not include a laundry or laundromat which provides self-service type washing and drying for use of retail customers.

**Drug Store** (See “Retail Sales, General Consumer Goods”).

**Dwelling** shall mean any building or portion thereof, which is designed for or occupied exclusively for human habitation.

**Dwelling, Above the Ground Floor of Retail, Office or Service Use** shall mean and include dwelling units located in multi-story buildings, but only above the ground floor retail, office or service uses.

**Dwelling, Four-Family** shall mean and include detached or attached buildings containing four (4) dwelling units, attached either vertically or horizontally.

**Dwelling, Multi-Family/Multiple** shall mean and include buildings containing more than four (4) dwelling units where each unit is joined to other dwelling units above, adjacent and/or below. “Multi-family dwellings” may include apartment buildings and condominiums, as defined herein.

- Low-Rise Multi-Family shall mean up to four (4) stories or forty-eight (48) feet, whichever is less.
- Mid-Rise Multi-Family shall mean up to eight (8) stories or ninety-six (96) feet, whichever is less.
- High-Rise Multi-Family shall mean nine (9) stories or greater or taller than one hundred eight (108) feet.

**Dwelling, Row House** (See “Dwelling, Town House”).

**Dwelling, Single-Family** shall mean and include detached, semi-detached or attached buildings containing only one (1) dwelling unit per tax lot.

**Dwelling, Three-Family** shall mean and include detached, semi-detached or attached buildings

containing three (3) dwelling units, attached either vertically or horizontally per tax lot.

**Dwelling, Town House** shall mean one, two-, or three-family dwelling buildings in a row of at least three (3) such buildings in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls.

**Dwelling, Two-Family** shall mean and include detached, semi-detached or attached buildings containing two (2) dwelling units, attached either vertically or horizontally per tax lot.

**Eating and Drinking Establishment** shall mean an establishment whose primary activity is the sale of prepared food or beverages for consumption by the public either on or off its premises. This use shall include sit-down restaurants and take-out restaurants. This use shall not include supermarkets; liquor stores; fresh food markets; fish, meat and poultry markets; or live animal markets; or other food stores with accessory take-out food activity or retail sales uses, including convenience stores, which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area; nor shall it include cafeterias that are accessory to hospitals, schools or other similar principal uses.

- **Sit-Down Restaurant** shall mean an eating and drinking establishment that does not meet the definition of a take-out restaurant, in which the principal use is the service of preparing food and/or beverages for consumption on the premises. It may have a take-out food use as an incidental use to the primary use. It may provide on-site beer, wine and/or liquor sales for drinking on the premises if the requisite licenses have been obtained from the State of New Jersey Division of Alcohol Beverage Control. Aside from incidental take-out service, service of prepared food and/or beverages for consumption shall require customers to order at a table, booth, or dining counter with service by the waiter or waitress at said table, booth or dining counter. Restaurants may have a combination of seating options, including indoor and sidewalk cafes as defined herein.
- **Take-Out Restaurant** shall mean an eating and drinking establishment with or without seating which provides ready-to-eat food prepared on-

premises in disposable wrappers or containers, to a high volume of customers, who generally carry out the food for immediate consumption off the premises. A take-out restaurant has a service counter where all customers pay for their ordered items before consumption and may have accessory drive-through windows. A take-out restaurant utilizes commercial cooking appliances for heating or cooking food which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through an independent exhaust system. Such appliances include deep fat fryers, up-right broilers, kettles, ranges, char-broilers, ovens, barbecues, rotisseries, and similar appliances.

**Electric or Gas Power Distribution** shall mean a facility which transfers power from the transmission system to the distribution system of an area; the distribution station reduces voltage to a level suitable for local distribution.

**Electrical or Telephone Switching Facility** shall mean a system of electrical equipment that interconnects several electrical transmission lines for the purpose of allowing the transmission lines to be serviced and maintained without disruption of power.

**Emergency Food Distribution Center** shall mean a building or a portion of a building in which an organization or agency provides immediate hunger relief to individuals and families who are in need. This use shall include food pantries and soup kitchens.

**Environmental Commission** shall mean the Newark Environmental Commission.

**Erosion** shall mean the detachment and movement of soil or rock fragments by water, wind, ice, and gravity.

**Exterminator & Pesticide Application Business** shall mean a business or person who either wholly or in part holds himself out to hire to apply pesticides including landscapers, tree services and aerial applicators.

**Family** shall mean one (1) or more persons who live together as a bona fide single nonprofit housekeeping unit. Unless otherwise required by law, this definition of family shall not apply to persons living in a facility or home devoted to treatment or services designated to

rehabilitate such persons or to assist them in adjusting to the community or society. This definition shall not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations.

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

**Farm Stand** shall mean a retail outlet normally owned or operated by a producer or farm unit, located on-farm or off-farm selling mainly products produced by the farm, directly to the consumer. Farm stands shall be a permitted accessory use to market gardens and urban farms only.

**Farmers' Market** (See "Community, Farmers' Market").

**Final Approval** shall mean the official action of the Reviewing Board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

**Finance, Insurance, Real Estate, and Securities Brokerage Consumer Services** shall mean consumer service establishments including a commercial bank, savings bank, savings and loan association, credit union, mortgage office, automated teller machine facility, office of tax preparer, securities broker, insurance broker, or real estate broker. This definition is limited to only those establishments which serve the general public. This definition does not include check-cashing, pawnshops or bail bond establishments.

**Fish, Meat and Poultry Market** shall mean a retail food store supplying meat, poultry, fish and seafood products intended for home preparation, consumption, and use; and where meat processing is limited to making cuts of meat from preprocessed carcasses. The use shall include butcher shops but shall not include on-site slaughtering. See "Animal Market, Live."

**Fitness Center** shall mean an enclosed building or structure containing multi-use facilities for conducting

recreational activities such as aerobic exercises, running and jogging, exercise equipment, sports courts, and swimming facilities. This use also includes establishments for group fitness instruction such as yoga, Pilates, karate and dance studios, as well as boxing gyms. This use may include accessory saunas, showers, massage rooms and lockers, snack bars providing non-alcoholic drinks and pre-packaged snacks not prepared on the premises, and sports equipment and clothing shops.

**Flea Market/Bazaar** shall mean an occasional sale or periodic market held indoors or out of doors, where new or used items are sold from individual vendors each operating independently from the other vendors.

**Floor Area, Grade Level** shall mean the square footage of the floor of the building at grade level which will determine whether the building is: (a) exempt from the Site Plan Review; (b) a Minor Site Plan; (c) a Major Site Plan.

**Floor Area, Gross (GFA)** shall mean the sum of the gross horizontal areas of all enclosed floors of a building or buildings, including basements, habitable attics, mezzanines, corridors, and lobbies measured from the exterior faces of exterior walls or from the centerline of a common wall separating two (2) buildings. Gross floor area does not include any areas devoted or used solely for off-street parking and loading. Gross floor area does not include cellars, uninhabitable attics, exterior balconies, uncovered steps, or inner courts.

**Floor Area Ratio, Net** shall mean the total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the ground floor, except when these are used or intended to be used for human habitation or service to the public.

**Fresh Food Market** shall mean an establishment in which the sale of fresh fruits and vegetables to the general public occupies at least 50% of the gross floor area and is less than ten thousand (10,000) square feet of gross floor area.

**Frontage** shall mean that side of a lot abutting on a street; the front lot line.

**Funeral Home or Mortuary** shall mean a building

used for the preparation of deceased human beings for burial or interment and for the display of the deceased and ceremonies connected therewith before burial or cremation.

**Furniture and Appliance Stores, Used** shall mean a retail sales establishment in which the proprietor primarily sells used household goods (generally furniture and appliances) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds.

**Galleries** (See under "Retail Sales, General Consumer Goods").

**Gasoline Station** shall mean any building, land area or other premises or portion thereof used primarily or intended to be used for the retail dispensing or sales of vehicular fuels and including, as an accessory use, minor repairs and the sale of and installation of lubricants, batteries and similar accessories. A convenience store may be an accessory use to a gasoline station.

**General Consumer Goods Retail Sales** (See "Retail Sales, General Consumer Goods").

**Go-Go Establishment** shall mean any establishment which permits persons to perform dancing or other similar entertainment in a lewd, licentious or lascivious manner, with less than completely and opaquely covered human genitals, pubic region, buttocks and/or female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely or opaquely covered, for the benefit of its patrons.

**Governing Body** means the Municipal Council which acts as the chief legislative body of the City of Newark.

**Governmental Use** shall mean the use of land, buildings or structures by any department, commission, independent agency or instrumentality of the United States, of a state, county, authority, district or other governmental unit other than the City of Newark.

**Greenhouse** shall mean a building made of glass, plastic or fiberglass in which plants are cultivated.

**Ground-Mounted Installation** shall mean solar installations that are freestanding or attached to

framework that is at grade.

**Gun, Ammunition/Weapons Dealers** shall mean any retail sales establishment engaged in selling, leasing, purchasing, or lending of guns, firearms, or ammunition.

**Hazardous Material** shall be defined as follows:

- a. Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 Code of Federal Regulations, Sections 116.4 and 401.15, as amended; or
- b. Any chemical listed as "acutely toxic" in Appendix A of the EPA Chemical Emergency Preparedness Program, interim guidelines; or
- c. Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a Class II combustible liquid or a Class III A combustible liquid; or
- d. Any material which is listed or defined as explosive, flammable, reactive, or corrosive in the Department of Transportation, 49 Code of Federal Regulations, Section 172.101, as amended.

A mixture shall be deemed to be a hazardous material if it contains one (1%) percent by volume or more of any material listed above.

**Hearing** shall mean a hearing before the Director of the Department of Neighborhood and Recreational Services or his/her designee at which the seller, the Inspector and any other person with relevant knowledge of a notice of violation may appear and give testimony to the Director to determine if a violation of the Housing and Zoning Regulations exists. The determination of the Director shall be final. The Director may approve, set aside or modify the decision of the Inspector and he/she may grant extensions of time to abate any violations of housing regulations.

**Heavy Retail and Service** shall mean and include retail and/or service activities that have regular exterior service or storage areas, or partially enclosed structures, including, but not limited to, home improvement centers, equipment rental and leasing, lumber and other building materials, garden centers and greenhouses, landscape construction, and lawn maintenance contractor yard, bulk materials sales and storage, and recreational vehicles and playground equipment sales and rentals. Outdoor storage and outdoor storage display areas are permitted as a conditional accessory use.

**Height of Building** shall mean measured to the highest point of the roof from the mean elevation of the finished grade from all exterior walls.

**Heliport** shall mean an area used or intended to be used for the landing and take-off of helicopters, and may include any or all areas of the building appropriate to accomplish these functions.

**Homeless Shelter** shall mean a building or structure in which a public entity or a private, non-profit organization provides shelter, or food and shelter, for a limited period of time to individuals and families having neither a home nor the means to obtain a home or other temporary lodging.

**Home Occupation** shall mean any lawful occupation not otherwise prohibited by this Title performed in a dwelling and clearly incidental and secondary to the use of the dwelling for dwelling purposes.

**Home Professional Office** shall mean the office or studio in a home occupied by a resident by any of the following professionals licensed by the State of New Jersey: architect, engineer, planner, land surveyor, psychologist, marriage counselor, chiropractor, physical therapist, or occupational therapist. All other licensed professionals are excluded. Dancing instruction, band instrument or piano or voice instruction, tearooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, mortuary establishments and stores, trades or businesses of any kind not herein excepted shall not be deemed to be "home professional offices."

**Hookah Bar/Lounge** shall mean a commercial establishment that has water pipes (also known as a hookah, shisha, boory, argileh, nargile, hubble-bubble, goza, meassel, sheesha) for people to share pipefuls of either tobacco or an herb or a dried fruit or a combination of those which is burnt using coal and becomes smoke, then passes through an ornate water vessel and is inhaled through a hose.

**Hoophouse** shall mean a structure made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape. Section 3.14(b)23ii(4) and 3.24(b)23ii(5) of the New Jersey Uniform Construction Code contain regulations regarding exemption from permitting requirements for hoophouses.

**Horticulture Nurseries** (See “Urban Farm”).

**Hospital or Medical Institution** shall mean an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as laboratories, medical offices, medical clinics or emergency care facilities.

**Hotel** shall mean a facility offering short-term lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

**Housing and Zoning Regulations** shall mean those regulations promulgated and published by the Director of the Department of Neighborhood & Recreational Services and maintained by the City Clerk of the City of Newark in regard to this zoning ordinance of the City of Newark.

**Hydroponic Farms** (See “Urban Farm”).

**Ice Cream Service Window** shall mean a window or doorway for dispensing of ice cream or similar confectionary products in accordance with the requirements of Title XXIX, Streets and Sidewalks, Chapter 26 Sidewalk Cafes of the Revised General Ordinances of the City of Newark. See also “Sidewalk Café” and “Outdoor Service Window”. This use shall not include outdoor service windows which are part of a drive-through facility.

**Impervious Coverage** (See “Lot Coverage”).

**Indoor Growing Operations** (See “Urban Farm”).

**Institutional** shall mean a land use category that consists of a facility used by a religious, child care, educational, or public use such as a place of worship, school, library, government building, or university.

**Interested Party** shall mean in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this act, or

whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this Title.

**Kennel** (see “Animal Boarding or Kennel”).

**Land** shall mean and include improvements and fixtures on, above or below the surface.

**Large Format Retail and/or Shopping Center** shall mean a single stand-alone store, tenant space or collection of retail uses, developed and/or managed within a single building or shopping center which individually or cumulatively include over thirty thousand (30,000) square feet of retail sales floor area.

**Laundromat** shall mean an establishment only for the washing and drying of clothing and other fabrics in machines operated by the patron. It shall not include on-site dry cleaning. See “Dry Cleaning and Laundry Establishment” or “Laundry Facility-Commercial/Wholesale.”

**Laundry Facility-Commercial/Wholesale** shall mean an establishment only for the washing, drying, and/or dry cleaning of clothing in bulk brought in by a commercial customer and in which such washing and drying is performed with the use of mechanical equipment, and for which a fee is charged or a facility where the retail customer brings the laundry to another facility and it is brought to this facility for laundering. A dry cleaning and laundering plant may perform work on the premises for other dry cleaning and laundry services and serve retail customers, and includes linen, diaper, or uniform laundering services. See “Laundromat” or “Dry Cleaning and Laundry Establishment.”

**Liquor Store** shall mean a retail sales establishment, duly licensed by the New Jersey Division of Alcoholic Beverage Control, which primarily sells beer, wine, or distilled spirits in original containers to a customer for consumption off the premises.

**Live Animal Market** (See “Animal Market, Live”).

**Local Utility** shall mean any sewerage authority created pursuant to the “sewerage authorities law,” P.L. 1946, c. 138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the “municipal and county utilities

authorities law," P.L. 1957, c. 183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

**Lot** shall mean a designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

**Lot, Corner** shall mean a parcel of land abutting on two (2) or more streets at their intersection or on two (2) parts of the same street forming an interior angle of less than one hundred thirty five (135) degrees.

**Lot Coverage** shall mean that part of the lot that is covered by impervious surfaces.

**Lot Depth** shall mean the mean distance between its front street line and its rear line. For corner lots, the greater frontage is its depth, and its lesser frontage, its width. **Lot, Interior** shall mean a lot other than a corner lot.

**Lot Line** shall mean a line of record bounding a lot that divides one (1) lot from another lot or from a public or private street or any other public space.

**Lot Line, Front** shall mean the lot line separating a lot from a street right-of-way.

**Lot Line, Rear** shall mean the lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

**Lot Line, Side** shall mean any lot line other than a front or rear lot line.

**Lot, Nonconforming** shall mean a lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

**Lot, Through** shall mean a lot other than a corner lot, with frontage on two (2) streets. On a through lot

improved with buildings the front lot line shall be the street frontage lot line closest to the principal building. On a through lot unimproved with buildings both street lines shall be deemed front lot lines.

**Lot, Width** shall mean the horizontal distance between the side lines of a lot measured at right angles of its depth along a straight line parallel to the front lot line at the minimum required building setback line. **Maintenance Building** shall mean an accessory building not to exceed one thousand (1,000) square feet of gross floor area used primarily for the storage of equipment and other supplies used in the maintenance of the principal use.

**Maintenance Guarantee** shall mean any security which may be accepted by the City for maintenance of any improvements required by this Title, including, but not limited to surety bonds, letters of credit under the circumstances specified in Section 16 of P.L. 1991, c.256 (C.40:55D-53.5) and cash.

**Major Subdivision** shall mean any subdivision not classified as a minor subdivision.

**Manufacturing, Heavy** shall mean the manufacture or compounding process of raw materials. These activities or processes may necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. In this situation, the handling of such materials must be in a controlled environment and have certification from NJDEP. Typical heavy manufacturing uses include but are not limited to: concrete batch plants, concrete, tile or brick manufacturing, automobile, truck and tire assembly, ammonia or chlorine manufacturing, metal casting or foundries, gas manufacturing, dye stuffs, grain milling or processing, metal or metal ore production, refining, smelting, or alloying, petroleum or petroleum product refining, boat, pool and spa manufacturing, slaughtering of animals, glass manufacturing, paper manufacturing, and wood or lumber processing. The assembly, fabrication or processing of goods and materials uses processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare or health and safety. The following processes are not permitted under Heavy Manufacturing: Vitrification, Plasma Gasification, Pyrolysis, Cement Kilns, Automobile

Shredder Residue (ASR), Medical Waste Autoclaving & Shredding, Animal Rendering, Electronic De-Manufacturing, Computer & Circuit Board Recycling, Thermal Depolymerization, Sludge Processing and Incineration, Sewage Disposal, Sediment Treatment Plants (i.e. Thermal/Chemical Processing, Cement Lock Technology, Sediment Washing, Biogenesis, Sediment Dewatering, Tire Derived Fuel Plants, Biomass Incineration, Chrome Plating and Metals Plating Facilities, Hazardous or Medical Waste Processing (autoclaving, crushing, preparing, or treating), Outdoor Scrap Metal Yards (shredding, processing, sorting), Oil and Gas Refineries, and Power Plants over 150 megawatts using coal, natural gas, waste or waste byproducts including tires, sludge, cement, and biofuels.

**Manufacturing, Light** shall mean the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment of such products, but excluding basic industrial processing and custom manufacturing. Typical light manufacturing uses include but are not limited to: electronic goods, food and bakery products, nonalcoholic beverages, paper imprinting, publishing, household appliances assembly, and clothing apparel. The assembly, fabrication, or processing of goods and materials uses processes that ordinarily do not create noise, fumes, smoke, odors, glare or health and safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building.

**Manufacturing, Medium** shall mean the processing and manufacturing of materials or products predominantly from extracted or raw materials. These activities may include outdoor assembly and storage products. Outdoor manufacturing of raw materials into compost, primarily for commercial resale is a medium manufacturing activity. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Typical medium manufacturing uses include but are not limited to: alcoholic beverages, glue, leather products, carpet, porcelain products for bathroom and kitchen fixtures, solar panel manufacture, bio-fuel manufacture, bleaching products, vegetable gelatin, welding, furniture, and sporting goods.

**Market Garden** shall mean an area less than one (1) acre managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, that is not incidental in nature and to be sold for profit at the lot where the products are grown.

**Massage Facility** shall mean an establishment for which the principal use is the provision of massage therapy by a licensed professional in the State of New Jersey pursuant to NJAC 13:37A. The following professions and services shall not be classified as a massage establishment: any duly licensed medical physician, doctor, surgeon, osteopath, chiropractor, acupuncturist, registered nurse, or to other person licensed by the state while engaging in practices as part his or her license.

**Master Plan** shall mean a composite of one (1) or more written or graphic proposals for the development of the City as set forth in and adopted pursuant to the Municipal Land Use Law, Chapter 291, Laws of New Jersey, 1975 (NJSA 40:55D-28 et seq.).

**Materials Salvage or Junk Facility** shall mean an enclosed building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A materials salvage or junk facility includes an auto wrecking facility. A materials salvage or junk facility does not include waste-related uses or recycling facilities. Such use shall not be open to the public.

**Mausoleum** shall mean a building or structure for the interment of the dead having a minimum of twenty (20) interments.

**Mausoleum, Family** shall mean a building or structure for the interment of the dead having less than twenty (20) interments.

**Mayor** shall mean the Mayor of the City of Newark.

**Medical Clinic or Emergency Care Facility** shall mean any private or public health clinic, or other similar community health facility providing diagnostic, therapeutic, or preventive medical care, surgical or invasive procedures not requiring inpatient admission, and/or emergency or urgent care to ambulatory

patients on an outpatients basis only, including customary laboratories and pharmacies incidental or necessary to its operation or the service of its patients, but without facilities for inpatient care or surgical procedures that require inpatient admission. A clinic or emergency care facility may also be accessory to a hospital or medical institution.

**Medical Office** shall mean a building or portion thereof providing diagnostic, therapeutic, or preventive medical, osteopathic, chiropractic, dental, psychological and similar or related treatment by a practitioner or group of practitioners licensed to perform such services to ambulatory patients on an outpatient basis only, and without facilities for inpatient care, major surgical procedures, or emergency and urgent care. A medical office may also contain associated in-house ancillary services such as in-house diagnostic testing facilities, physical therapy, medical counseling services, and similar services.

**Methadone Maintenance Clinic** shall mean a private business which provides outpatient methadone maintenance services to eligible persons, which are licensed by the New Jersey State Department Health and Senior Services as an ambulatory care facility/ outpatient drug program. Said clinic(s) must also meet all applicable Federal and State requirements.

**Minor Site Plan** shall mean a development plan of one (1) or more lots which: (a) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (b) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to NJSA 40:55D-42; and (c) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

Minor Subdivision shall mean any subdivision of land creating two (2) lots or fewer provided that such subdivision does not involve: (a) a planned development; (b) any new street; or (3) the extension of any off-tract improvement the cost of which is to be prorated pursuant to Section 30 of P.L. 1975, c.291 (C.40:55D-42).

**Motorcycle Club** (See "Private Club").

**Monopole Tower** shall mean a tower constructed

of a single, self-supporting metal tube, anchored to a foundation.

**Mortuary** (See "Funeral Home").

**Municipal Agency** shall mean the Municipal Council, Central Planning Board, the Zoning Board of Adjustment of the City of Newark, or any other agency which is created by or responsible to the City of Newark when such agency is acting pursuant to this Title.

**Municipal Council** shall mean the Governing Body which acts as the chief legislative body of the City of Newark.

**Municipality** shall mean the City of Newark.

**Municipal Uses** shall mean those facilities necessary for the operation of the City of Newark government or for the provision of City of Newark services not including the following: permanent outdoor storage of materials, manufacturing, gas or fuel supply stations, vehicle repair, vehicle storage, and the storage, treatment or production of hazardous or toxic chemicals.

**Museum** shall mean an establishment with least twenty thousand (20,000) square feet of gross floor area, that has public significance by reason of its architecture or former use or occupancy; or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts for their own use. For "Galleries," look under "Retail Sales, General Consumer Goods."

**Nightclubs, Discotheques & Cabarets** shall mean any room, place, space, or premises, other than sexually-oriented businesses, operated as a commercial establishment in which eating and/ or drinking may take place and in which there is also provided entertainment and dance areas. Such entertainment may include music by a live musician or musicians, or any mechanical, electronic or other means, or other audio or audiovisual media including disc jockeys. Such establishments shall not include the operation of a motion picture, but shall include any act,

play, revue, pantomime, scene, dance act, or song-and-dance act participated in by one (1) or more employees, guests, customers, or any other person or persons. For the purposes of this definition, background piped-in music shall not be considered a form of entertainment. Nightclubs, discotheques and cabarets shall be duly licensed by the New Jersey Division of Alcoholic Beverage Control for the sale and on-premises consumption of alcoholic beverages.

**Nonconforming Lot** (See “Lot, Nonconforming”).

**Nonconforming Structure** (See “Structure, Nonconforming”).

**Nonconforming Use** (See “Use, Nonconforming”).

**Nursing Home** shall mean a facility or portion thereof which is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available means a facility that is licensed by the Department to provide health care under medical supervision and continuous nursing care for twenty-four (24) or more consecutive hours to two or more patients who do not require the degree of care and treatment which a hospital provides and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board.

**Office** shall mean a room or group of rooms used for conducting the affairs of a business, profession, service, industry or government, and generally furnished with desks, tables, files and communication equipment, including offices of general, business, executive, legal, accounting, architect, planning, engineer, real estate, contractor and employment agencies but excluding medical offices. See also “Medical Office”.

**Official County Map** shall mean the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R.S. 40:27-5.

**Official Map** shall mean a map adopted pursuant to the Municipal Land Use Law, NJSA 40:55D-32 et seq.

**Off-Site** shall mean located outside the lot lines of

the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is part.

**On-Site** shall mean located on the lot in question and excluding any abutting street or right-of-way.

**On-Tract** shall mean located on the property which is the subject of a development application or on the closest half of the abutting street or right-of-way.

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

**Operations Facility, Bus/Taxicab/Ambulance** shall mean and include an area and/or building where four (4) or more emergency medical ambulances, buses, taxicabs or other livery vehicles are stored, dispatched and/or loading and unloading is carried on regularly, and where minor maintenance of these vehicles is performed.

**Outdoor Dining** (See “Sidewalk Café”).

**Outdoor Growing Operations** (See “Urban Farm”).

**Outdoor Service Window** (See “Ice Cream Service Window”).

**Outdoor Display Area** shall mean the displaying of goods, merchandise or products outdoors such that the items are readily available for sale at retail on the same lot and in conjunction with a principal use which is otherwise operated entirely within a permanent fully enclosed building.

**Outdoor Storage** shall mean the storing or maintaining, exterior to any permanent, fully enclosed building or structure of goods, merchandise, inventory, equipment or other tangibles for any purpose other than outdoor display. The term outdoor storage shall not include operation facilities for bus/taxicab/

ambulance/limousines or truck terminals as defined herein. Goods, merchandise or products stacked on pallets and/or wrapped in packaging materials such that the items are not readily available to the public for immediate retail sale shall be considered outdoor storage and not outdoor display.

**Outdoor Storage, Chemical** shall mean the outdoor storage of chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

**Outdoor Storage, Portable Storage Unit** shall mean any portable container, storage unit, shed-like container or other similar structure that can be or is used for the temporary storage of personal property of any kind and which is located for such purposes outside an enclosed building other than an accessory building or shed complying with all building codes and land use requirements. For the purposes of this ordinance, portable on-demand storage (PODS), the trailer portion of a tractor trailer, boxcars and shipping containers shall also be considered portable storage structures when expressly used for the purposes of on-site storage.

A portable storage unit shall not encroach in any required front or side yards. There shall be only one unit permitted for every two contiguous acres of property held in common ownership.

Outdoor portable storage units shall only be used for storage and shall be removed within one hundred and eighty (180) days.

**Owner** shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

**Parking Area** shall mean any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, parking garages, structured parking, driveways, and legally designated areas of public streets.

**Park: Recreation Park, Active** shall mean a park or open space which may include one (1) or more of the following: athletic fields, building or structures for recreational activities, swimming pools, golf or rope courses, or sports courts and other intensive recreational uses. **Recreation Park, Passive** shall

mean a park or open space areas consisting primarily of lawns, meadows and other unprogrammed open space. The predominant features of which are landscaped areas, natural areas, ornamental gardens, non-landscaped green space, provided that a private passive park may include certain features such as concession stands, playgrounds, art installations, fountains, walking paths, picnic areas, fields, docks, dog runs and other non-structured recreation facilities.

**Parking Area, Private** shall mean any land area, being part of the same lot or tract on which it is accessory to an erected building or structure, or being adjacent and contiguous to the lot or tract, designated by the owner, operator or occupant of the building or structure for the parking, without charge, of motor vehicles of occupants, customers or employees in the building or structure and where no customer parking shall be permitted after 11:00 p.m. on any portion of the lot.

**Parking Garage, Private Residential** shall mean a structure that is accessory to a single-, two- or three-family dwelling, is used for the parking and storage of vehicles owned and operated by the residents thereof, and is not a separate commercial enterprise available to the general public. The private parking garage may be a detached accessory building, or a portion of the principal structure.

**Parking Garage, Commercial Vehicle** shall mean any building or premises used for the storage of one (1) or more buses, trucks, tractors, trailers, bulldozers and other heavy motor-driven equipment, including storage for manufacture, repair, demonstration, sale, rental, painting, adjustment or inspection of the foregoing.

**Parking Lot** shall mean an off-street, ground-level open area that provides temporary storage for motor vehicles.

**Parking, Shared** shall mean the joint utilization of a parking area for more than one (1) use.

**Parking, Surface** shall mean an off-street, ground-level open area that provides temporary storage for motor vehicles.

**Parking, Structured** shall mean a building or structure which may be located above or below ground, with stalls accessed via interior aisles, and used for temporary storage of motor vehicles. Structured

parking can be a stand-alone use or a part of a building containing other uses. This use does not include private residential parking garages.

**Passive Recreation Park** (See “Park: Recreation Park, Passive”).

**Pawn Shop** shall mean an establishment wherein the business of a pawn broker is conducted. A pawn broker shall be any person who lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness; or, who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. A pawn shop shall not be deemed a retail sales establishment.

**Performance Guarantee** shall mean any security, which may be accepted by the City, including but not limited to surety bonds, letters of credit under the circumstances specified in Section 16 of P.L. 1991, c. 256 (C.40:55D-53.5).

**Permanent Make-Up** shall mean the application of pigment to or under the skin of a person for the purpose of permanently or semi-permanently changing the color or appearance of the skin.

**Personal Service Establishment** shall mean and include the provision of personal services directly to the consumer which shall include, but not be limited to, barber shops, beauty parlors, nail salons, tanning salons, or day spas. Personal service establishments shall not include body art studios or massage facilities.

**Pet Shop** shall mean any place of business which is not part of a kennel, wherein animals, including, but not limited to, dogs, cats, birds, fish, reptiles, rabbits, hamsters or gerbils, are kept or displayed chiefly for the purpose of sale to individuals for personal appreciation and companionship rather than for business or research purposes.

**Pharmacy** (See “Drug Store”).

**Photographic Simulation** shall mean a photograph of a site as it appears to members of the general public with accurate, detailed depictions of proposed additional features, equipment, hardware or other site

improvements drawn onto this photograph.

**Photovoltaic (PV)** shall mean capable of producing a voltage, usually through photoemission, when exposed to radiant energy, especially light. Collectively used to refer to “solar panels.”

**Place of Worship** shall mean a church, synagogue, temple, mosque or other building or group of buildings which by design and construction are intended for the conducting of organized religious services and accessory uses associated therewith including parish houses, convents, classrooms for religious instruction, rectories, and other such customary accessory uses and buildings, but not including parochial schools, day care centers, homeless shelters, or soup kitchens.

**Planned Commercial Development** shall mean an area of minimum contiguous size as specified by ordinance to be developed according to plan as a single entity containing one (1) or more structures with appurtenant common areas to accommodate commercial or office uses, or both, and any residential and other uses incidental to the predominant use as may be permitted by ordinance.

**Planned Development** shall mean planned unit development, planned unit residential development, residential cluster, planned commercial development, or planned industrial development.

**Planned Industrial Development** shall mean an area of minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one (1) or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

**Planned Unit Development** shall mean an area with a specified minimum contiguous or noncontiguous acreage of ten (10) acres or more to be developed as a single entity according to a plan, containing one (1) or more residential clusters or planned unit residential developments and one (1) or more public, quasi-public, commercial or industrial areas in such ranges or ratios of nonresidential uses as shall be specified in the Zoning Ordinance.

**Planned Unit Residential Development** shall mean an area with a specified minimum contiguous or noncontiguous acreage of five (5) acres or more to be developed as a single entity according to a plan containing one (1) or more residential clusters, which may include appropriate commercial or public or quasi-public uses all primarily for the benefit of the residential development.

**Plat** shall mean a map or maps of a subdivision or site plan.

**Porch** shall mean a roofed, open area not more than one (1) story in height which may be screened, attached to or part of a building, and with direct access to or from it. Such use includes piazzas, portico or porte-cocheres.

**Power Generation Facilities** shall mean a public utility facility which converts fossil fuels into electrical energy or steam. Solar energy system and wind energy system are defined herein.

**Prevailing Setback** shall mean the shorter front setback of the two closest principle buildings on each site of a site on the same block as the site.

**Private Club** shall mean a building and/or related facilities owned or operated by a corporation, association or organization that caters exclusively to members and their guests primarily for social, recreational, cultural, educational, political, patriotic, benevolent, or religious purpose; and not primarily for profit, and whose members pay dues and meet certain prescribed qualifications for membership. A private club may include dining facilities for members and their guests but shall not include overnight sleeping facilities. A private club does not include fraternity houses affiliated with an institution of higher learning.

**Private Sports Court** shall mean an outdoor facility on private property for participant sports, including tennis, basketball, roller hockey, and handball courts. Such courts may be single-purpose accommodating one (1) sport or multi-purpose accommodating a variety of sports.

**Public Areas** shall mean: (a) public parks, playgrounds, trails, paths and other recreational areas; (b) other public open spaces; (c) scenic and

historic sites; and (d) sites for schools and other public buildings and structures.

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

**Public Utility** shall mean any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to R.S. 48:2-13.

**Quorum** shall mean the majority of the full authorized membership of a municipal agency.

**Recycling Center** shall mean a facility in which recyclable or recoverable materials are collected, sorted, and prepared for transfer to another facility for processing. A transfer recycling center may not process by briquetting, compacting, chipping, flattening, grinding, crushing, shredding, cleaning or altering the materials.

**Resale or Thrift Shop** shall mean a retail sales establishment in which the proprietor primarily sells used items (generally clothing, household goods and children's items) that have been acquired through donation or purchase, with the proprietor retaining the sales proceeds. Some resale/thrift shops are managed by non-profit organizations that use the proceeds to support their charitable operations. See also "Consignment Store."

**Research and Development** shall mean an establishment engaged in industrial or scientific research or product design that involves laboratory testing or limited manufacturing, fabricating, processing, assembling, or similar related activities for the production of prototypes. A research and development establishment shall be considered an office use if the work primarily involves the use of computers and other related office equipment in an office setting and no laboratory testing or manufacturing takes place on premises. Residential shall mean a land use category that

consists of at least one (1) home, abode, or place of residence where an individual would live at a specific point in time.

**Residential Cluster** shall mean a contiguous or noncontiguous area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

**Residential Density** shall mean the number of dwelling units per gross acre of residential land including streets, easements and open space portions of a development.

**Restaurant, see Eating and Drinking Establishment.**

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

**Retail, Freestanding** shall mean a detached building in which the principal use is retail sales and which does not abut any other building and where all sides of the building are surrounded by yards or open areas within the zoning lot.

**Retail Sales** shall mean establishments engaged in the selling or rental of goods or merchandise usually to the general public for personal use or household consumption, although they may also serve business and institutional clients and in rendering services incidental to the sale of such goods.

**Retail Sales, General Consumer Goods** shall mean retail sales establishments involved in the sale, lease, rent, or display of new products or merchandise to the general public for personal use or household consumption, including, but not limited to stores selling apparel, furniture, books, jewelry, shoes, hardware, pet supplies, appliances, arts, crafts, antiques, art and accessories; flower shops; drug stores; gift shops; and other sundries. Retail sales includes art and craft production facilities available for public use that do

not produce noxious emissions or high noise levels, as well as dry cleaning and laundry pick-up station where cleaning of garments is not done on-site. Such establishments shall not include the sale of any food products.

**Reviewing Board** shall mean the Newark Central Planning Board or Zoning Board of Adjustment, whichever Board has jurisdiction over the particular application pursuant to NJSA 40:55D-60 et seq.

**Rooftop Growing Operations** (See "Urban Farm").

**Rooftop Mechanical Equipment** shall mean elevator penthouses and roof structures for the housing of stairways, tanks, ventilating fans, air-conditioning equipment, dust collectors, solar panels, or similar equipment required to operate and maintain a building.

**Rooming House and Boarding House** shall mean, pursuant to P.L. 1979, c.496 (NJSA 55:13B-1, et seq.), any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two (2) or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by any owner or operator including any residential hotel or congregate living arrangement. A boarding house shall include establishments wherein personal or financial services are provided to the residents, and a rooming house shall include establishments wherein no personal or financial services are provided to the residents. Pursuant to P.L. 1979, c.496 (NJSA 55:13B-1, et seq.), a boarding or room house excludes any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home as defined in Section 1 of P.L. 1962, c. 137 (NJSA 30:4C-26.1), any community residence for the developmentally disabled as defined in Section 2 of P.L. 1977, c. 448 (NJSA 30:11B-2), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with, any state department or agency, upon the written authorization of the Commissioner.

**Row House** (See “Dwelling, Row House”).

**Rotor Radius** shall mean the distance between the center point of the rotor or the outermost point on the rotor or blade.

**Satellite Dish Antennae** shall mean a bowl-shaped device used to receive and/or transmit signals relayed by satellite.

**School, Secondary** shall mean a public, private or parochial school, recognized or approved by the State, providing intermediate formal education between primary school and college, inclusive of high schools.

**School, Primary** shall mean a public, private or parochial school, recognized or approved by the State, providing the first four (4) to eight (8) years of formal education, which may include kindergarten and pre-kindergarten. This use may include accessory day care centers for children over the age of three (3).

**Sedimentation** shall mean the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as product of erosion and, in wastewater treatment, the settling out of solids by gravity.

**Self Storage** shall mean a facility consisting of a building or group of buildings in a controlled-access compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the dead storage of customers' goods and wares.

**Setback** shall mean the distance between the building and any lot line.

**Sexually Oriented Businesses** shall mean business types including, but not limited to, establishments commonly referred to as “Go-Go establishments,” “adult video stores,” or “adult newsstands or bookstores,” which means a commercial establishment which as one of its principal business purposes offers for sale, rental, or display for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, slides or simulated display or other visual representations which are characterized by their emphasis upon the

display of specified sexual activities or specified anatomical areas; or any other type of establishment that can meet the definition of a “sexually oriented business” as defined or described in Federal, State, or local statutes including but not limited to NJSA 2C:33-12.2 et seq. For the purpose of this definition, “principal purpose” means the commercial establishment:

- Has a substantial portion of its displayed merchandise which consists of said items, or
- Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or
- Maintains a substantial section of its interior business space for the sale or rental of said items; or
- Regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering “adult” or “xxx” or “x-rated” or “erotic” or “sexual” or “sensual” or “pornographic” material on signage visible from a public right-of-way; or
- Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

**Shall** shall indicate a mandatory requirement; the term “may” shall indicate a permissive action.

**Shed** (See “Accessory Storage Structure”).

**Sidewalk Café** shall mean a designated outdoor area that is located on the public sidewalk or right-of-way immediately adjacent to the property of an existing retail food establishment and where food and beverages that are normally offered to the public inside the retail food establishment and serviced to the public in the designated outdoor area.

**Sign** shall mean any fabricated or outdoor display structure including its structure, consisting of any letter, figure, character, mark, point, plane, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever, and displayed in any manner out of doors exclusively for advertising purposes.

**Single-Family House** (See “Dwelling, Single-Family”)

**Sit-Down Restaurant** (See “Eating & Drinking Establishment”).

**Site** shall mean any contiguous plot, parcel or parcels of land.

**Site Plan** shall mean the development plan of one (1) or more lots on which is shown: (a) the existing and proposed conditions of the lot(s) including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes, and waterways; (b) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and (c) any other information that may be reasonably required in order to make an informed determination pursuant to this Chapter requiring review and approval of site plans by the Central Planning Board or Zoning Board of Adjustment.

**Solar Energy System (Ground/Roof Mounted, Over Parking Lots and Structured Parking)** shall mean any solar collector panel(s), film(s), shingle(s), or other solar energy device(s) or solar structural component(s), mounted on a building or on the ground and including other appurtenant structures and facilities, whose primary purpose is to provide for the collection, storage, and distribution of solar energy received from the sun and provides power for the principal use of the property whereon said system is located.

**Spacing of Buildings** shall mean the required minimum horizontal distance between any wall of two (2) or more buildings facing or overlapping each other

in any manner either parallel or oblique. Such distance is measured at any given point and any given level by projecting or prolonging vertically and horizontally the perimeter lines of each wall from the lowest habitable floor to the ceiling of the highest habitable floor. Story shall mean the space between any finished floor of a building and the next finished floor above, excepting that a cellar or basement shall not be considered as a story. A half-story is a portion of a building between a finished floor and the roof construction above, where the space thus enclosed has an average clear height of not more than five (5) feet.

**Street** shall mean the full width of the area dedicated to public use, extending from the property line on one side to the property line on the other side, including the roadway and sidewalk, of any public street, avenue, road alley, lane, highway, boulevard, concourse, driveway, culvert or bridge. For the purpose of this Title, streets shall be classified as follows:

- Principal arterial system shall mean streets and highways serving major metropolitan activity centers, the highest traffic volume corridors, the longest trip desires, and a high proportion of total urban area travel on a minimum of mileage. Service to abutting land should be subordinate to the provision of travel service to major traffic movements. This system carries the major portion of trips entering and leaving an urban area, as well as the majority of through movements desiring to bypass the central City, and normally will carry important intraurban as well as intercity bus routes.
- Minor arterial streets system shall mean streets and highways interconnecting with and augmenting the City’s principal arterial system and providing service to trips of moderate length at a somewhat lower level of travel mobility. The system places more emphasis on land access and distributes travel to geographic areas smaller than those identified with the higher system. It includes all arterials not classified as principal.
- Collector streets system shall mean streets penetrating neighborhoods, collecting traffic from local streets in the neighborhoods, and channeling it into the arterial systems. A minor amount of through traffic may be carried on collector streets, but the system primarily provides land access service and carries local traffic movements within residential neighborhoods, commercial, and industrial areas. It may also serve local bus routes.

- Local streets system shall mean streets not classified in a higher system, primarily providing direct access to abutting land and access to the higher systems. They offer the lowest level of mobility and usually carry no bus routes. Service to through traffic is deliberately discouraged.

**Street Line** shall mean the dividing line between the street and the lot.

**Street Wall of a Building at any Level** shall mean the wall or part of the building (other than a one-story open porch), nearest to the street line.

**Street Width** shall mean the mean of the distance between the street line within a block, where a street borders a public park, or a navigable body of water, the width of such street may be taken as the width of such street, plus the width of such public park or body of water, provided that the maximum width of such street shall not be considered more than one hundred (100) feet, measured at right angles to street line.

**Structural Alteration** shall mean any change or rearrangement in the exterior or interior structural parts of any building.

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

**Structure, Accessory** shall mean a building of not more than one and one-half (1 1/2) stories in height which is subordinate to the main building on a lot and used for the purposes customarily incidental to those of the main building.

**Structure, Nonconforming** shall mean a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment. Subcode Official shall mean Buildings Code Official, Chief Plumbing Inspector, Chief Electrical Inspector and Deputy Chief in charge of Fire Prevention, or their assistants.

**Subdivision** shall mean the division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels

or other divisions of land for sale or development. The following shall not be considered subdivision within the meaning of this Chapter, if no new streets are created: (a) divisions of land found by the Central Planning Board or Subdivision Committee thereof appointed by the Chairperson to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size; (b) divisions of property by testamentary or intestate provisions; (c) divisions of property upon court order, including but not limited to judgments of foreclosure; (d) consolidation of one (1) or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Screening Officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the City of Newark. The term "subdivision" shall also include the term "resubdivision." Substance Abuse Treatment Center shall mean any licensed institution, facility, place, building or agency which supplies care, treatment, services, maintenance, accommodation or board, or any of these services in a group setting primarily or exclusively for individuals having any type of habitation, dependency or addiction to the use of any kind of controlled substance, alcohol, narcotic drug or other type of drug; and which provides guidance, supervision and personal services which enable the drug user, dependent or addict to move into independent living in normal surroundings, but does not provide those services that can be rendered only by a physician or within the confines of a hospital, and does not provide a permanent residence but only a temporary one.

**Substance Abuse Treatment Center** shall mean outpatient substance abuse treatment facilities that are required to obtain licenses pursuant to NJAC 10:161B-1.1 et seq. Standards for Licensure of Outpatient Substance Abuse Treatment Facilities. This definition shall not include substance counseling or support groups that do not require a license and are ancillary or accessory to a community center or place of worship. This definition shall not include inpatient care or treatment.

**Supermarket** shall mean a self-service retail sales establishment specializing in food and household merchandise, with at least ten thousand (10,000) square feet of gross floor area.

**Swimming Pool, Private** shall mean an accessory

use on the same lot as the principal use it serves, consisting of a water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty (30) inches, designed, used, and maintained for swimming and bathing by the residents of the lot on which the swimming pool is located or their nonpaying guests.

**Take-Out Restaurant** (see “Eating & Drinking Establishment”).

**Tax Lot** shall mean a parcel of land identified with a unique block and lot number for property tax purposes.

**Theater** shall mean an indoor facility for public assembly and group entertainment, other than for sporting events, which is used primarily for and designed for the purpose of exhibiting films, live theater, concerts, or similar performances. A theater shall not include a sexually oriented business of any kind.

**Tombstone/Monument** shall mean a tablet, statue, or other marker of stone, metal or another durable substance set up over or adjacent to a grave to commemorate the person interred therein. Transcript shall mean a typed or printed verbatim record of the proceedings or reproduction thereof.

**Tree** shall mean any deciduous or coniferous species which has a diameter at breast height (4.5 feet) of 4 inches or greater.

- **Ornamental Tree** shall mean and include trees which are grown for display or ornamental purposes, rather than functional ones. It generally tends to remain smaller at maturity than a shade tree.
- **Shade Tree** shall mean and include a woody plant, usually deciduous, that normally grows with one main trunk and has a canopy that screens and filters the sun in the summer and winter, respectively.
- **Evergreen Tree** shall mean and include a plant species with foliage that persists and remains green year round and may be functionally used as a visual separator.

**Truck Terminal** shall mean and include premises for the fueling, loading and unloading of trucks, where

storage of cargo is incidental to the primary function of motor freight shipment, and where minor maintenance and repair of these types of vehicles are performed. Such facilities shall be designed to accommodate five (5) or more trucks.

**Turbine Height** shall mean the distance between the base of the tower or other supporting structure, whether mounted on the ground or on a rooftop, and the outermost point of the rotor or blade at its maximum vertical extension.

**Urban Agriculture** shall mean agricultural production that occurs within Newark on large parcels of land, on community gardens, in greenhouses, on rooftops and indoor spaces and that increases the City’s local food system. Urban agriculture as defined by the zoning code include the following:

- **Urban Farm** (See “Urban Farm” below);
- **Community Garden** (See “Community Garden”);
- **Market Garden** (See “Market Garden”)

**Urban Farm** shall mean an establishment one (1) acre or larger where legal plants are grown for the legal sale of the plants or their products, and where the plants or their products are sold at the lot where they are grown or off site, or both, and in which no other items are sold. Examples of plants may include flowers, vegetables, and orchards. Urban farms may include, but are not limited to:

- **Aquaculture Farms** in which food fish, shellfish or other marine foods, aquatic plants, or aquatic animals are cultured or grown in fresh or salt waters in order to sell them or the products they produce;
- **Aquaponic Farms** in which the symbiotic propagation of plants and fish in an indoor, constructed and re-circulating environment takes place;
- **Community-Supported Farms** in which an area of land managed and maintained by a group of individuals to grow and harvest food crops or non-food crops such as flowers, for shareholder consumption or donation. Shareholders arrange to work on the farm in exchange for a share of the food and/or horticulture products grown on the property and or pay for a portion of the food and/or horticultural products in advance.
- **Horticulture Nurseries** in which plants are propagated and grown in containers or in the ground for wholesale or retail sales and

- distribution; and
- **Hydroponic Farms** in which plants are propagated using a mechanical system designed to circulate a solution of minerals in water with limited use of growing media;
  - **Indoor Growing Operations** in which all allowed activities must be conducted within completely enclosed buildings. Typical operations include greenhouses, vertical farming, hydroponic systems and aquaponic systems.
  - **Outdoor Growing Operations** in which all allowed activities are conducted in unenclosed areas or partially enclosed structures. Typical operations include growing beds, growing fields, hoopouses and orchards.
  - **Rooftop Growing Operations** in which all allowed activities occur on the roof of a principal building as a principal use or accessory use. Typical operations include growing beds and growing trays.
  - **Vertical Farms** in which plants or animals are cultivated on vertically inclined surfaces;

**Use, Accessory** shall mean a use of land or of a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot as the principal use.

**Use, Nonconforming** shall mean a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

**Use, Principal** shall mean the primary or predominant use of any lot or parcel.

**Utility Substation** shall mean a structure or facility which collects, processes and/or distributes a public utility commodity, as defined in NJSA 48:2-13 and regulated by the New Jersey Board of Public Utilities, but not including wireless telecommunications services.

**Variance** shall mean permission to depart from the literal requirements of a zoning ordinance pursuant to NJSA Sections 40:55D-40b, 40:55D-60 and 40:55D-70c and d of the Municipal Land Use Law.

**Vehicle Towing Facility** shall mean a building, property or activity, the principal use of which is the retrieval of towed motor vehicles. The vehicle towing facility shall have the proper and valid markers and license plates for Tow Trucks issued by the State (N.J.S.A 39:3-84.7) in order to operate.

**Vehicle-Related Services** (See "Automobile" for more services and businesses related to vehicles).

**Vertical Farms** (See "Urban Farm").

**Veterinary Clinic or Office** shall mean a commercial facility where animals are brought in for medical treatment but are not kept overnight.

**Veterinary Hospital** shall mean a commercial facility where animals are brought in for medical treatment and may remain overnight for observation, further medical treatment or recuperation.

**Waiver** shall mean permission from the approving agency to depart from the design standards set forth in Chapter 16 Site Plan Zoning & Design Standards.

**Warehousing, Wholesaling and Distribution** shall mean and include structures, or a major portion thereof, used principally for the storage, sales or distribution of nonhazardous goods and merchandise to retailers, non-residential users, or to wholesalers. This use shall also include uses devoted to archives and records. This use shall not include truck terminals, truck repair or "manufacturing, heavy, medium, or light" as defined herein.

**Waste Transfer Station** shall mean and include waste transfer facilities where wastes are handled for transshipment to a disposal facility. This use includes trash compaction and transfer stations, but shall not include "materials salvage yard" as defined herein.

**Wholesale Bakery** shall mean establishments or places of businesses primarily engaged in the production, preparation, processing, manufacture, packing, storage or handling of bakery products for sale or distribution to any other person other than the ultimate consumer including other retailers, industrial, commercial, institutional, or professional business users, other than wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Wind Energy System, Large** shall mean a wind energy system of one or more wind towers and turbines that has a nameplate capacity of more than twenty-five (25) kilowatts and is used to generate energy for commercial sale.

**Wind Energy System, Small** shall mean a wind energy system of one or more wind towers and turbines that has a nameplate capacity twenty-five (25) kilowatts or less and is primarily used to generate energy for use by the landowner. Solar energy system and power generation facilities are defined herein.

**Wind Turbine** shall mean a wind energy conversion system that converts wind energy into electricity through use of a wind turbine generator and includes such elements as a wind turbine generator hub, blade or rotor, tower and transformer.

**Wind Turbine Hub** shall mean an electric power generator to which the blade or rotor of a wind turbine is attached.

**Yard** shall mean an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as provided in Section 40:4-1 et seq. of this Title. In measuring a yard for purposes of determining the required width of a side yard, the required depth of a front yard or the required depth of a rear yard, the minimum horizontal distance between the lot line and the principal structure shall be used.

**Yard, Front** shall mean a yard extending across the street side of a lot measured between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than steps, unenclosed balconies and unenclosed porches, except as otherwise provided in this Title. A through lot unimproved with buildings shall have a front yard on each of the opposing streets. A through lot improved with buildings shall consider the street frontage lot line closest to the principal building the front yard. On corner lots, each lot line abutting a street shall be considered a front yard.

**Yard, Rear** shall mean a yard extending across the full width of a rear lot line measured between the rear lot line and the rear of the main building, or any projection thereof, other than steps, unenclosed balconies or

unenclosed porches except as otherwise provided in this Title. The rear yard shall be at the opposite ends of the lot from the front yard and on corner lots it may extend across the narrowest part of the lot. A through lot or corner lot is not required to have a rear yard.

**Yard, Side** shall mean a yard that extends along a side lot line from the required front yard, or from the front lot line if no front yard is required, to the required rear yard, or to the rear lot line if no rear yard is required. In the case of a corner lot, any yard that is not a front yard is considered a side yard.

**Zoning Board of Adjustment** shall mean the administrative board of the City of Newark established pursuant to NJSA 40:55D-1 et seq.

**Zoning Officer** shall mean the administrative officer designated to administer the zoning ordinance and issue zoning permits.