

## Chapter 6. Conditional use standards

### 40:6-1. Enumerated; Applications; Procedure

The following are conditional use regulations and they shall be governed as provided below. Since the uses below may be inimical to the public safety and general welfare if located without due consideration of conditions and surroundings, no permit therefore shall be issued unless an application is first made to the Central Planning Board, which is directed to hear the same in the same manner and under the same procedures as set forth in Section 54 of the Municipal Land Use Law (C.40:55D-67). No application for a conditional use shall be granted by the Central Planning Board if in its judgment such use will be detrimental to the health, safety and general welfare of the community.

### 40:6-2. Standards for conditional uses

#### 40:6-2-1. Animal Boarding or Kennel, Pound or Shelter.

1. Location. Outdoor facilities:
  - a. Shall be located a minimum of two hundred (200) feet from any residential use.
  - b. Shall not be located in areas used for required parking.
  - d. Shall be located in a side or rear yard but shall not encroach into any required setbacks of the zone in which it is located.
2. Buffers and Fences. Outdoor facilities shall be enclosed within a fence meeting the following requirements:
  - a. The fence shall be a minimum of four (4) feet and a maximum of six (6) feet in height.
  - b. The fence shall be opaque and shall be comprised of wood stockade, PVC vinyl or similar material.
  - c. The fence shall not be made of chain link.
3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.
4. Condition of Approval. The applicant shall agree as a

condition of approval that the proposed facility shall:

- a. Obtain a license and comply with all applicable regulations pursuant to Title VI, Animals and Fowl, Chapter 1, Domestic Animals, Article 3, Establishments for Dogs of the Revised General Ordinances of the City of Newark, and NJSA 4:19-15.1 et seq. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
- b. Comply with the applicable requirements of NJAC 8:23A-1.1 et seq. Sanitary Operation of Kennels, Pet Shops, Shelters and Pounds.
- c. Provide a suitable Operation & Maintenance Plan to operate the facility in a clean and sanitary manner, including daily removal of waste and odor and pest control.
- d. Obtain licenses as a Commercial Pesticide Applicator from the State of New Jersey Department of Environmental Protection (NJDEP) pursuant to NJAC 7:30-1.1 et seq. if the facility engages in the use of pesticides to control pests including but not limited to fleas, ticks, or mites.

#### 40:6-2-2. Animal Crematorium

1. Location. No animal crematorium shall be permitted within one thousand (1,000) feet of a residential use.
2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
  - a. Be associated with a veterinarian licensed in the state of New Jersey.
  - b. Screen from public view through fencing, landscaping or buildings, all activity relating to the deceased animals, including delivery and storage of the corpse.
  - d. Not store deceased animals outside the facility.
  - e. Limit the storage of deceased animals to no more than forty-eight (48) hours.
  - f. Place solid waste associated with the animal crematorium on an impervious area and store in a covered container within the building.
  - g. Shall restrict activities to the preparation and cremation of small animals only. No animals that were used for research or were not considered a pet will be allowed.

#### 40:6-2-3. Animal Daycare, Animal Grooming

1. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise

Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.

2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall adhere to the following:
  - a. Provide a suitable Operation & Maintenance Plan to operate the facility in a clean and sanitary manner, including daily removal of waste and odor and pest control.
  - b. Obtain licenses as a Commercial Pesticide Applicator from the State of New Jersey Department of Environmental Protection (NJDEP) pursuant to NJAC 7:30-1.1 et seq. if the facility engages in the use of pesticides to control pests including but not limited to fleas, ticks or mites.

#### **40:6-2-4. Artist Live/Work Studio (Nuisance Producing)**

1. Location. No live/work studio shall be situated on a higher floor than a non-live/work residential unit.
2. Bulk/Building Requirements.
  - a. The minimum average unit size for both living and work space shall not be less than nine hundred (900) square feet.
  - b. Not more than fifty percent of the floor area of each live/work unit shall be devoted to living areas.
3. All odors & noise generated must be contained within the individual live/work unit.
4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed studio shall comply with all applicable municipal, County, State and Federal safety and environmental regulations.
5. Additional Requirements. A list of hazardous materials to be utilized in the live/work studio area shall be submitted to the approving board at the time of application. Such list shall be made available to any other tenants of the building upon their request.

#### **40:6-2-5. Assisted Living Facilities & Nursing Homes**

1. Location. Assisted living facilities and nursing homes shall be located on a collector or arterial street.

2. Bulk/Building Requirements. Such facilities shall meet the dimensional requirements according to their respective zoning districts. If such facility is located in a R-4 zone, then it shall follow the size and design of buildings permitted in R-4 zones. If such facility is located in a R-5 zone, it shall follow the dimensional requirements permitted in R-5 zones. If such facility is located in a R-6 zone, it shall follow the dimensional requirements permitted in R-6 zones.
3. Buffers and Fences. A buffer shall be provided in accordance with Section 40:16-5 and Section 40:16-3 of the Newark Zoning and Land Use Regulations.
4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
  - a. Obtain a certificate of need pursuant to NJAC 8:33H-1.1 et seq. and maintain and operate the facility in accordance with the regulations therein;
  - b. Obtain all required licenses from the appropriate City, State and Federal agencies which regulate assisted living facilities and nursing homes.
  - c. A copy of all licenses and certificates shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

#### **40:6-2-6. Automobile Car Washes**

1. Bulk/Building Requirements. A car wash shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning. Final hand drying operations are permitted to take place in an unenclosed area.
2. Buffers and Fences. A car wash shall comply with the following requirements for buffers and fences:
  - a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages.
  - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. A car wash shall comply with the following outdoor storage requirements:
  - a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.

- b. Not more than five (5) vehicles shall be stored outdoors overnight.
  - c. Outdoor storage areas shall not be permitted in any required yard.
4. On-Site Circulation. A car wash shall comply with the following on-site circulation requirements:
- a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of ten (10) spaces if the conveyor line is one hundred and twenty (120) feet or less in length. Such spaces shall be increased by one (1) space for each additional ten (10) feet or part thereof that the conveyor line exceeds one hundred and twenty (120) feet.
  - b. The building exit for vehicles that have completed the washing process shall be at least fifty (50) feet distant from the nearest point of the public sidewalk of the adjacent street.
  - c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.
  - d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.
  - e. Car stacking and drying in the public right-of-way is prohibited.

**40:6-2-7. Automobile Paint & Body Repair**

1. Location. Spray booths are not permitted at any facility located within one thousand (1000) feet of a property used for residential use.
2. Bulk/Building Requirements. An automobile paint and autobody repair establishment shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning.
3. Buffers and Fences. An automobile paint and autobody repair establishment shall comply with the following requirements for buffers and fences:
  - a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages.
  - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:4-12 of the Newark Zoning and Land Use Regulations.
4. Outdoor Storage. An automobile paint and autobody repair establishment shall comply with the following outdoor storage requirements:

- a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.
- b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six (6) feet high.
- c. Outdoor storage areas shall not be permitted in any required yard.

5. On-Site Circulation. An automobile paint and autobody repair establishment shall comply with the following on-site circulation requirements:

- a. There shall be sufficient area on site for all vehicle maneuvering and repositioning of inventory.
- b. No vehicles shall stand or be parked in the public right-of-way.
- c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.
- d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

6. Odor Control. No odors should be noticeable past the property line.

**40:6-2-8. Automobile Rental**

1. Buffers and Fences. An automobile rental establishment shall comply with the following requirements for buffers and fences:
  - a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages.
  - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.
2. Outdoor Storage. An automobile rental establishment shall comply with the following outdoor storage requirements:
  - a. Vehicles which are stored on-site shall not be stacked in rows of more than two vehicles head-to-head without the provision of driveway aisles.
  - b. Outdoor storage areas shall not be permitted in any required yard.
3. On-Site Circulation. An automobile rental establishment shall comply with the following on-site circulation requirements:

- a. Adequate access and egress with appropriate turning radii to the site shall be provided as well as adequate queuing and turnaround space on the site so that at no time is street traffic disrupted or blocked by vehicles entering or leaving the site, or maneuvering to park on the site.
- b. No vehicles shall stand or be parked in the public right-of-way.
- c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.
- d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

#### **40:6-2-9. Automobile Repair & Tire Repair**

1. Bulk/Building Requirements. An automobile repair shop shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning.
2. Buffers and Fences. An automobile repair shop shall comply with the following requirements for buffers and fences:
  - a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages.
  - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. An automobile repair shop shall comply with the following requirements for outdoor storage:
  - a. Storage areas for vehicles waiting for repair shall be provided on the site and shall not occur in the public right-of-way.
  - b. All dismantled vehicles, equipment and parts and accessories thereof shall be stored within a building or behind a solid screen fence no less than six (6) feet high. Such fence shall be least fifteen (15) feet from the right-of-way and property.
  - c. Outdoor storage areas shall not be permitted in any required yard.
4. On-site Circulation. An automobile repair shop shall comply with the following requirements for on-site circulation:
  - a. Driveways are limited to one (1) driveway per street

- frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.
- b. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.
- c. There shall be sufficient area on site for all vehicle maneuvering.
- d. Cars shall not be maneuvered or repositioned in the public right-of-way.

#### **40:6-2-10. Automobile Sales**

1. Bulk/Building Requirements. All such establishments shall have a fully enclosed sales building which meets the dimensions of the underlying zoning with a showroom area accommodating at least three (3) automobiles. Vehicle service or repair may be performed as an accessory use, but only within a totally enclosed building.
2. Buffers and Fences. An automobile sales establishment shall comply with the following requirements for buffers and fences:
  - a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages.
  - b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.
3. Outdoor Storage. An automobile sales establishment shall comply with the following requirements for outdoor storage:
  - a. All outdoor display and service areas, including driveways and parking facilities, shall be paved.
  - b. Motor vehicles and equipment shall be kept at least fifteen (15) feet from the right-of-way and property lines.
4. On-Site Circulation. An automobile sales establishment shall comply with the following requirements for on-site circulation:
  - a. There shall be sufficient area on site for all vehicle maneuvering and repositioning of inventory. No vehicles shall stand or be parked in the public right-of-way. All vehicle service must be performed on-site.
  - b. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is

twenty-four (24) feet.

c. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

#### **40:6-2-11. Automobile Service Station**

See Section 40:6-2-24. Gasoline Stations.

#### **40:6-2-12. Bars, Taverns & Lounges**

1. Location. A bar, tavern or lounge shall be located on a collector or arterial street.

2. Bulk/Building Requirements. A bar, tavern, or lounge shall comply with the following bulk/building requirements:

a. Such uses shall be required to provide vestibules at all entrances and exits used by patrons for other than emergency egress to minimize noise emanating from such an establishment.

b. Such uses shall provide adequate ventilation within the building such that doors and/or windows are not left open for such purposes resulting in noise emission from the building.

c. Such uses shall not have any outdoor public address or music system.

d. Such use shall comply with the minimum distance requirements, and requirements for floor space and toilets as provided for a plenary retail consumption licensee in Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark.

3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.

4. Condition of Approval. The applicant shall agree as a condition of approval that the proposed establishment shall:

a. Obtain a plenary retail consumption license from the Newark Board of Alcoholic Beverage Control in accordance with Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark, NJAC 13:2-1.1 et seq. and NJSA 33:1-1 et seq. A copy of all licenses shall be placed on file with the Newark

Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

b. Comply with all the requirements for plenary retail consumption licensees including restrictions on hours and days of operation in accordance with Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark, NJAC 13:2-1.1 et seq. and NJSA 33:1-1 et seq.

#### **40:6-2-13. Billboards**

1. Location. A billboard facility shall comply with the following locational requirements:

a. No such billboard facility can be erected such that any part of the structure is in or is positioned to be within the direct line of sight from any school, park, historic district, historic structure, residentially zoned district, or any portion of the City of Newark within the area bordered by Interstate 280 at the north, Dr. Martin Luther King, Jr. Blvd. at the west, East and West Kinney Streets at the south, the Northeast Corridor Railroad right-of-way and the Passaic River at the east.

b. No such billboard facility can be erected within one thousand (1,000) feet (measured in a straight line) of the border with any facility or district listed above.

c. No billboard shall be located closer than one thousand (1,000) feet (measured in a straight line) from another such billboard.

2. Bulk/Design Requirements. A billboard facility shall comply with the following bulk/design requirements:

a. No such billboard facility shall exceed a height of forty (40) feet from grade at its highest point for a freestanding unit or unit mounted on a building wall. Any billboard mounted on a building rooftop may not project more than twenty (20) feet above the height of the building's roof.

b. No such billboard facility shall be allowed to obscure or cover any building's windows, doorways, architectural trim, nor shall it be located within five (5) feet of such a building feature.

c. The maximum permitted advertising area showing in one general direction (within forty-five (45) degrees) shall not exceed six hundred fifty (650) square feet for a single billboard or combination of billboards.

3. Landscaping. A billboard facility shall comply with the following landscaping requirements:

a. No trees or other landscaping features can be removed or substantially reduced in size in any way to accommodate the visibility of the billboard.

b. Visual impact on the surrounding areas shall be minimized through the use of landscaping, berming, and grading at the base of the unit. Dense all-season or evergreen landscaping shall be installed at the base of any freestanding billboard structure, and digital billboards are prohibited.

4. Submission Requirements. Any application for conditional use review for a billboard must include the same information as would be required for a site plan review to be deemed complete.

5. Condition of Approval. A billboard facility shall comply with the following requirements:

a. The billboard operator or owner shall comply with the Roadside Sign Control and Outdoor Advertising Act as contained in NJSA 27:5-5 et seq. as well as all other regulations, statutes, or laws relating to billboards.

b. Condition of Approval. All billboards in the City of Newark must be properly maintained for safety and aesthetic value. Any billboard facility that has signs of disrepair including, but not limited to, graffiti, rust, peeling paint, rotten wood, broken supports or boards, or other signs of disrepair for a period of more than thirty (30) days is not being properly maintained and is defined to be abandoned. Any billboard that is not in use for more than one hundred twenty (120) days is also defined to be abandoned. Any abandoned billboard facility loses its preexisting nonconforming status and must be removed by its owner or operator. The only exception to the preceding sentence applies to billboards within jurisdiction of the Federal Highway Beautification Act (23 USC 131) in which case removal may be required by State and/or Federal transportation authorities.

c. All billboard operators are required to comply with all other ordinances and regulations that pertain to billboard licenser placement and operations.

6. Additional Requirements. Any existing billboard

for which structural changes are made must comply with all standards and conditions in this statute or the billboard must be removed. The only exception to the preceding sentence applies to billboards within jurisdiction of the Federal Highway Beautification Act (23 USC 131), in which case removal may be required by State and/or Federal transportation authorities.

#### **40:6-2-14. Body Art Studios**

1. Bulk/Building Requirements. A body art studio shall comply with the following bulk/building requirements:

a. Waiting areas required pursuant to N.J.A.C 8:27-1 et seq. New Jersey State Sanitary Code Chapter VIII Body Art Procedures shall be at least 80 square feet in size and have seating for customers.

b. Body art studios shall not display services in progress visible from the public right-of-way.

2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed establishment shall comply with all regulations pursuant to N.J.A.C 8:27-1 et seq. New Jersey State Sanitary Code Chapter VIII Body Art Procedures, including approval from the local health authority; regulations pertaining to physical plant and environment; and compliance with all other applicable City and State regulations.

#### **40:6-2-15. Child Care Centers (“Day Care Centers”)**

1. Bulk/Building Requirements. A child care center shall comply with the following bulk/building requirements:

a. A standalone child care center located in a residential zone shall conform to the same bulk and area requirements of the zone in which it is located. Refer to Chapter 5 for the specific building bulk and design requirements for each zone.

b. A standalone child care center in a non-residential zone shall conform to the bulk and area requirements of the zone in which it is located.

2. On-site Circulation. All such facilities shall provide either one of the following:

a. Off-street parking spaces reserved for parents walking their children into and out of the child care facility, sufficient to accommodate the drop-off or pick-up at peak times of use; or

b. A safe pickup and delivery area separate from

the off-street parking area and access driveway so students leaving vehicles have access to a sidewalk leading into the school without the child having to cross a street, parking lot, loading area, driveway or aisle. The safe pick-up/drop-off shall not be located between the front yard and the public street.

3. Condition of Approval. The applicant shall agree as a condition of approval:

a. To obtain a license pursuant to N.J.S.A 30:5B-1 et seq. Child Care Center Licensing Act, and Chapter 122 Manual of Requirements for Child Care Centers (NJAC 10:122-1.1 et seq.). A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

b. To comply with applicable facility requirements pursuant to N.J.S.A 30:5B-1 et seq. Child Care Center Licensing Act, and Chapter 122 Manual of Requirements for Child Care Centers (NJAC 10:122-1.1 et seq.) and applicable provisions of City and State health and construction codes.

#### **40:6-2-16. Commercial, Industrial Truck & Bus Services**

1. Bulk/Building Requirements. A commercial, industrial truck and bus service shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning. Final hand drying operations are permitted to take place in an unenclosed area.

2. Buffers and Fences. A commercial, industrial truck and bus service shall comply with the following requirements for buffers and fences:

a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages. Fences not exceeding eight (8) feet may be provided.

b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.

3. Outdoor Storage. A commercial, industrial truck and bus service shall comply with the following outdoor storage requirements:

a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times.

b. Outdoor storage areas shall not be permitted in any required yard.

4. On-Site Circulation. A commercial, industrial truck and bus service shall comply with the following on-site circulation requirements:

a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of three (3) spaces per bay. Stacking spaces shall have a minimum width of ten (10) feet and a minimum length of forty-five (45) feet. Stacking or storage shall be prohibited in the public right-of-way.

c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is thirty-five (35) feet for a two-way driveway and twenty (20) feet for a one-way driveway. Two (2) driveways may be approved if they are each to be one-way.

d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

e. Sufficient area must be provided on-site for all vehicle maneuvering and repositioning. Vehicle maneuvering and repositioning is prohibited in the public right-of-way.

#### **40:6-2-17. Commercial, Industrial Truck & Bus Wash**

1. Bulk/Building Requirements. A commercial, industrial truck and bus wash shall be completely enclosed for all operations in a building which meets the dimensions of the underlying zoning. Final hand drying operations are permitted to take place in an unenclosed area.

2. Buffers and Fences. A commercial, industrial truck and bus wash shall comply with the following requirements for buffers and fences:

a. A fence of five (5) feet maximum shall be provided along all property boundary lines except along public street frontages. Fences not exceeding eight (8) feet may be provided.

b. Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 of the Newark Zoning and Land Use Regulations.

3. Outdoor Storage. A commercial, industrial truck and bus wash shall comply with the following outdoor storage requirements:

a. Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.

b. Not more than five (5) vehicles shall be stored outdoors overnight.

c. Outdoor storage areas shall not be permitted in any required yard.

4. On-Site Circulation. A commercial, industrial truck and bus wash shall comply with the following on-site circulation requirements:

a. Stacking spaces. The number of required on-site stacking spaces shall be a minimum of three (3) spaces per bay. Stacking spaces shall have a minimum width of ten (10) feet and a minimum length of forty-five (45) feet. Stacking shall be prohibited in the public right-of-way.

b. The building exit for vehicles that have completed the washing process shall be at least fifty (50) feet distant from the nearest point of the public sidewalk of the adjacent street.

c. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is thirty-five (35) feet for a two-way driveway and twenty (20) feet for a one-way driveway. Two (2) driveways may be approved if they are each to be one-way.

d. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

e. Sufficient area must be provided on-site for all vehicle maneuvering and repositioning. Vehicle maneuvering and repositioning is prohibited in the public right-of-way.

#### **40:6-2-18. Commercial Antennas & Microwave Dishes**

1. General Standards

a. No permit shall be issued for the erection or

installation of a commercial antenna except upon site plan approval.

b. The antenna project design is required to be structurally sound. The antenna project is to be certified to not create any hazard to the general public and any inhabitants or occupants of the site in question or any sites in the vicinity thereof.

c. The antenna project including mountings, wiring, and equipment placed on structures other than buildings shall be camouflaged in the most concealing manner possible and hidden from public view. This includes mountings on billboards or other existing non-building structures.

d. Any antenna installation on a structure that is or was constructed exclusively for the mounting of antennas, such as a tower, shall meet the following requirements for the antennas and the structure:

i. The structure shall not exceed a height of one hundred (100) feet unless it can be demonstrated by the applicant, to the satisfaction of the reviewing board, that a higher height is necessary for the proposed installation of the antenna(s) to satisfactorily operate and is necessary for the co-location of at least three (3) other carriers on the tower.

ii. The structure and site must be at least five hundred (500) feet from any residential district boundary; a school; a Historic District; a public park; or a place of worship. Such structure must also be out of view from any Historic District or landmark.

iii. All electronic equipment for such antennas shall be kept inside a structure on the same site as the antenna structure. This housing structure shall be less than fifteen (15) feet tall and be clad in wood siding, brick, or other appropriate material.

iv. The site must be landscaped with densely planted, mature evergreens that are a minimum of fifteen (15) feet tall to screen all structures including equipment storage buildings and tower bases, to the greatest extent possible, from public view and fenced by means of a concealing fence constructed of a long-lasting material, such as

PVC pickets, brick wall, or board and batten panels; and the equipment housing structure shall have less than three hundred and sixty (360) square feet of floor area per telecommunications operator. Chain link fencing of any form even with privacy slats shall not ever be used.

v. Structures for elevating antennas above ground level, as well as the antenna units, wiring, mounting devices, and accompanying hardware shall be designed to blend with the surrounding area's architecture, environment, and landscaping through the use of structure coloring and camouflaging to disguise the antenna for the public's aesthetic benefit. Appropriate camouflage could include designing the tower to resemble a tree, church steeple, or other like structure.

vi. The structure shall not have any lighting or signage other than safety warnings and lighting that would be required by the FAA. In such case, strobe lighting shall never be used unless specifically required by the FAA.

vii. The applicant shall be responsible for all maintenance of its antennas additional hardware, accompanying landscaping, camouflage, paint, cables, cable trays, conduits, and mounting hardware.

e. Any antennas proposed to be mounted on an existing building or structure not initially constructed for the mounting of antennas shall meet the following requirements:

i. Antennas may only be mounted on a building that is taller than fifty-five (55) feet, and they may only be mounted on the part of the building that is higher than forty-five (45) feet above grade.

ii. No antenna shall be mounted higher than the building parapet, stair or elevator shaft/penthouse, chimney, smokestack or other part of the structure upon which it is being mounted. The only exception to this shall apply when the applicant can provide evidence to the Central Planning Board that appropriate broadcasting and reception service is not possible without a higher mounting configuration such as a mounting on poles or posts. In such cases, the antenna units must be set back at least eight (8) feet from the exterior

edge of the part of the building upon which they are being mounted; the antennas and poles must be mounted on a flat surface; and the mountings cannot be more than twelve (12) feet tall measured from the edge of the surface upon which they are being mounted.

iii. Wall mounted antennas cannot project horizontally beyond the wall upon which they are being mounted by more than one and one-half (1.5) feet and they cannot project beyond the site's property line.

iv. All antenna units and accompanying infrastructure must be painted to match any vertical surface upon which they are being mounted. Pole mounted units shall be painted light blue. A color sample (six (6) copies) shall be provided as part of the application. The exact color must be approved by the Central Planning Board. The applicant must maintain the painting and pigmentation for the duration of the antenna's existence, and the antenna units must be removed if the appearance of the units is not properly maintained.

v. Antennas must be spaced and positioned on the building in such a way as not to interfere with that wall's architectural design or its decorative features. Antennas must be mounted in such a way that they are evenly spaced along the building's wall and they are evenly spaced from corners or other building features such as windows, brackets or decorative panels. The reviewing board may determine that the antennas are being spaced in a pattern that does not disrupt any repetitive patterns of any wall or parapet's decorative bracketing, paneling, or window placement. All applicants must submit detailed façade drawings and photographs of all building views being affected by the antenna installation. Microunits no larger than 2 inches in diameter may be placed above the parapet.

vi. All wiring and/or cable tray devices must be positioned in such a way as not to be visible to the public. The applicant may use external wiring only if it can provide evidence that wiring through the building is not possible for structural reasons. If external wiring is to be used, it can only be mounted on outside walls that are not visible from

any public street, park, or plaza. Such wiring and/or wire trays must be painted to match the wall surface upon which they are being mounted, and it must be mounted at an area so as not to interfere with the architectural features of the building. In the instance that the building upon which antenna mounting being proposed does not have any wall area that is not visible from a public street, park, or plaza, wiring must be mounted on the wall that is visible from the street with the least vehicular and pedestrian traffic.

vii. All equipment must be kept inside the building where the antenna project is proposed to be conducted. If this is not possible, the applicant must present reasoning for this, and the equipment must then be placed inside a structure to be placed on a flat part of the building's roof. The equipment structure must be no taller than fifteen (15) feet, set back at least four (4) feet from all front or side edges of the roof or any other roof edge that fronts directly on a public street, built of an exterior construction material with the same appearance as the exterior walls of the building, and it must have no more than three hundred and sixty (360) square feet of floor area. If equipment were to be placed outside the building or off the roof, it shall be screened and enclosed according to Section 40:4-8e,(e)(3) of this Chapter.

f. Approval of a commercial antenna may be granted by the reviewing board upon finding, after a review of all submitted documents, that there is an existing gap in service that can only be closed by the installation of a new or additional antenna project. The applicant shall provide its plan for communications coverage in the City of Newark. The applicant shall further provide a statement to explain how this application shall address any needs identified by that plan and explain why the applicant's proposal is the best possible method to address those needs. The applicant shall make every attempt to use the highest priority site, as listed as follows, in order from highest priority to lowest priority.

i. The first priority location shall be co-location on an existing wireless telecommunication tower or other similar existing structure in I-2 or I-3 zones.

ii. The second priority location shall be an existing

building within the C-3 or the I-2 or I-3 zones.

iii. The third priority location shall be an existing building within the MX-1, MX-2, C-2, or I-1 zones.

iv. The fourth priority location shall be a new tower in the I-2 or I-3 zones.

g. The review board may deny or limit approval of a commercial antenna if it reasonably concludes that the number, location, size and elevations of the radiating elements are not required for the proposed operation under FCC license, are intended for rental, lease or sale to other persons for unrelated operations, fails to meet FCC regulations, fails to meet any of the above-mentioned criteria, or generally impairs the visual environment.

h. Approval of a commercial antenna may be granted upon finding, after a review of the plot plan and all accompanying documents, that:

i. There is an existing gap in service that can only be closed by the installation of a new or additional antenna; and

ii. That the gap in service cannot be closed by locating an antenna in one of the permitted locations.

2. Submission requirements for all antenna projects whether expressly permitted or only permitted by conditional use approval. All information required in this paragraph shall be provided to the reviewing board staff in advance of any review hearing and shall be required to determine an application to be complete.

a. The applicant must provide six (6) sets of photographic simulations of the site showing all publicly accessible views of the site as it would appear with the proposed antennas, cable trays, cables, mounting devices, electronic equipment, and accompanying structures and hardware installed.

b. The applicant must provide six (6) copies of a block diagram showing all streets and buildings along with their land uses within five-hundred (500) feet of each antenna. These must include the heights of all structures within this distance.

c. The applicant shall provide a certified statement

from a licensed New Jersey professional engineer indicating the projected effective radiated power of all transmitted signals, and the probable radiation pattern with an analysis of any potential of reception interference by electronic receiving devices. This statement must attest to the project and facility's compliance with all Federal and State requirements for human or animal exposure to radio frequency emissions.

d. The applicant must submit six (6) sets of signed and sealed surveys and plot plans, which shall include appropriate engineering and architectural drawings indicating the number, location, size, and height (with elevations) of all radiating elements and corresponding hardware as they are intended to be mounted on the site and/or building. Drawings shall also provide detailed depictions of all building features, landscaping, and all other property elements affected by the application. The drawings shall also include all views/elevations of the structure upon which the antenna is to be mounted.

e. The applicant shall provide a statement from a licensed New Jersey professional engineer certifying to the structural integrity of all mounting hardware.

f. The applicant may be required to submit a fee in escrow to cover the cost of an independent review of any engineering claims made by the applicant.

### 3. Removal.

a. The applicant shall agree to remove any antenna units and accompanying infrastructure if all or part of any such installation becomes obsolete, is unrepaired for an unreasonable period or ceases to be used for its intended purpose for twelve consecutive months.

b. The Planning Board or Zoning Board of Adjustment may, at its sole discretion, require the applicant to provide a demolition bond to the City of Newark for the purpose of assuring the removal of any antenna units and accompanying infrastructure in accordance with the provisions of this Section.

c. The applicant will be responsible for providing written estimates to the City of Newark for the cost to demolish and/or remove any antenna units and accompanying infrastructure. Such estimates will be used to establish whether any adjustment is required in the amount of the required demolition

bond including the cost to stabilize or landscape the vacancy.

### 40:6-2-19. Community Centers

1. Location. A community center shall be located on a collector or arterial street.

2. Buffers and Fencing. Where the community center is in or abuts any residential use or zoned property, the community center, a buffer shall be provided in accordance with Section 40:16-3 and Section 40:16-5 of the Newark Zoning and Land Use Regulations.

3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.

4. Additional Requirements. On-site exterior areas designated for active recreational use shall comply with the following additional requirements:

a. The recreational area shall be surrounded by a fence of minimum five (5) feet and maximum six (6) feet in height.

b. Any lighting of the recreational area shall comply with the standards of Section 40:16-6 of Newark Zoning and Land Use Regulations.

c. Recreational areas located in residential zones shall not have any loudspeaker or amplified sound.

d. Building facades shall achieve the following levels of transparency:

Primary front facade: 50%

Street-facing Side & Rear Facades: 50%

Non-Street-Facing Facades: 35% or the maximum allowed by construction code, whichever is greater.

### 40:6-2-20. Drive-Through Facilities

1. Bulk/Building Requirements. A drive-through shall comply with the following bulk/building requirements:

a. Drive-through may be an accessory use to a principal bank, pharmacy, or take-out restaurant.

b. Drive-through service windows shall only be located on the side or in the rear of properties which are internal to the block.

c. Audible electronic devices such as loudspeakers, automobile service order devices, and similar

instruments shall not be located within 50 feet of any residential use or zoned property line.

2. **Buffers and Fences.** Adjacent to residential uses, a buffer shall be provided in accordance with Section 40:16-3 and Section 40:16-5 of the Newark Zoning and Land Use Regulations.

3. **On-Site Circulation.** A drive-through shall comply with the following requirements for onsite circulation:

- a. No service shall be rendered, deliveries made, or sales conducted within the front yard. Customers served in vehicles shall be stopped to the side or rear of the drive-through.
- b. All areas associated with the drive-through, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects, shall be located in the side or rear yard of a property to the maximum extent feasible.
- c. **Stacking Lanes.** Adequate stacking lanes shall be provided for any use having a drive-through establishment and shall have a minimum width of ten (10) feet. Stacking is prohibited in the public right-of-way.

#### **40:6-2-21. Dry Cleaning and Laundry Establishment**

1. Any dry cleaning establishment that uses PERC or Hydrocarbon shall not be located in the same structure as residential units.
2. All dry cleaning establishments and plants must meet State and Federal regulations for the handling, storage and disposal of hazardous chemicals.

#### **40:6-2-22. Emergency Food Distribution Center, Food Pantry, Soup Kitchen**

1. **Location.** An emergency food distribution center, food pantry or soup kitchen shall be located on a collector or arterial street.
2. **Bulk/Building Requirements.** Each facility shall provide a lobby or indoor waiting area for indoor queuing of its clients sufficient to meet its needs.
3. **Condition of Approval.** The applicant shall agree as a condition of approval to adhere to all relevant State and City Health and Building Codes.

4. **Additional Requirements.** Each facility shall implement adequate security and supervision measures to address the needs of the center's clients as well as adjacent neighbors. Prior to approval of the conditional use, the operator of the center shall provide to the approving board a security plan describing special supervision to be provided for clients, as well as protection to be provided to the surrounding community.

#### **40:6-2-23. Exterminator & Pesticide Application Business**

1. **Condition of Approval.** The applicant shall agree as a condition of approval:
  - a. Obtain a license from the New Jersey Department of Environmental Protection pursuant to NJAC 7:30-1.1 et seq., the Pesticide Control Code. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
  - b. Comply with all rules and regulations pursuant to NJAC 7:30-1.1 et seq., the Pesticide Control Code.
- c. All storage shall be located internal to a building.

#### **40:6-2-24. Funeral Home & Mortuaries**

1. **Location.** A funeral home or mortuary shall be located on a collector or arterial street.
2. **Bulk/Building Requirements.** A funeral home or mortuary shall comply with the following bulk/building requirements:
  - a. The structure shall be designed so that transporting of human bodies or remains into the facility shall be totally enclosed within the structure.
  - b. No other principal use shall be allowed on the property that is not related to the direct operation of the funeral home or mortuary business.
3. **On-Site Circulation.** No off-street parking shall be allowed in the front yard area of the premises.
4. **Parking.** No less than one parking space per thousand square feet is permitted.
5. **Condition of Approval.** The applicant shall agree as a condition of approval that the proposed establishment shall:
  - a. Obtain a license pursuant to NJAC 13:36-1.1, Board of Mortuary Science. A copy of all licenses shall be placed on file with the Newark Office of Uniform

Construction Code (UCC) prior to the issuance of a certificate of occupancy.

b. Comply with all of the applicable rules and regulations pursuant to NJAC 13:36-1.1, Board of Mortuary Science.

#### **40:6-2-25. Furniture & Appliance Stores, Used**

1. Outdoor Storage. Used furniture and appliance stores shall comply with the following outdoor storage requirements:

a. Large or bulk items not capable of being discarded in a garbage enclosure shall be stored inside the building until the arrival of a removal service.

b. Outdoor display of goods and merchandise during business hours is prohibited.

c. No goods or merchandise for donation shall be dropped-off outside of regular business hours.

2. On-Site Circulation. Used furniture and appliance stores shall comply with the following on-site circulation requirements:

a. All activities, including collection, storage, sorting, and processing shall occur within a fully enclosed building.

b. Loading and unloading areas shall not face or be visible from public streets.

#### **40:6-2-26. Gasoline Stations**

1. Must comply with NJSA 34:3A-4 et seq. Retail Gasoline Dispensing Safety and NJAC 12:196-1.1 et seq., Safe Dispensing of Retail Gasoline.

2. Bulk/Building Requirements. Gasoline stations shall comply with the following bulk requirements:

a. All pits, racks or lifts shall be indoors and shall not be less than twenty-five (25) feet from any street line.

b. Canopy.

i. The minimum setback to any property line of a canopy located above a fueling area shall be ten (10) feet, except when adjacent to a residential use or zone, such setbacks shall be increased by an additional ten (10) feet.

ii. The maximum height of a canopy shall be twenty (20) feet.

3. Area Requirements: Gasoline stations shall comply with the following area requirements:

a. No gasoline filling station shall be built on a corner

lot having a width of less than one hundred (100) feet and an area of less than ten thousand (5,000) square feet.

b. No gasoline filling station shall be built on an interior lot having a width of less than one hundred fifty (150) feet and an area of less than ten thousand (10,000) square feet.

4. Outdoor Storage. Portable signs, outdoor servicing and outdoor storage of tires, automobile parts and accessories shall be prohibited at all times.

5. On-Site Circulation. Gasoline stations shall comply with the following on-site circulation requirements:

a. Driveways shall cross the sidewalk at right angles and shall not be more than twenty-four (24) feet wide at any point thereof. Driveways must be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines. There shall be no more than one (1) driveway on any one (1) street frontage unless the street frontage is in excess of one hundred and fifty (150) feet. No more than two (2) driveways may be permitted per street frontage.

b. A landscape strip planted with shrubs and perennials having a width no less than three (3) feet shall be constructed and maintained in good condition along all street property lines and adjacent to driveway openings.

c. The entire area of the station traversed by motor vehicles shall be hard surfaced.

d. Pump islands shall not be less than fifteen (15) feet from any lot line; however, if the gasoline station abuts a residential zone or residential use that distance shall be twenty-five (25) feet to allow for the provision of a ten (10) foot landscaped buffer.

6. Accessory Use. Convenience store.

a. A freestanding convenience store with a maximum gross floor area of two-thousand (2,000) square feet shall be permitted as an accessory use to a service station when there is no automobile repair shop on site.

b. Minimum setbacks:

i. Front yard: Twenty (20) feet minimum.

ii. Side yard: Ten (10) feet minimum.

iii. Rear yard: Ten (10) feet minimum.

iv. From a gasoline pump: Fifteen (15) feet minimum.

c. Maximum height: Twenty-Five (25) feet.

d. Parking shall be no less than one space per thousand square feet.

**40:6-2-27. Homeless Shelters**

1. Location. A homeless shelter shall be located on a collector or arterial street.
2. Bulk/Building Requirements. Each homeless shelter shall provide a lobby or indoor waiting area for the indoor queuing of its clients sufficient to meet its needs.
3. A homeless shelter must comply with the Essex County Homeless Plan.
4. Condition of Approval. The applicant shall agree as a condition of approval to:
  - a. Obtain a license pursuant to NJAC 5:15, Title 5 Community Affairs, Chapter 15 Emergency Shelters for the Homeless. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
  - b. Comply with all of the relevant regulations pursuant to NJAC 5:15, Title 5 Community Affairs, Chapter 15 Emergency Shelters for the Homeless.

**40:6-2-28. Home Professional Office**

1. Bulk/Building Requirements. A home professional office shall comply with the following bulk/building requirements:
  - a. 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-professional office.
  - b. No more than twenty-five (25) percent of the gross floor area of the dwelling unit, or one-thousand two-hundred (1,200) square feet, whichever is lesser, shall be used in connection with the home-professional office.
  - c. The home-professional office shall be limited to the residents of the dwelling unit and not more than two additional persons on the premises.
  - d. For those home-professional offices in which instruction or meetings are required, no more than three (3) pupils, visitors, clients or customers shall be permitted on site at one time.

3. Area Requirements. The exterior of the dwelling as well as the site shall maintain a residential appearance with no differentiation from the exterior as to which portion of the dwelling is being used in connection with the home-professional office.

4. Outdoor Storage. There shall be no storage of equipment, vehicles or supplies associated with the home-professional office outside the dwelling.

8. Parking. Adequate off-street parking spaces shall be provided on the premises, but in no event shall more than three (3) spaces in addition to those required to comply with the requirements of Chapter 7, Off-street Parking and Loading, for the residential use shall be permitted.

5. Signage Requirements. There shall be no display of products visible in any manner from the outside of the dwelling, except that one non-illuminated nameplate, not to exceed one (1) square foot in area, mounted flat against the dwelling shall be permitted.

6. Additional Requirements. A home professional office shall comply with the additional requirements:

- a. No equipment shall be used or process conducted which creates noise, vibration, glare, fumes or odors detectable to the normal senses at the boundary line of the premises.
- b. No home-professional office business shall be conducted between the hours of 9:00 pm and 9:00 am.

**40:6-2-29. Human Crematorium**

Human crematoria are only conditionally permitted within the Cemetery Zone (CEM).

1. Location. No human crematorium shall be permitted within one thousand (2,000) feet of a residential use.
2. Condition of Approval. The applicant shall agree as a condition of approval that the proposed facility shall:
  - a. Be associated with a funeral director licensed in the state of New Jersey.
  - b. Screen from public view through fencing, landscaping or buildings, all activity relating to deceased humans, including delivery and storage of the corpse.
  - d. Not store deceased humans outside the facility.
  - e. Limit the storage of deceased humans to no more than forty-eight (48) hours.

f. Place solid waste associated with the human crematorium on an impervious area and store in a covered container within the building.

**40:6-2-30. Ice Cream Service Window**

1. Location. Such service window shall be located on a collector or arterial street.

2. Bulk/Building Requirements. An ice cream service window shall comply with the following bulk/building requirements:

- a. One (1) ice cream service window or doorway for dispensing of ice cream shall be a permitted.
- b. A minimum four (4) foot-wide area of unobstructed paved surface shall be available for pedestrian movement on the sidewalk side of the outdoor service window.
- c. A trash receptacle shall be provided.

3. Condition of Approval. As a condition of approval, the applicant for the storefront service shall agree to comply with the following conditions:

- a. No food shall be prepared or stored other than in the interior of the eating establishment.
- b. Such windows shall only be permitted to operate from April 1 to November 1 in any calendar year.
- c. No outdoor loudspeaker, public address system, radio or similar device shall be utilized.
- d. No outdoor service window shall be open for business prior to 11:00 am, nor remain open for business after 11:00 pm.
- e. The applicant shall comply with all applicable State and City health and building codes.

**40:6-2-31. Large Format Retail and/or Shopping Center**

1. Retail uses over thirty thousand (30,000) square feet in gross floor area under common ownership shall meet the following lot and bulk/building requirements:

- a. Minimum lot size: One (1) acre.
- b. Minimum lot frontage: One hundred and fifty (150) feet.
- b. Front yard depth: Zero (0) minimum and five (5) feet maximum.
- c. Minimum side yard: Five (5) feet.
- d. Minimum rear yard: Twenty-five (25) feet if

abutting residential use. Twenty (20) feet if abutting non-residential use.

e. Maximum impervious coverage: 50% rear yard and 0% front yard.

2. Large format retail and/or shopping center shall meet the following design requirements:

- a. Setbacks. At least seventy (70) percent of the street wall shall be located at the primary street-facing street line(s).
- b. Entries. Customer entrances shall be provided on each façade that faces an abutting street, customer parking, or a public park or plaza up to a maximum requirement of three (3) customer entrances per business occupancy. If there are two (2) or more façades facing abutting streets, at least two such façades must provide a customer entrance. An entrance on a corner of the building may count as serving two (2) façades. Such entrances shall provide both ingress and egress, and shall be double doors, not just single units.
- c. Façade articulation. Façades must be articulated into bays no more than 50 feet in width using materials, colors, or other visually apparent design elements
- d. Screening of service areas. Necessary back-of-house functions such as service and loading areas shall be located away from major pedestrian routes and intersections and should not impact adjacent residential neighborhoods.

3. Outdoor Storage and Service Areas.

- a. No service areas for outdoor storage, trash collection or compaction, loading or similar uses shall be located within twenty (20) feet of any public or private street, public sidewalk, or internal pedestrian way.
- b. Service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and the public streets. Screening materials shall be consistent with the principal materials of the building and landscape.

- f. Parking. All parking spaces shall be located at the rear or at one (1) side of the structure or shall be located inside or on the roof of the structure. Landscaping of parking areas shall comply with Section 40:8-4.
- g. Transparency.
- i. Primary front façade (excluding ground-level facade): 50%
  - ii. Ground-level street-facing façade below 14 feet in height: 65%
  - iii. Street-facing side and rear façades: 35%
  - iv. Non-street facing walls: 20%
  - v. Clear, untinted, and unobstructed glass shall be used at and near the street level to allow maximum visual interaction between sidewalk areas and the interior of buildings.
  - vi. Bottoms of the storefront windows shall be between zero (0) and three (3) feet above sidewalk grade.
4. Security grilles. All security grilles shall be entirely open mesh so as to maintain storefront transparency, but may have a solid portion at the base that does not exceed the height of the bulkhead it covers.
5. Screening of mechanicals. Parapets, mansard or other sloping roofs shall be used to conceal flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen (15) percent of the height of the supporting wall and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall.
6. Roofline variation. Rooflines shall be varied with a change in height at least every fifty (50) linear feet.
7. Materials and colors. Predominant exterior building materials shall be high quality materials, including, but not limited to brick, native stone, cultured stone, and tinted and textured concrete masonry that resembles brick or stone. Materials shall have a low level of reflectivity.
8. Landscaping. In addition to the requirements for landscaping in Section 40:8-4, large format retail and/or shopping center developments shall conform to the following landscape standards:
- a. Shade trees shall be planted a maximum of thirty-five (35) feet apart along public streets within the property lines and in the public right-of-way against the curb between the site's lot line and the curb.
  - b. Shade trees shall also be planted along the length of internal pedestrian walkways which conform to the requirements of Section 40:8-4 in addition to the parking landscape requirements.
  - c. There shall be a minimum pervious surface area of approximately twenty-five (25) square feet per tree.
  - d. A minimum eight (8) foot wide landscaped area shall be provided along the edge of a site where parking areas are adjacent to a public street.
  - g. Lighting. All outdoor lighting shall be sized and directed to avoid adverse impact and spillover onto adjacent properties. Upward directed lighting is prohibited. Outside parking lot lighting shall not be less than one foot candle per IES minimum lighting standards at the property line, and shall be designed to minimize glare and spillover onto adjacent properties. Building and aesthetic lighting must be shielded to prevent direct glare and/or light trespass in excess of one (1) foot candle at the property line.
- 40:6-2-32. Liquor Stores**
1. Location. The applicant shall demonstrate to the approving board compliance with the minimum distance requirements from Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark.
  2. Condition of Approval. As a condition of approval, the applicant shall agree to:
    - a. Obtain a plenary retail distribution license from the Newark Board of Alcoholic Beverage Control in accordance with Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark, NJAC 13:2-1.1 et seq. and NJSA 33:1-1 et seq.
    - b. Comply with all applicable regulations for a plenary retail distribution licensee listed in Title IV Alcoholic Beverages of the Revised General Ordinances of the City of Newark including, but not limited to, restrictions on hours and days of operation, and restrictions on on-site mercantile or commercial activity other than the sale of non-alcoholic beverages, as accessory beverages to alcoholic beverages.

c. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

#### **40:6-2-33. Live Animal Market**

1. Condition of Approval. As a condition of approval, all applications for a live animal market shall agree to the following conditions:

a. Comply with all regulations of the United States Department of Agriculture, the State of New Jersey and the City of Newark including Title XIII, Food, Drugs and Cosmetics, Chapter 5, Live Poultry and Certain Live Animals (Goats, etc.): Retail and Wholesale; Chapter 6, Poultry Killing and Dressing Establishments; and Chapter 7, Meat, Meat Products and Meat Establishments of the Revised General Ordinances of the City of Newark.

b. Obtain all necessary Federal, State and City licenses and approvals. Copies of such licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

c. Operate and maintain a live animal market according to the following regulations:

i. All activities associated with the live animal market must take place within a wholly enclosed building; no outdoor storage of live animals, garbage, or raw materials shall be permitted.

ii. All animal slaughter shall take place inside a closed building in a confined area to prevent transmission of sound associated with slaughter to the outside. Animals shall not be heard at the public right-of-way or adjacent properties.

iii. All byproducts must be disposed in compliance with all applicable Federal, State and City regulations. This includes, but is not limited to, all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides and bones.

iv. Waste shall be disposed of within forty-eight (48) hours of being produced. Waste shall be stored in airtight containers and shall be confined in fully enclosed structures. Any animal waste from holding areas shall be removed from the site daily and/or stored in a manner to control odor.

v. A public notice posted by the Health Officer at the public entrance of a premises wherein a live animal market is operated and that results in the immediate closure of the establishment and the discontinuance of all operations, by order of the Health Officer, because of violations of applicable Federal, State, and City regulations, orders, embargos, or quarantines.

vi. Animals permitted to be stored alive and slaughtered on-site include chickens, ducks, rabbits, goats and similar small animals. No horses, cows, alpacas, llamas or similar large animals are permitted be kept on the property or slaughtered on-site.

vii. Animals shall be kept on premises no longer than twenty-four (24) hours.

viii. No live animal market shall be permitted within one thousand five hundred (1,500) feet of a residence.

ix. Live animals shall not be allowed to run at large upon the licensed premises nor at large on streets, sidewalks or any other area off the licensed premises but shall be kept in suitable enclosures such as cages or crates which shall comply with the following standards:

x. All animals shall be kept in a clean and sanitary manner at all times. All cages, crates, or enclosures shall be cleaned and disinfected in a manner approved by the Division of Health.

xi. Cages, crates, and enclosures shall be raised from the floor at least six (6) inches so as to permit flushing and cleaning underneath the same.

xii. All live animal cages, crates, or enclosures shall be in good repair and constructed of easily cleanable, noncorrosive, and nonabsorbent material.

xiii. Enclosures shall not be overcrowded with live animals so as to result in injury to the animal or restrict movement of the animal confined therein.

xiv. No live animal shall be kept in a place in which water, ventilation, food, or any other similar items are not sufficient for the preservation of the health and safe condition of such animal.

xv. Ample supply of food and clean water shall be provided for all live animals. Troughs, bowls, or similar containers used for food and water shall be kept clean, in good repair, and placed in such a manner so as to prevent contamination of food and water kept therein. No animal feed shall be scattered on floors. All spillage of feed shall be promptly removed.

xvi. All parts of the premises shall be kept in a sanitary condition at all times.

xvii. The flooring of live animal markets shall be composed of material that is impervious to moisture and shall be properly graded to prevent pooling of liquid or waste and permit adequate drainage to floor drains. All floors shall be kept clean and in good repair.

xviii. Walls and ceilings in animal poultry storage rooms, equipment washing rooms, rooms used for plucking, rooms used for slaughtering, and rest rooms shall be comprised of moisture-proof, and washable material. All walls shall be kept clean and in good repair.

xix. All rooms within the premises shall be properly lighted and ventilated. Mechanical ventilation of sufficient capacity to keep all rooms free of excessive heat and obnoxious odors shall be provided and shall ventilate to open air. Such systems shall be maintained in a clean manner and in good repair and shall be designed and operated so as to prevent noxious odors from entering adjacent properties. No odors shall be permitted beyond the property line or in the public right-of-way.

#### **40:6-2-34. Massage Facilities**

1. Condition of Approval. Each masseuse shall be certified/licensed by the State of New Jersey pursuant to NJAC 13:37A, Board of Massage and Bodywork Therapy Rules and shall comply with all applicable regulations contained therein. Proof of masseuse certification shall be submitted with conditional use application.

2. Additional Requirements. Accessory massage services shall comply with the following additional requirements:

a. The principal use shall be a Personal Service Establishment, Medical Office, or Fitness Center; and

b. The total area of the establishment devoted to massage services shall cover less than twenty (20) percent of the gross floor area of the principal use.

#### **40.6-2-35. Material Salvage or Junk Facility**

1. All operations must occur within a building.

2. Site shall remain clean of all stray materials.

3. No materials shall contaminate the site.

#### **40.6-2-36. Methadone Maintenance Clinic**

1. Bulk/Building Requirements. A methadone treatment facility shall have an internal waiting area of minimum 250 square feet.

2. Area Requirements. Minimum lot size of 20,000 square feet.

3. Parking: One parking space per medical doctor and 3 parking spaces for every treatment room.

4. Additional Requirements. A methadone maintenance clinic shall comply with the following additional requirements:

a. Any proposed methadone treatment facility shall include an operational narrative which accurately describes the nature of medical services to be offered and the names of the medical practitioners providing said services. A licensed physician, a MD or a DO, shall be on duty at the facility during the methadone treatment facility's hours of operation.

b. Prior to occupancy, any existing structure proposed for adaptive reuse as a methadone treatment facility shall be brought into compliance with all current building codes and all other applicable Borough, County, State and Federal regulations for the whole structure.

c. A state license to dispense methadone shall be obtained.

#### **40:6-2-37. Nightclubs, Discotheques & Cabarets**

1. Location. A nightclub, discotheque or cabaret shall be located on a collector or arterial street.

2. Bulk/Building Requirements. A nightclub, discotheque or cabaret shall comply with the following bulk/building requirements:

- a. Such uses shall be required to provide vestibules at all entrances and exits used by patrons for other than emergency egress to minimize noise emanating from such an establishment.
- b. Such uses shall provide adequate ventilation within the building such that doors and/or windows are not left open for such purposes resulting in noise emission from the building.
- c. Such uses shall not have any outdoor public address or outdoor music system.

3. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29). The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.

4. Condition of Approval. The applicant shall agree as a condition of approval to:

- a. Obtain a license pursuant to Title V, Amusements and Amusement Business, Chapter 11, Discotheques of the Revised General Ordinances of the City of Newark; and
- b. Comply with all the requirements for such a license including restrictions on hours and days of operation pursuant to Title V, Amusements and Amusement Business, Chapter 11, Discotheques of the Revised General Ordinances of the City of Newark.

**40:6-2-38. Outdoor Display Areas**

1. Location. Outdoor display areas shall comply with the following location requirements:

- a. Outdoor display areas shall be located immediately adjacent to the principal structure.
- b. Outdoor display areas shall be permitted in the front or side yards but shall not encroach into any required setbacks of the zone in which it is located.
- c. Outdoor storage display areas shall be located on either concrete, asphalt, or brick-paver areas and shall not be located on lawn areas, landscaping areas, or in the public right-of-way.

2. Bulk/Building Requirements. Outdoor display areas shall comply with the following bulk/building requirements:

- a. Outdoor display areas shall be a permitted only as an accessory use to a principal permitted retail use.
- b. Outdoor display areas shall be limited to twenty (20) percent of the gross floor area of the primary building or tenant space to which the outdoor display area is accessory. Automobile sales establishments are exempt from this requirement.

**40:6-2-39. Outdoor Storage**

1. Location. Outdoor storage areas shall not be permitted in any required front or side yard.

2. Buffers and Fencing. Outdoor storage areas shall be enclosed by a wall or fence of minimum five (5) feet and a maximum of eight (8) feet in height. Materials stored shall not be visible above fence.

3. Additional Requirements. The regulations of this Section shall not apply to automobile car washes, automobile paint and autobody repair, automobile rental, automobile repair shop, and automobile sales.

**40:6-2-40. Outdoor Storage, Chemical**

1. Condition of Approval. The applicant shall agree as a condition of approval to comply with all City, State, and Federal laws, regulations, and ordinances and obtain all necessary permits and licensures shall be secured prior to the start of operation. A copy of all licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

2. Additional Requirements. Outdoor chemical storage shall comply with the following additional requirements:

- a. A list of substances to be handled at the development must be furnished to the City of Newark Code Enforcement Officer, Fire Department, Police Department and any local emergency response teams that may be called upon to provide emergency service.
- b. An emergency response plan shall be submitted to the City of Newark Police Department, Fire Department and the Planning and Zoning Office for review and inclusion in department files for the proposed property. Information shall include spill prevention and clean up, taking into account topography and runoff.

c. A spill containment system must be employed as required by State and Federal law.

d. Plans showing any underground piping, storage facilities, and related appurtenances as they involve chemical or petroleum products must be submitted.

e. Any above-ground piping must be designed to prevent line breakage due to collision.

f. All containers and piping must be constructed of corrosion resistant materials.

g. The emission of odorous matter from any property in such concentrations at any point along the boundaries of said property or in such concentrations as to create a public nuisance or hazard beyond such boundaries is prohibited.

h. No chemicals or other hazardous materials or wastes shall be deposited upon a parcel in any zoning district in such form or manner that they may be transferred off the parcel by natural causes or forces.

i. No containers shall be visible from the public right-of-way and shall be screened from view.

#### **40:6-2-41. Pawn Shop**

1. The applicant shall agree as a condition of approval that the proposed facility shall obtain a license and comply with all applicable regulations pursuant to NJAC 3:16-1, Pawnbroking Law Regulations.

2. Pawn shops shall not be located within one thousand (1,000) feet, measured in a straight line from the property line of the site of the pawn show, of:

- a. Another pawn shop;
- b. A place of worship including a church or cemetery;
- c. A school;

#### **40:6-2-42. Places of Worship**

1. Location. A place of worship shall be located on a collector or arterial street. Places of worship are not permitted on ground floors in mixed-use buildings in C-1, C-2, or C-3 zones.

2. Buffers and Fencing. No off-street parking facility shall be located closer than fifteen (15) feet to any residential property line or residential zoning district boundary to allow for the provision of a ten (10) foot

wide landscaped buffer that shall have a height at planting of no less than six (6) feet.

3. Permitted Accessory Uses. The following are permitted accessory uses to places of worship:

- a. Banquet halls, cafeteria or kitchen facilities, classrooms, libraries, youth services, and other similar uses which are customarily accessory to places of worship are permitted accessory uses;
- b. With the exception of housing for clergy, no housing or dormitories, whether for temporary or permanent occupancy, shall be permitted as accessory uses.

#### **40:6-2-43. Primary and Secondary Schools**

1. Outdoor Storage. Buses, vans and other delivery vehicles shall be garaged during nighttime hours.

2. On-Site Circulation. Primary and secondary schools shall comply with the following on-site circulation requirements:

- a. All schools shall provide a safe pickup and delivery area separate from the off-street parking area and access driveway so students leaving vehicles have access to a sidewalk leading into the school without the child having to cross a street, parking lot, loading area, driveway or aisle. The safe pick-up/drop-off shall not be located between the front yard and the public street.
- b. No driveway shall open into a street or road within fifty (50) feet of an intersection of such street or road with another street or road.
- c. In addition to the parking requirements of Chapter 7, adequate space shall be provided for buses, vans and other delivery vehicles used in conjunction with the activities of the school.

#### **40:6-2-44. Private Clubs**

1. Applicants wishing to operate a social club shall obtain a license from the City of Newark and operate and maintain the social club in accordance with the regulations of Title V, Amusements and Amusement Businesses, Chapter 12 Social Clubs of the City of the Revised General Ordinances of the City of Newark.

2. Motorcycle clubs shall designate an area where motorcycles shall be parked. All motorcycles shall be parked on-site. All activities shall be internal to the building.

**40:6-2-45. Private Sports Courts**

1. Location. Private sports courts shall comply with the following location requirements:

- a. A private sports court shall not be located in the front yard.
- b. A private sports court shall not be located less than ten (10) feet from any property line.

2. Lighting. Any lighting of a private sports court shall comply with the standards of the Newark Zoning and Land Use Regulations.

3. Additional Requirements. A private sports court shall comply with the following additional requirements:

- a. A private sports court, shall not be rented nor used as a private club, nor for the commercial instruction of players other than the property owners of the subject parcel.
- b. Private sports courts shall be landscaped to buffer noise, lights, and activity.

**40:6-2-46. Public or Commercial Garages**

1. On-Site Circulation. Public or commercial garages shall comply with the following on-site circulation requirements:

- a. There shall be minimum of three (3) stacking spaces for vehicles entering the garage to prevent cars queuing in the public right-of-way.
- b. Driveways are limited to one (1) driveway per street frontage per one hundred (100) linear feet of street frontage and the maximum width of each driveway is twenty-four (24) feet.
- c. Driveways shall be at least ten (10) feet from any side lot line and fifty (50) feet from the intersection of street lines.

2. Accessory Uses. Services, including sales and washing, for commercial vehicles are a permitted accessory use in industrial districts only.

**40:6-2-47. Recycling Center**

1. All operations must occur within a building.
2. Site shall remain clean of all stray materials.
3. No materials shall contaminate the site.

**40:6-2-48. Resale or Thrift Shop**

1. Outdoor Storage. Resale or thrift shops shall comply

with the following outdoor storage requirements:

- a. Large or bulk items not capable of being discarded in a garbage enclosure shall be stored inside the building until the arrival of a removal service.
- b. Outdoor display of goods and merchandise during business hours is prohibited.
- c. No goods or merchandise for donation shall be dropped-off outside of regular business hours except in a licensed drop-off bin.
- d. Outdoor drop-off bins shall be prohibited.

2. On-Site Circulation. Resale or thrift shops shall comply with the following on-site circulation requirements:

- a. All activities, including collection, storage, sorting, and processing shall occur within a fully enclosed building.
- b. Loading and unloading areas shall not face or be visible from public streets or primary drive aisles.

**40:6-2-49. Rooming Houses & Boarding Houses**

1. Location: Rooming Houses & Boarding Houses are not permitted on the ground floor in commercial zones.

2. Bulk/Building Requirements. Rooming houses and boarding houses shall comply with the following bulk/building requirements:

- a. Not more than twenty (20) persons, other than any owner or operator, shall live in a Rooming or Boarding House at one time.
- b. Must have met the bulk standards and be of the same building type as the zone of which it is located.
- c. When located in a commercial zone, must be located on the second floor.

3. Condition of Approval. The applicant shall agree as a condition of approval that the proposed establishment shall:

- a. Obtain a license to own or operate a rooming house from the Bureau of Rooming and Boarding House Standards of in accordance with NJAC 5:27-1.1 et seq., Regulations Governing Rooming and Boarding Houses. A copy of the license shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.
- b. Comply with all regulations of NJAC 5:27-1.1 et

seq., Regulations Governing Rooming and Boarding Houses.

#### **40:6-2-50. Sexually-Oriented Businesses**

1. The term “sexually-oriented businesses” refers to business types including, but not limited to, establishments commonly referred to as a “Go-Go Establishment,” “Go-Go Bar,” “adult video store,” “adult DVD store,” “adult newsstand,” or “adult bookstore.” This term also refers to a commercial establishment which as one (1) of its principal business purposes offers for sale, rental, or display for any form of consideration any one (1) or more of the following: performances, 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” as defined in NJSA 2C:33-12.2 et seq. or “specified anatomical areas” as defined in NJSA 2C:33-12.2 et seq.; 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 purposes of this definition, “principal purpose” means the commercial establishment:

- a. Has at least ten (10%) percent of its merchandise in inventory consisting of said items; or
- b. Has at least twenty (20%) percent of the wholesale value of its displayed merchandise consisting of said items; or
- c. Has at least twenty (20%) percent of the retail value of its displayed merchandise consisting of said items; or
- d. Maintains at least ten (10%) percent of its interior business space for the sale or rental of said items; or Regularly features of 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
- e. Regularly features performances where “specified sexual activities” or “specified anatomical areas” as defined in this paragraph are displayed; or

f. Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

2. No sexually-oriented business shall be permitted unless it complied with all Federal, State, or local statutes including but not limited to NJSA 2C:33-12.2 et seq. and NJSA 2C:34-7 et seq.; is entirely in the Second Industrial Zoning District or Third Industrial Zoning District; and is not located within one thousand (1,000) feet, measured in a straight line from the property line of the site of the sexually-oriented business, of:

- a. Another sexually-oriented business;
- b. A hospital;
- c. Any building or structure used partially or wholly for residential purposes, provided that the area is zoned for residential purposes;
- d. A nursing home;
- e. A place of worship including a church or cemetery;
- f. A school;
- g. A daycare or child care center;
- h. Any parcel zoned for residential use.

3. Signage Requirements. A sexually oriented business shall comply with the following signage requirements:

- a. Furthermore, no sexually oriented business can have outdoor signage other than a single wall mounted sign on one (1) and only one (1) façade of the structure used by said sexually-oriented business with the following limitations for the entire sign including its text area, logo area, surface area, and area for mounting hardware.
- b. No sign area shall have more than two (2) feet of height;
- c. The top of the sign shall be no more than sixteen (16) feet above the average grade at the base of the wall upon which the sign is mounted, and the top of

the sign shall be below the first floor cornice line of the structure;

d. No sign area shall be more than twenty-five (25) square feet and shall not extend beyond the width of the building;

e. No sign shall cover more than ten (10%) percent of the surface area of the wall upon which it is mounted;

f. No sign shall project more than six (6) inches from the wall surface upon which it is mounted, nor shall such sign project into any public right-of-way area;

g. Internal illumination is prohibited for the sign;

h. No sign shall be within the line of site of a Federal or State highway.

#### **40:6-2-51. Solar Energy Systems**

##### **1. Roof installation**

a. Installation type shall meet or exceed the minimum design load for wind speeds established by the American Society of Civil Engineers (ASCE) for Newark, New Jersey.

b. A ten (10) foot setback is required from any frontage that is accessible from the public right-of-way by a fire department aerial ladder truck, except:

- i. Buildings over seventy-five (75) feet are exempt from the setback requirements.
- ii. Corner buildings where access to one (1) frontage is obstructed by electrical lines, utility poles or other immovable objects shall provide a ten (10) foot setback on the frontage side that is least encumbered.

c. Three (3) feet of clearance must be provided around all fire escape ladders and/or other points of emergency access.

d. Installations on a flat roof shall not exceed six (6) feet in height above the surface of the roof. Installations on a pitched roof shall not exceed a height of eight (8) inches above the rooftop. In no event shall the placement of the solar panels result in a total height greater than what is permitted in the zoning district for a principal structure nor shall any panel extend beyond the roof lines.

f. Access and spacing requirements shall be observed in order to ensure safe passage for egress from the roof, maintenance of equipment and to provide smoke ventilation opportunity areas.

g. No solar photovoltaic array or related equipment shall be attached to a common or adjoining exterior wall between two (2) buildings.

h. Remote disconnect. Direct current circuits shall be equipped with a means for remote disconnect located downstream from the photovoltaic array. Control of the remote disconnect shall be located within five (5) feet of the building's main electrical panel and shall meet all requirements of the New Jersey Electrical Code.

i. For installation on a multiple ownership or condominium building, a letter from the owners' association stating its complicity shall be required.

j. Placement and installation shall not interfere with architectural elements of a parapet, cornice, facade, or slate roof.

##### **2. Nonhabitable building installation**

a. Nonhabitable building installations include but are not limited to shade structures, carports, solar trellises, and the like.

b. Nonhabitable solar array structures shall not be applied as lot coverage; however, no lot shall be covered more than eighty-five (85) percent by structures including solar.

c. Minimum standards for installation shall be the same as for roof installations. [See Subsection 1(a) and (b).]

##### **3. Ground-mounted installation**

a. Setback requirements do not apply to ground-mounted, freestanding photovoltaic arrays, except as stated in Subsection 3(c) below.

b. Ground-mounted installations shall not be applied as lot coverage; however, no lot shall be covered more than eighty-five (85) percent by structures including solar.

c. Ground-mounted installations exceeding six (6) feet in height as measured from grade shall be set

back from any lot line two (2) feet for each additional foot in height.

d. Ground-mounted installations shall be designed in such a manner that neither water nor snow accumulate and have concentrated flow off the structure.

e. Ground-mounted installations shall be designed so as to meet the lighting and landscape standards of the Land Development Code.

f. Ground-mounted installations above parking lots shall be designed to provide adequate space for access by emergency vehicles.

g. Any tree removal for the installation of solar array shall be replaced based on an inch for inch ration and planted on site. If unable to plant on-site trees, the trees must be planted elsewhere within the Municipal Ward.

#### 4. Signage requirements

a. Marking is needed to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. This will facilitate identifying energized electrical lines that connect the solar panels to the inverter, as these should not be cut when venting for smoke removal.

b. All signs shall be made of reflective weather-resistant material suitable for the environment; UL 969 shall be used as a standard for weather rating. All "caution" signs shall have a red background with white lettering, a minimum letter height of one-half (1/2) inch and all capitals in Arial or similar font, unless otherwise specified. The "PV" sign shall be of the same color and weather-resistant material, but shall be five (5) feet by five (5) feet square and shall have a letter height of three (3) inches.

i. PV. Signage signifying the presence of a solar photovoltaic array shall be posted at the main entry door of the structure and at all other points of access to the roof.

ii. CAUTION: SOLAR ELECTRICAL SYSTEM CONNECTED. For residential applications, the marking may be placed within the main service

disconnect. If the main service disconnect is operable with the service panel closed, then the marking shall be placed on the outside cover. For commercial applications, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.

iii. CAUTION: SOLAR ELECTRIC CIRCUIT. Marking is required on all interior and exterior DC conduit, raceways, enclosures, cable assemblies and junction boxes to alert emergency responders to avoid cutting them. Markings shall be placed every ten (10) feet, at turns and above and/or below penetrations, and at all DC combiner and junction boxes.

iv. CAUTION: SOLAR CIRCUIT DISCONNECT. Signage shall be located immediately next to the remote disconnect control.

v. CAUTION: SOLAR ARRAY DISCONNECT. Signage shall be located immediately next to, or on, the array disconnect.

#### 5. Solar installations shall also comply with the following:

a. The solar installation shall conform to the National Electric Code as adopted by the New Jersey Department of Community Affairs, or any successor or substituted codes or regulations.

b. The solar installation is subject to all Public Service Electric & Gas Company requirements for installation.

#### 6. Approval and permitting

a. No installation of solar energy systems shall be permitted without a first certificate of zoning compliance and a building permit.

b. The Zoning Officer is hereby authorized to issue first certificates of zoning compliance for the purposes of erecting or maintaining solar energy systems.

c. For site plans falling outside of the parameters expressly set forth herein, the Zoning Officer shall issue a denial of zoning compliance and shall refer the application to the Planning Board for review.

d. The Construction Official shall issue the necessary building permit(s), provided that:

- i. All safety and installation requirements listed in Subsection 1 or 2 above have been met; and
- ii. All Uniform Construction Code (UCC) provisions as set forth in NJAC 5:23 et seq., and National Fire Protection standards (NFPA), have been met.

7. Location in Historic District. In the event that an application is made pursuant to the terms of this article for premises that are located in a Newark Historic District, or on a designated historic site or structure, approval must be obtained from the Newark Landmarks and Historic Preservation Commission (LHPC). Applicants shall submit preliminary plans to the Zoning Officer for review, and, if appropriate, a letter of pending approval shall be issued by the Zoning Officer to the LHPC prior to its review. Upon approval by the LHPC, a first certificate of zoning compliance shall be issued, and construction permits may be sought from the Building Department.

8. Enforcement, Violations and Penalties.

a. The Construction Official, Fire Code Official and Zoning Officer of the municipality are authorized to investigate suspected violations of any subsection of this section and pursue enforcement activities.

b. Violation of any provision of this Section shall be cause for the revocation of the first certificate of zoning compliance and/or construction permit(s).

c. Violation of any provision of this Section shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional separate and distinct offense.

9. Right to Require Removal. The City of Newark expressly reserves the right to require the removal of any solar energy system, or portion thereof, which is improperly constructed or maintained or which poses an imminent public safety hazard.

**40:6-2-52. Substance Abuse Treatment Facilities**

1. Location. Outpatient substance abuse treatment facilities shall only be located on collector or arterial roads.

2. Bulk/Building Requirements. a. Each outpatient substance abuse treatment facility shall provide a lobby or indoor waiting area for the indoor queuing of its clients sufficient to meet its needs.

b. Must follow the bulk regulations and design of the zone of which it is located.

3. Condition of Approval. The applicant shall agree as a condition of approval to:

a. Obtain any required licenses pursuant to NJAC 10:161B-1.1 et seq. Standards for Licensure of Outpatient Substance Abuse Treatment Facilities. A copy of the licenses shall be placed on file with the Newark Office of Uniform Construction Code (UCC) prior to the issuance of a certificate of occupancy.

b. Comply with all maintenance and operation standards for such a facility pursuant to NJAC 10:161B-1.1 et seq.

c. Operate the facility a maximum of eight (8) hours per day between the hours of 7:00 am and 7:00 pm from Monday through Friday. The facility hours of operation on Saturday, Sunday and holidays shall be a maximum five (5) hours per day between the hours of 9:00 am and 2:00 pm.

**40:6-2-53. Veterinary Clinic, Office or Hospital**

1. Noise. Applicants for such uses shall demonstrate compliance with all New Jersey Department of Environmental Protection (NJDEP) State Noise Control Regulations (NJAC 7:29) The approving board may require additional information and studies as necessary to demonstrate compliance with these standards.

2. Condition of Approval. The applicant shall agree as a condition of approval to comply with all applicable regulations pursuant to NJAC 13:44-1.1 et seq., State Board of Veterinary Medical Examiners and NJSA 45:16-1.1 et seq., Veterinary Medicine, Surgery and Dentistry.

3. Additional Requirements. The applicant shall provide proof to the approving board that any veterinarians on staff are licensed in the State of New Jersey.

**40:6-2-54. Wholesale Bakeries**

1. Such facilities must receive all required State, County and City licenses.

2. Such facilities shall be within completely enclosed buildings.

3. Lot and Bulk/building requirements:
  - a. Minimum required lot area: five thousand (5,000) square feet.
  - b. Minimum required front yard: zero (0) feet.
  - c. Minimum required rear yard: twenty-five (25) feet.
  - d. Minimum required side yard: fifteen (15) feet.
  - e. Minimum distance between any two (2) buildings, other than an accessory building, on the same lot: either twenty (20) feet or a distance equal to not less than one-third (1 /3) the combined height of the two (2) walls facing each other, whichever is greater.
4. Outdoor storage. No structure or storage of materials shall be permitted in any required yard.
5. Landscaping. Required yards shall be maintained and kept clear of all debris, rubbish, weeds and tall grass.
6. Accessory use. Accessory retail sales and office space shall not exceed thirty (30) percent of the gross floor area of the principal and any accessory buildings combined.

#### **40:6-2-55. Wind Energy Systems, Small**

1. Location, Setbacks and Height
  - a. Ground-Mounted Wind Turbines
    - i. General. A ground-mounted wind turbine shall be set back from all property lines, street right-of-way lines, and overhead utility lines a minimum distance equal to 1.1 times the height of the wind turbine. Turbine setbacks shall be measured from the center of the wind turbine base. With respect to an overhead utility line that provides service only to a single building or a single parcel of land, the setback requirement shall be met if the turbine is placed so that no portion of a rotor blade extends closer than five (5) feet to the utility line.
    - ii. Residential. With respect to proximity to Residential District lines, a wind turbine, including a wind turbine located in a Residential District, shall be set back from Residential District lines of adjoining or nearby properties a minimum distance equal to two (2) times the height of the wind turbine. In the case of a wind turbine that does not exceed thirty-five (35) feet in height and is located in a Residential District, the wind turbine shall be

set back at least fifteen (15) feet from all property lines, and no portion of a rotor blade shall extend closer than five (5) feet to any lot line.

iii. Height. The height of a ground-mounted wind turbine shall be limited by the setback requirements of this Section. The height of a rooftop or other building-mounted wind turbine shall not exceed the maximum permitted building height for the property by more than twenty percent (20%). For a rooftop or other building-mounted wind turbine that exceeds the maximum permitted building height by more than 20%, the Reviewing Board, after a public hearing, may approve a greater height if the Board determines that the placement of the turbine and context of the turbine site will mitigate any significant negative visual or safety impacts on nearby properties.

#### **b. Lighting, Design and Noise**

i. Lighting. Wind turbines shall not be illuminated except as required by the Federal Aviation Administration or other applicable authority or by the provisions of Section 40:16-6 [Lighting] of these Codified Ordinances. If lighting is required, a design that minimizes disturbances to nearby residences shall be utilized.

ii. Structural Design. Wind turbines shall be designed to meet all requirements of the Building Code of the City of Newark and all applicable State and Federal regulations.

iii. Aesthetic Design. Wind turbines shall be designed in a manner that makes them as visually unobtrusive as possible, while meeting safety requirements. To this end, towers shall be monopole rather than lattice design, wherever feasible. With respect to color, wind turbines, shall be white or off-white or unpainted metal, unless other colors are required by Federal regulations or unless another color is approved by the Reviewing Board as being more effective or more appropriate in a particular instance.

iv. Signs. No signs shall be located on or around a wind turbine except for necessary warning signs or informational signs located at or near ground

level. Such signs may include information of an educational nature or information identifying the manufacturer or installer of the wind turbine but shall not include any off-premise advertising or any advertising for businesses or other activities located on the premises. No more than two permitted signs shall be located on or around each wind turbine. The total area of such signs shall not exceed twenty (20) square feet, except that no sign shall exceed four (4) square feet if located on a property in a Residential District, unless that property is occupied by a community facility use, in accordance with the regulations of Chapter 9. Signs. Free-standing signs shall not exceed a height of five (5) feet, and the setback of such signs shall be in accordance with the regulations of Chapter 9. Signs for the zoning district in which the turbine is located.

v. Noise. No wind turbine shall produce noise that unreasonably disturbs the quiet, comfort or repose of neighboring inhabitant above that permitted for a residential district.

#### c. Application and Approval Process

i. Submission of application. An application to construct or alter a wind energy facility subject to the regulations of this Chapter shall be submitted to the Department of Engineering.

ii. Determination of compliance. The Department of Engineering shall determine if the application conforms to requirements of this Chapter and other applicable regulations of the City of Newark, except for those provisions that require a determination by Central Planning Board under provisions of this Chapter.

iii. Referral to Central Planning Board. For proposals subject to approval by the Central Planning Board, the Department of Engineering shall refer the application to the Central Planning Board for review and approval.

iv. Central Planning Board action. The Central Planning Board shall review any application subject to its approval under provisions of this Chapter and shall determine whether the proposal meets all applicable standards established in this Chapter to ensure appropriate appearance and compatibility

with surrounding uses. The Commission shall take action on the application at a public meeting. The Board may require modifications to the proposal as a condition of approval. The Board may disapprove an application if it determines that the proposed location does not meet the standards set forth in this Chapter and that a suitable alternative location is available.

v. Permit Issuance. The Department of Engineering shall issue the required permits if it determines that the application conforms to requirements of this Chapter and other applicable regulations of the City of Newark, and if it has been approved by the Central Planning Board where such approval is required.

d. Contents of Application. All applications subject to the provisions of this Chapter shall be accompanied by the following information, as applicable, in addition to information required for all Building Permit applications.

i. Ground-Mounted Wind Turbines. In addition to information required by other provisions of these Codified Ordinances, the following information shall be submitted with an application for a ground-mounted wind turbine and accessory structures to demonstrate compliance with the provisions of this Chapter.

A. A site plan of the subject property showing adjoining streets, the proposed turbine and any proposed and existing buildings, fencing, structures, landscaping, driveways, parking, and curb cuts on the subject property, including specifications for all proposed landscaping.

B. An elevation drawing showing the proposed wind turbine and all structures and landscaping shown on the required site plan, indicating the height, color and materials of the tower and all proposed fencing and other structures.

C. Where lighting of the wind turbine is proposed, a lighting plan for the proposed wind turbine, indicating the location, color and intensity of the lighting, both as it will appear in daylight and at night, and indicating any mechanisms to prevent glare on adjacent properties and streets and to shield the lighting from residences, to the

maximum extent feasible.

D. For any wind turbine that will exceed the height limit for buildings on the subject property, a vicinity map showing the subject property and the proposed wind turbine and fencing in the context of all property located within a distance from the turbine equal to three (3) times the height of the turbine, showing within this area, all streets and existing buildings and significant structures and indicating the residential use of any buildings and any property zoned in Residential or Landmarks Districts, such map being marked with topographic contours at five (5) foot intervals.

E. For any wind turbine that will exceed the height limit for buildings on the subject property, color photographs showing the current view of the wind turbine site from any adjoining public street or any other street within 200 feet of the proposed wind turbine and from the closest groupings of residential buildings located within an area from the proposed wind turbine equal to three (3) times the height of the proposed structure, plus a second set of color photographs showing the same views with the proposed wind turbine superimposed onto the photographs.

F. A statement by an engineer licensed in the State of New Jersey certifying that the proposed wind turbine will meet the noise standard of this ordinance with respect to impacts on properties in nearby Residential zoning districts.

ii. Rooftop-Mounted Wind Turbines. In addition to information required by other provisions of these Codified Ordinances, the following information shall be submitted with an application for a wind turbine proposed to be attached to the roof of a building or to another structure and subject to approval by the Central Planning Board under provisions of this Chapter.

A. An elevation drawing of the building or structure to which the proposed wind turbine will be attached, showing the placement of the wind turbine and indicating the color of the structure and in any enclosures in relation to the color of the surface to which it will be attached and showing the projection of the wind turbine

from the structure, marked with all necessary dimensions.

B. Color photographs of the building or structure to which the proposed wind turbine will be attached, with the proposed wind turbine superimposed onto such photographs, showing various perspectives from which the wind turbine will be viewed.

C. A statement by an engineer licensed in the State of New Jersey certifying that the proposed wind turbine will meet this noise standard of this ordinance with respect to impacts on properties in nearby Residential zoning districts.

D. Placement and installation shall not interfere with architectural elements of a parapet, cornice, facade, or slate roof.

### iii. Maintenance

A. Maintenance and Monitoring. All buildings, structures, fences, and property used in connection with a wind energy facility shall be maintained in good condition and in safe working order. On each biennial anniversary of the issuance of the Certificate of Occupancy for a wind turbine, or not more than ninety (90) days prior to that date, the permit holder for such wind energy facility shall submit to the Director of Engineering an affidavit that verifies continued operation of the wind turbine use and compliance with all requirements of this Chapter and other applicable governmental regulations.