

## Chapter 4: Permitted Uses by District

### 40:4. Use Categories

These two pages group all Principal Uses listed in the Use Charts that follow into Use Categories in order to ease identification of which Principal Use use applies to a specific proposed development. Each Use Category **(highlighted in yellow and listed in bold type)** contains a variety of similar and related Principal uses (listed in non-bold type). Each Principal Use listed has a specific definition found in Chapter 2.

#### Animals (Pets)

Animal Boarding or Kennel, Pet Shop, Animal Shelter, Pound  
Animal Grooming & Animal Daycare  
Veterinary Clinic, Office & Veterinary Hospital

#### Antennas

Commercial Antenna & Microwave Dishes

#### Automotive Services, Sales and Repair

Automobile Repair & Tire Repair  
Automobile Paint & Body Repair  
Automobile Sales and Rentals  
Automobile Car Wash  
Commercial, Industrial Truck & Bus Services  
Gasoline Station  
Operation Facilities for  
    Bus/Taxicab/Ambulance/Limousine  
Truck Terminal  
Vehicle Towing Facility

#### Aviation

Airport  
Heliport

#### Community Facilities

Community Center  
Places of Worship

#### Day Care Facilities

Child Care Centers

#### Education & Cultural

Business, Specialized or Vocational Schools  
Colleges & Universities  
(Galleries included under Retail Sales, General)  
Museum  
Primary & Secondary Schools

#### Entertainment & Nightlife

Bars, Cigar/Hookah  
Bars, Taverns & Lounges  
Nightclubs, Discotheques & Cabarets  
Private Clubs (including Motorcycle Clubs)  
Sexually Oriented Businesses

#### Food & Drink

Convenience Retail  
Emergency Food Distribution Center, Food Pantry,  
    Soup Kitchen  
Fish, Meat and Poultry Market  
Fresh Food Market  
Liquor Store  
Live Animal Market  
Supermarket  
Take-Out Restaurant  
Sit-Down Restaurant  
Wholesale Bakeries

#### Funeral

Cemeteries  
Crematorium, Animal  
Funeral Home/Mortuaries

#### Government Uses

Governmental (Non-Municipal Uses)  
Municipal Uses

#### Manufacturing

Artist Live/Work Studio (Nuisance Producing)  
Laundry Facility, Commercial/Wholesale  
Manufacturing, Light  
Manufacturing, Heavy  
Manufacturing, Medium  
Research & Development

#### Medical & Social Service

Emergency Food Distribution Center, Food Pantry,  
    Soup Kitchen Medical Offices  
Homeless Shelter  
Hospital/Medical Institution  
Medical Clinic or Emergency Care Facility  
Methadone Maintenance Clinic  
Substance Abuse Treatment Centers (does not include  
    Methadone Maintenance clinics)

**Office**

Office

**Outdoor Storage**

Materials Salvage or Junk Facility  
 Outdoor Storage  
 Outdoor Storage, Chemical

**Parking**

Parking Garage, Commercial Vehicle

**Personal Services**

Body Art Studio  
 Personal Service Establishment  
 Massage Facility

**Recreational**

Commercial Recreation  
 Fitness Centers  
 Passive Recreation Park  
 Active Recreation Park  
 Theater

**Residences & Lodging**

Single-Family Dwelling  
 Two-Family Dwellings  
 Three-Family Dwelling  
 Town Houses  
 Low-Rise Multi-Family Dwellings  
 Mid-rise Multi-Family Dwellings  
 High-rise Multi-Family Dwellings  
 Dwelling above certain ground floor retail, offices and  
 personal services  
 Adult Family Care Home  
 Artist Live/Work Space (Nuisance Producing)  
 Assisted Living Facilities  
 Community Residences for Developmentally  
 Disabled, Persons with Head Injuries and  
 Terminally Ill Persons, and Community  
 Shelters for Victims of Domestic Violence  
 Dormitories  
 Hotels  
 Nursing Homes  
 Rooming and Boarding House

**Retail (no food)**

Check-Cashing Establishments & Bail Bond Agencies  
 Consumer Repair  
 Consignment Stores  
 Department Store  
 Dry Cleaning and Laundry Establishment  
 Financial, Insurance, Real Estate, or Securities  
 Brokerage Consumer Services  
 Exterminator / Pesticide Application Business  
 Furniture and Appliance Stores, Used  
 Gun, Ammunition/Weapons Dealers  
 Heavy Retail and Service  
 Laundromat  
 Large Format Retail and/or Shopping Center  
 Pawn Shops  
 Pet Shop  
 Resale or Thrift Shops  
 Retail Sales, General Consumer Goods

**Signage**

Billboards

**Utilities**

Electrical or Gas Switching Facility, Power Distribution,  
 or Substation  
 Power Generation Facilities  
 Solar Energy System (ground mounted, roof mounted,  
 over parking lots and structured parking)  
 Telephone Switching Facility  
 Wind Energy System, Large

**Urban Agriculture**

Community Garden  
 Market Garden  
 Urban Farm

**Warehousing & Distribution**

Data Center  
 Self Storage  
 Warehousing, Wholesaling & Distribution

**Waste & Recycling**

Materials Salvage or Junk Facility  
 Recycling Center  
 Waste Transfer Station

**40:4-1. Permitted uses in Residential Districts**

Table 4-1: Residential Districts						
P = Permitted    – = Not Permitted    C = Conditional Use Only Any use not listed below is also prohibited.						
	R-1	R-2	R-3	R-4	R-5	R-6
<b>Principal Uses</b>						
Single-Family Dwelling	P	P	P	P	–	–
Two-Family Dwelling	–	P	P	P	–	–
Three-Family Dwelling	–	–	P	P	–	–
Town House, Dwelling	–	–	P	P	–	–
Low-Rise Multi-Family Dwellings	–	–	–	P	P	P
Mid-Rise Multi-Family Dwellings	–	–	–	–	P	P
High-Rise Multi-Family Dwellings	–	–	–	–	–	P
Active Recreation Park	P	P	P	P	P	P
Assisted Living Facilities & Nursing Homes	–	–	–	C	C	C
Child Care Center	–	C	C	C	C	C
Community Centers	–	–	C	C	C	C
Community Gardens	–	P	P	P	P	P
Community Residences for the Developmentally Disabled, Persons with Head Injuries and Terminally Ill Persons and Community Shelters for Victims of Domestic Violence, Adult Family Care Home	P	P	P	P	P	P
Ground Floor Use for Child Care Center, Community Center, Consignment Store, Convenience Retail, Finance, Insurance Real Estate, or Securities Brokerage Consumer Services, Fresh Food Market, Governmental (Non-Municipal) Use, Municipal Use, Offices, Personal Services Establishment, or General Consumer Goods Retail Sales.	–	–	–	P	P	P
Municipal Uses	P	P	P	P	P	P
Passive Recreation Park	P	P	P	P	P	P
Places of Worship	–	C	C	C	C	C
Primary and Secondary Schools	C	C	C	C	C	C
Urban Farm (See Section 40:4-6. Additional Standards)	–	–	P	P	P	P

Table 4-1: Residential Districts						
P = Permitted    – = Not Permitted    C = Conditional Use Only * = Additional Standards apply (Section 40:4-6)    Any use not listed below is also prohibited.						
	R-1	R-2	R-3	R-4	R-5	R-6
<b>Accessory Uses</b>						
Automotive Lifts (see Section 40:4-6. Additional Standards)	–	–	–	–	P	P
Coldframe	–	P	P	P	P	P
Commercial Antennas & Microwave Dishes	–	–	–	–	–	C
Composting (See Section 40:4-6. Additional Standards)	P	P	P	P	P	P
Family Day Care Homes (see Section 40:4-6. Additional Standards)	P	P	P	P	P	P
Greenhouse	–	P	P	P	P	P
Home Occupation (See Section 40:1-6. Additional Standards)	P	P	P	P	P	P
Home Professional Offices	–	–	–	C	C	C
Hoophouse	–	P	P	P	P	P
Outdoor Storage, Portable Storage Units	P	P	P	P	P	P
Parking, Structured	–	–	–	P	P	P
Parking Garage, Private Residential	P	P	P	P	P	P
Private Sports Courts	C	C	C	C	C	C
Sheds and Other Accessory Storage Structures (See Section 40:4-6. Additional Standards)	P	P	P	P	P	P
Solar Energy Systems	C	C	C	C	C	C
Swimming Pools, Private	P	P	P	P	P	P
Wind Energy Systems, Small	C	C	C	C	C	C

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

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

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

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

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

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

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

Table 4-3: Industrial, Airport, and Port Area Districts						
P = Permitted    – = Not Permitted    C = Conditional Use Only Any use not listed below is also prohibited.						
	I-1	I-2	I-3	EWR	EWR-S	PORT
Laundry Facility-Commercial/Wholesale	P	P	P	–	–	–
Live Animal Market	C	C	C	–	–	–
Manufacturing, Heavy	–	–	P	–	–	P
Manufacturing, Light	P	P	P	–	P	P
Manufacturing, Medium	–	P	P	–	–	P
Materials Salvage or Junk Facility	–	C	C	–	–	–
Methadone Maintenance Clinic	C	–	–	–	–	–
Municipal Uses	P	P	P	P	P	P
Nightclubs, Discotheques & Cabarets	P	–	–	–	–	–
Operation Facilities for Bus/Taxicab/Ambulance/Limousine	P	P	–	–	P	–
Outdoor Storage	–	–	C	–	–	–
Outdoor Storage, Chemical	–	–	C	–	–	–
Parking Garage, Commercial Vehicle	–	P	P	–	–	–
Places of Worship	C	–	–	–	–	–
Power Generation Facilities	–	–	P	–	–	–
Recycling Center	C	C	C	–	–	–
Research and Development	P	P	P	–	P	–
Self Storage	P	–	–	–	–	–
Sexually Oriented Businesses	–	C	–	–	–	–
Sit-Down Restaurant	P	–	–	–	–	–
Solar Energy System	P	P	P	–	–	–
Substance Abuse Treatment Centers	C	–	–	–	–	–
Take-Out Restaurant	P	–	–	–	–	–
Telephone Switching Facility	P	P	P	–	–	–
Truck Terminal	–	P	P	–	–	–
Vehicle Towing Facility	P	P	–	–	–	–
Veterinary Clinic, Office or Hospital	C	–	–	–	–	–
Warehousing, Wholesaling and Distribution	P	P	P	P	P	P
Waste Transfer Station	–	–	P	–	–	–
Wholesale Bakeries	P	P	P	–	P	–
Wind Energy Systems, Large	P	P	P	–	–	–

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

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

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

Table 4-4: Mixed-Use & Other Districts					
P = Permitted    – = Not Permitted    C = Conditional Use Only Any use not listed below is also prohibited.					
	MX-1	MX-2	INST	PARK	CEM
Governmental (Non-Municipal) Uses	–	P	P	–	–
Homeless Shelter	C	C	C	–	–
Hospital or Medical Institution	–	–	P	–	–
Hotels (See Section 40:4-6. Additional Standards)	–	–	–	–	–
Laundromat	P	P	–	–	–
Manufacturing, Light	–	P	–	–	–
Massage Facilities	C	C	–	–	–
Medical Clinic or Emergency Care Facility	–	P	–	–	–
Medical Offices	P	P	–	–	–
Methadone Maintenance Clinic	–	C	–	–	–
Municipal Uses	P	P	P	–	–
Museums	–	–	P	–	–
Offices	P	P	P	–	–
Passive Recreation Park	P	P	P	P	–
Personal Service Establishment	P	P	–	–	–
Places of Worship	C	C	C	–	–
Primary and Secondary Schools	C	C	C	–	–
Private Clubs (See Section 40:4-6. Additional Standards)	C	–	–	–	–
Recycling Center	–	C	–	–	–
Resale or Thrift Shop	C	C	–	–	–
Research and Development	–	P	P	–	–
Retail Sales, General Consumer Goods	P	P	P	–	–
Sit-Down Restaurant	P	P	–	–	–
Substance Abuse Treatment Center	–	C	–	–	–
Supermarket	P	P	–	–	–
Take-Out Restaurant	P	P	–	–	–
Theater	–	–	P	–	–
Urban Farms (See Section 40:4-6. Additional Standards)	P	P	P	–	–
Veterinary Clinic, Office or Hospital	–	C	–	–	–
Warehousing, Wholesaling and Distribution	–	P	–	–	–
Wholesale Bakeries	–	P	–	–	–

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

###### 2. Usage Standards.

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

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

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

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

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

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

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

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

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

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

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

3. Height Standards

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

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

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

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

b. Places of worship as an accessory use.

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

d. Erection of tombstones and monuments.

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

f. Mausoleums and columbaria subject to the following requirements:

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

ii. Family mausoleums shall not be limited in number.

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

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

g. Crematories are subject to the following requirements:

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

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

iii. The crematorium shall emit no visible emissions.

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

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

2. All permanent structures in a cemetery shall adhere to the following area and bulk restrictions:
  - a. Maximum height: Twenty (20) feet.
  - b. Minimum front yard setback: Thirty (30) feet.
  - c. Minimum side yard setback: Fifteen (15) feet.
  - d. Minimum rear yard setback: Thirty (30) feet.

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

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

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

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

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

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

4. Compost and raw materials shall not produce odor or attract mosquitos.
5. A rat, insect, rodent, bird and/or pest control such as screening or netting must be provided.
6. Surface water control to prevent composting materials from sitting in ponded surface water must be provided.
7. Compost must be turned at regular intervals to aid in physical breakdown until composting is complete.
8. Compost material shall not contain sewage.

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

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

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

and well-lighted area to permit inspection and enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Eating and drinking establishments wishing to operate an accessory sidewalk café shall obtain a license from the City of Newark and operate and maintain the sidewalk café in accordance with the regulations of Title XXIX, Streets and Sidewalks, Chapter 26 Sidewalk Cafes of the Revised General Ordinances of the City of Newark.
2. No outdoor public address or outdoor music system shall be used.

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

1. Urban farms must provide a water source from on-site or off-site source.
2. Green houses and hoop houses shall not exceed 15 feet in height and shall be located at least three feet from side and rear property lines.
3. Equipment used for farming and selling shall be kept in enclosed structures.
4. The only animals permitted to live on-site is fowl and rabbits, except for roosters and any animals that make sounds. No fowl or rabbits shall be allowed, under any circumstances, to run at large. They shall be kept confined in a suitable house or coop with an enclosed runway. (R.O. 1966 § 6:2-25).
5. Compost may be collected on site and may be sold or given away to the public on-site.
6. A 10 square foot sign is permitted to be attached to a building, wall or a fence.