

Effective – November 4, 2019

# Chapter 223 Land Development

City of Union City

County of Hudson

July 2019

## Contents

Article I. General Provisions.....	4
§ 223-1 Title.....	4
§ 223-2 Purpose. ....	4
§ 223-3 Contents. ....	4
§ 223-4 Explanatory preface.....	5
§ 223-5 Definitions. ....	5
Article II. General Regulations .....	32
§ 223-6 Minimum requirements. ....	32
§ 223-7 Relation to other regulations.....	32
§ 223-8 Supplementary regulations. ....	33
§ 223-9 Certain permitted uses. ....	42
§ 223-10 Applicability to municipal government.....	45
Article III. Development Requirements and Standards .....	46
§ 223-11 Design standards.....	46
§ 223-12 Construction requirements.....	59
§ 223-13 Improvements. ....	60
Article IV. Development Review Procedures and Plat Details .....	61
§ 223-14 Regulation of land development.....	61
§ 223-15 County Planning Board report.....	61
§ 223-16 Granting of exceptions.....	61
§ 223-17 Exemptions from subdivision regulations.....	61
§ 223-18 Simultaneous review.....	61
§ 223-19 Site plan approval required.....	61
§ 223-20 Submission of concept plan for minor and major developments. ....	64
§ 223-21 Submission of preliminary plat for major developments. ....	64
§ 223-22 Submission of final plat for minor and major developments. ....	66
§ 223-23 Plat design standards for subdivisions.....	69
§ 223-24 Plat design standards for site plans.....	72
Article V. Administrative Provisions.....	76
§ 223-25 Considerations in decision-making.....	76

§ 223-1 Title.

§ 223-26 Amendments.....	76
§ 223-27 Board of Adjustment procedures.....	76
§ 223-28 Planning Board procedures.....	77
§ 223-29 Previously granted permits and approvals.....	80
§ 223-30 Compliance required.....	80
§ 223-31 Effect of new approval.....	80
§ 223-32 Conditional uses.....	81
§ 223-33 Escrow deposits, application fees and inspection fees.....	81
Article VI. Zoning.....	83
§ 223-34. Districts.....	83
§ 223-35. Zoning Map.....	83
§ 223-36. Interpretation of district boundaries.....	84
§ 223-37. Filing of copies with City Clerk.....	84
§ 223-38. Lots in two or more districts or municipalities.....	84
§ 223-39. Schedule of Bulk Regulations.....	84
§ 223-40. Permitted uses.....	84
§ 223-41. Conditional uses.....	84
§ 223-42. Zoning regulations.....	84
§ 223-43. Conditional use standards.....	94
§ 223-44. Wireless telecommunications facilities.....	98
§ 223-45. Signs.....	104
§ 223-46. Off-street parking and loading.....	114
§ 223-47. Nonconforming uses, structures and lots.....	122
§ 223-48. Exemption of certain residential developments.....	124
§ 223-49. Outdoor sales.....	124

## **Article I. General Provisions**

### **§ 223-1 Title.**

This chapter shall be known as the "Land Development Ordinance of the City of Union City."

### **§ 223-2 Purpose.**

The purposes of this chapter are to establish a pattern for the use of land and buildings based on the land use element of the Master Plan, to implement the Master Plan and to encourage municipal action to guide the appropriate and orderly development of land in a manner which will promote the public health, safety, morals and general welfare of the people. This chapter is intended to:

- A. Regulate the use of land within zoning districts; secure safety from fire, flood, panic, and other natural and man-made disasters;
- B. Provide adequate light, air, and open spaces; limit and restrict buildings and structures to specified zones and regulate buildings and structures according to their type and the nature and extent of their use, and regulate the nature and extent of the use of land for trade, industry, residence, open space or other purposes;
- C. Regulate the bulk, height, number of stories, and size of buildings and other structures;
- D. Avoid a conflict with the development and general welfare of neighboring municipalities, the county and the state;
- E. Establish appropriate population densities and concentrations contributing to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment; provide sufficient space for residential, recreational, commercial and industrial uses and open space;
- F. Encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging the location of such facilities and routes which result in congestion or blight; promote a desirable visual environment;
- G. Promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;
- H. Encourage coordination of various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- I. Promote utilization of renewable energy resources; and
- J. Promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.

### **§ 223-3 Contents.**

The Land Development Ordinance of the City of Union City consists of text maps and schedules set forth in Chapter 223 of the Code of the City of Union City, New Jersey or referred to therein.

§ 223-5 Definitions.

**§ 223-4 Explanatory preface.**

Uses are regulated in the text and within the Schedule of Bulk Regulations. Some are permitted by right and some may or may not be permitted under certain conditions laid down by the approving authority.

A. All uses not expressly permitted in this chapter are prohibited.

B. Any use, building or structure legally existing at the time of the enactment of this chapter, as determined by the enforcing agency, may be continued even though such use, building or structure may not conform to the provisions of this chapter for the zone in which it is located, except as otherwise specified for nonconforming uses, structures, sites or lots.

C. Building location and dimensions are regulated by the Schedule of Bulk Regulations.[1]

[1] Editor's Note: The Schedule of Bulk Regulations is attached to this chapter.

D. Areas in which different regulations operate (districts or zones) are shown on the Zoning Map.[2]

[2] Editor's Note: A copy of the Zoning Map is attached to this chapter.

E. All provisions are minimum unless otherwise stated or clearly maximum by context. They apply with equal force to initial construction and subsequent modification or addition.

F. Related facilities, such as yards and parking, cannot be attributed more than once to structures; e.g., a side yard belongs to the house on its lot and cannot also serve the house on the adjacent lot.

G. In order to avoid their repetition in the text for each zone, matters pertaining to all zones are covered in individual sections.

H. It shall be the duty of the Zoning Officer to administer and enforce the provisions of this chapter. No building permit shall be issued unless the plans are accompanied by an approved zoning permit. No zoning permit shall be issued unless the proposed structure, use, temporary activity, or construction activity is in compliance with this chapter or is a valid prior nonconforming use. In cases involving the new use of an existing structure, no certificate of occupancy for the new tenant shall be issued until a zoning permit has been issued.

I. Amendments may be made from time to time in accordance with applicable requirements.

**§ 223-5 Definitions.**

A. Scope of meaning of certain terms. Unless the context clearly indicates the contrary, words used in the present tense include the future; the singular number includes the plural; and the plural, the singular.

B. For the purpose of this chapter, certain terms and words are defined as follows:

(1) The word "shall" is mandatory and not directory; the word "may" is permissive.

(2) The word "lot" includes the word "plot."

(3) The word "structure" includes the word "building."

§ 223-5 Definitions.

(4) The term "erected" shall be deemed to include "constructed," "structurally altered," "enlarged" or "moved."

(5) The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design or using the same.

(6) The word "person" shall be deemed to include persons, corporations or partnerships where appropriate.

C. For the purposes of this chapter, certain words and terms used herein are defined as follows:

ABANDONMENT - Abandonment of a nonconforming use requires a discontinuance of the use of a property *and* an intent to abandon the property.

ABUT - To physically touch or border upon or to share a common property line but not overlap. (See also "contiguous.")

ACCESS - A way or means of approach to provide a vehicle or pedestrian physical entrance to a property. (See also "driveway.")

ACCESSORY BUILDING - A building detached from and subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building. (See "accessory structure" and "accessory use.")

ACCESSORY STRUCTURE - A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. (See also "accessory building" and "accessory use.")

ACCESSORY USE - A use of land or a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot as the principal use. (See also "accessory building" and "accessory structure.")

ADAPTIVE REUSE - The development of a new use for an older building or for a building originally designed for a special or specific purpose.

ADDITION - An extension or increase in floor area or height to an existing building or structure.

ADJOINING LOT OR LAND - A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.

ADMINISTRATIVE OFFICER - The Zoning Officer of the City of Union City.

AIR RIGHTS - The rights to inclusive and undisturbed use and control of a designated space within delineated boundaries, either at the surface or above a stated elevation of another structure. Such rights may be purchased or leased for the construction of improvements.

§ 223-5 Definitions.

AISLE or PARKING AISLE - The traveled way by which cars enter and depart parking spaces.

ALLEY - A service roadway providing a secondary means of access to abutting property and not intended for general circulation.

ALTERATIONS - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another. Normal repairs and maintenance shall not be considered as alterations.

AMATEUR RADIO OR TELEVISION TOWER - A structure utilized by a single homeowner to send and/or receive radio and/or television communications.

AMENDMENT, ZONING - See "zoning amendment or Zoning Map amendment."

ANTENNA, RADIO AND TELEVISION - Antennas used by homeowners to receive radio or television communications.

APARTMENT - See "Dwelling, Unit."

APARTMENT BUILDING - See "Dwelling, Multifamily Family."

APPLICANT - A person submitting an application for development. (See also "developer.")

APPLICATION FOR DEVELOPMENT - The application form and all accompanying documents and exhibits required of an applicant by an approving authority for development review purposes.

APPROVED PLAN - A plan that has been granted final approval by the appropriate approving authority.

APPROVING AUTHORITY - The Planning Board, Zoning Board of Adjustment or other legally designated individual or agency that has been charged with the review and approval of plans and/or applications.

ARCHITECTURAL ELEVATION - A fully dimensioned drawing of the front, rear or side of a building showing features such as windows, doors and relationship of grade to floor level.

AS-BUILT PLAN - A plan drawn by a professional engineer or registered architect to scale showing the exact layout and dimensions of an existing completed structure or building.

ASSISTED LIVING FACILITY - Residences for the frail elderly that provide rooms, meals, personal care and the supervision of self-administered medication and may, in addition, provide recreational activities, financial services and transportation for the residents.

ATTACHED SINGLE-FAMILY DWELLING - See "row house."

ATTIC - That part of a building which is immediately below, and wholly or partly within, the roof framing.

§ 223-5 Definitions.

AUDIO, RADIO, VIDEO AND TELEVISION STATION AND STUDIO - A building or portion thereof utilized to produce audio, radio, video or television programs.

AUTOMATED TELLER MACHINE or ATM - Any establishment or device whose purpose is the performance of financial transactions to a customer without the aid of a teller.

AUTOMOBILE - A self-propelled, free-moving vehicle with four wheels, usually used to transport not more than six passengers, and licensed by an appropriate agency as a passenger vehicle.

AUTOMOBILE AND/OR TRUCK BODY REPAIR SHOP - An establishment engaged in the repair, service, maintenance or painting of an automobile and/or truck body, but not wrecking or salvage.

AUTOMOBILE PARTS AND SUPPLY STORE - A retail store whose business is the sale of automobile parts and supplies only, and which does not include any repair, service or installation, no matter how minor or infrequent.

AUTOMOBILE REPAIR SHOP - An establishment engaged in furnishing automobile repair, service or maintenance, but not including body work or painting.

AUTOMOBILE STORAGE YARD - An establishment whose principal use is the storage of automobiles. Space utilized for the storage of automobiles shall not be considered parking spaces within the meaning of this chapter.

AUTOMOBILE SUPPLY AND SERVICE STORE - A retail store whose primary business is the sale of automobile parts and supplies, and which provides for the service or installation of such parts on the premises as an accessory use.

AWNING - A roof-like cover generally made of cloth, canvas or similar material that permanently projects from the wall of a building for the purpose of shielding a doorway or window from the elements, not including a marquee. In residential districts, awnings and canopies shall be deemed structural projections.

AWNING OR CANOPY, RETRACTABLE - See "retractable awning or canopy."

BANNER - Any temporary sign applied to paper, plastic, or fabric of any kind, which may be permitted by the governing body by permit.

BANK - A business establishment authorized to perform financial transactions such as receiving and lending money, but not including check cashing stores or pawnshops.

BANK, DRIVE-THROUGH - See "drive-through bank."

BANK, DRIVE-THRU - See "drive-through bank."

BAR - An establishment used primarily for the serving of liquor by the drink to the general public.

BASEMENT - A habitable or non-habitable space partly underground but having at least 1/2 of its clear height above the reference level. A basement shall be counted as a story if its ceiling is four or more feet above the reference level.



§ 223-5 Definitions.

**BEDROCK** - Continuous solid rock that underlies regolith.

**BEDROOM** - A private room intended or used for sleeping separated from other rooms by a door or other physical barrier.

**BERM** - A mound of earth used to shield, screen and buffer undesirable views.

**BILLBOARD** - Any sign erected or maintained for the purpose of displaying outdoor advertising for products or services provided either on or off premises.

**BLOCK** - That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or nearest intersecting or intercepting street or railroad right-of-way, park boundary or waterway.

**BOARD OF COMMISSIONERS** - The Board of Commissioners of the City of Union City.

**BOARDER** - An individual other than a member of a family or household occupying a dwelling unit or part thereof who is furnished sleeping accommodations for a fee and may be furnished with meals and/or other services as part of the consideration.

**BOARDING-, LODGING OR ROOMING HOUSE** - A dwelling or part thereof in which lodging is provided by the owner or operator to more than one boarder.

**BOUNDARY** - The border or outer physical limit of a lot or property.

**BUFFER or BUFFER AREA** - An open space or landscaped area consisting of trees, shrubs, berms, walls, solid fencing or a combination of all, so installed as to provide both a visual and an acoustical barrier between one use or property and another use or property.

**BUILDING** - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind. Structures divided by unpierced masonry division walls extending from the ground to the roof shall be deemed to be separate "buildings."

**BUILDING, ACCESSORY** - See "accessory building."

**BUILDING AREA** - The total of areas, taken on a horizontal plane at the main grade level, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

**BUILDING COVERAGE** - The total of areas, taken on a horizontal plane at the main grade level, of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

**BUILDING HEIGHT** - See "height of a building."

**BUILDING, HISTORIC** - See "historic or landmark site."

**BUILDING LINE** - A line parallel to the front line and removed from it by the depth of the required front yard.

§ 223-5 Definitions.

**BUILDING PERMIT** - Written permission or authorization issued by the Zoning Officer for the construction, repair, alteration or addition to a structure or building, or the alteration of a lot or land.

**BUILDING, PRINCIPAL** - See "principal building."

**BUILDING SETBACK LINE** - A line parallel to the street line or lot line touching that part of the building closest to that street line or lot line.

**CABARET or NIGHTCLUB** - Any room, place, space or premises operated as a commercial establishment in which eating and/or drinking may take place and in which there is also provided entertainment. Such entertainment may include music by a live musician or musicians, or any mechanical, electronic or other means, such as records, laser discs, audio or videotapes or other audio or audiovisual means; this does include the operation of a motion-picture theater. Also included as entertainment are any act, play, burlesque show, revue, pantomime, scene, dance act or song-and-dance act participated in by one or more employees, guests, customers or any other person or persons. For the purpose of this definition, background piped-in music shall not be deemed as a form of entertainment.

**CALIPER** - The diameter of a tree trunk as measured from six inches above ground level for trees up to four inches in diameter, and 12 inches above ground level for trunks of trees with diameters in excess of four inches.

**CANOPY** - A nonretractable structure that permanently projects from the wall of a building, to shield a doorway, window or sidewalk, generally made of rigid building materials and supported by a metal frame.

**CANOPY SIGN** - See "sign, canopy."

**CARNIVAL** - A temporary enterprise offering amusements, entertainment, exhibitions, foods, contests and livestock exhibits, with or without the payment of a fee, admission or subscription. A carnival may also include a fair, rodeo, tent park, amusement trailer center or other similar appellations.

**CARPORT** - A roofed structure providing space for the parking of motor vehicles and enclosed on two sides or fewer.

**CAR WASH** - A building or premises used for the washing of automobiles.

**CATERING FACILITY** - See "banquet or catering facility."

**CELLAR** - A habitable or non-habitable space partly underground and having more than 1/2 of its clear height below the reference level or having less than four feet of clear height above the reference level. A cellar shall not be considered a story.

**CHANGE OF USE** - Any use which is different in use classification, as provided for in Article VI of this chapter, from the previous use.

**CHECK CASHING STORE** - An establishment primarily engaged in the business of cashing of checks for individuals and not offering the full range of financial services normally associated with a bank.

§ 223-5 Definitions.

CHILD-CARE CENTER - A facility providing for the care, supervision and protection of children which is required to be licensed by the State of New Jersey Department of Human Services.

CHURCH - See "place of worship."

CITY - The City of Union City, County of Hudson, State of New Jersey.

CITY CLERK - The Clerk of the City of Union City.

CIVIC USE - A nongovernmental use whose affairs relate to the City or its citizens, but not including government or municipal uses as defined herein.

CLIFF FACE - A sheer, nearly vertical slope of exposed bedrock.

CLINIC, MEDICAL OR DENTAL - See "medical or dental clinic."

CLUB - A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

COMMERCIAL RECREATION USE, INDOOR - See "indoor commercial recreation use."

COMMERCIAL SCHOOL - An educational or training establishment operated for a business, including the instruction of language, dance, fine or applied arts, martial arts, business, computers, trades, vocations, or the like.

COMMERCIAL VEHICLE - Any motor vehicle licensed by the state as a commercial vehicle.

COMMON OPEN SPACE - An open space within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

COMMUNITY CENTER - A building used for neighborhood meetings and recreational activities, whether or not on the basis of fees or charges, and exclusive of a building accessory to a church or religious organization.

CONCEPT PLAN - A plan or sketch for development provided for the purposes of informal review which carries no legal obligations or vested rights on the applicant, the approving authority or any other party.

CONCEPT REVIEW - See "informal review or concept review."

CONDITIONAL USE - A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning provisions of this chapter, and upon the issuance of an authorization therefor by the Planning Board.

§ 223-5 Definitions.

CONDOMINIUM - A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas and facilities are owned by the owners on a proportional, undivided basis.

CONFORMING APPLICATION OR PLAN - An application or plan which meets all of the requirements of this chapter and other applicable requirements of the Code of the City of Union City.

CONGREGATE CARE FACILITY - A facility for ambulatory elderly residents consisting of dwelling units with communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation services and other support services appropriate for the residents.

CONTIGUOUS - Next to, abutting or touching and having a boundary or portion thereof that is coterminous. (See also "abut.")

CONVENIENCE STORE - A retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods for off-site consumption.

COUNTY - The County of Hudson of the State of New Jersey.

COURT or COURTYARD - An open, unoccupied space bounded on at least two opposing sides by a building wall, but not a front, side or rear yard. An outer court is a court which has one side facing a street, a front yard or a rear yard and which is surrounded on all other sides by building walls and/or side lot lines. Any other court is an inner court. An offset to a court shall be deemed a separate inner court for the purpose of determining its least dimension, its area and the least dimension and area of the court to which it is contiguous. The width of a court is the dimension parallel to the open side in the case of an outer court and is the least dimension in the case of an inner court. For a court which opens upon a side yard, the measurement at right angles to the side lot line may be measured from the building wall to such side lot line across the side yard. The horizontal depth of a court is the dimension at right angles to its width. For a court which opens upon a rear yard or upon a front yard or street, the horizontal depth may be measured from the building wall of the court to the rear line or front line of the building, and such horizontal depth will not be construed to include the depth of the rear yard or front yard.

CROSS SECTION - See "profile."

CUL-DE-SAC or CUL-DE-SAC STREET - A street with a single common ingress and egress and with a turnaround at the end. (See also "dead-end street.")

CURB - A stone, concrete or other improved boundary marking the edge of a roadway or paved area.

CURB CUT - The opening along the curblines or edge of pavement at which point vehicles may enter or leave the roadway.

CUT AND FILL - The excavation of rock fragments and mineral grains, including soil, in one place and the deposit of the material as fill in another place.

DEAD END or DEAD-END STREET - A street with a single common ingress or egress with no turnaround at the end. (See also "cul-de-sac street.")

§ 223-5 Definitions.

DECK - An uncovered structure, usually constructed of wood or concrete, extending from the exterior wall of a residential dwelling, no more than three feet above the finished ground elevation of the wall from which it extends. Any such structure which is more than three feet above the finished elevation shall be considered part of the principal structure for purposes of setback. (See also "patio" and "porch.")

DEED RESTRICTION or RESTRICTIVE COVENANT - A restriction on the use of land as set forth in the deed.

DENSITY - The permitted number of dwelling units per gross acre of land to be developed.

DENTAL CLINIC - See "medical or dental clinic."

DENTAL OFFICE - See "medical office."

DEPTH, LOT - See "lot depth."

DEVELOPABLE AREA - The area of a lot exclusive of any portion which contains cliff face.

DEVELOPER - The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land. (See also "applicant.")

DEVELOPMENT - The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to the Municipal Land Use Law.[1]

DISTRICT - See "zone or district."

DRAINAGE - The removal of surface water or groundwater from land or stormwater from roofs or paved areas by drains, grading, or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development.

DRIVE-IN ESTABLISHMENT - Premises constructed for the sale of any goods or services by means of curb, window-counter, or self-service, for the motoring public.

DRIVE-IN RESTAURANT - An establishment where food or drink is served to a customer in an automobile outside the confines of a building for consumption on the premises. (See also "drive-through or drive-thru restaurant.")

DRIVE-THROUGH OR DRIVE-THRU BANK - A bank where transactions are made to customers within an automobile outside the confines of a building.

DRIVE-THROUGH OR DRIVE-THRU RESTAURANT - An establishment where food is served for immediate consumption outside the confines of a building and where all or part of that consumption occurs outside the confines of the building, off the premises.

§ 223-5 Definitions.

DRIVEWAY - A vehicular way on private property which provides access to a street or highway. (See also "access.")

DRY-CLEANING ESTABLISHMENT - A retail establishment used primarily for the purposes of picking up or dropping off clothing by customers for dry-cleaning purposes, and in which only those clothes dropped off by the customers at such an establishment and no other are dry cleaned within the premises. (See also "dry-cleaning plant.")

DRY-CLEANING PLANT - An establishment in which clothing dropped off by customers at the establishment, and from other establishments, is dry cleaned within the premises. (See also "dry-cleaning establishment.")

DWELLING - A building containing dwelling units. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, MULTIFAMILY FAMILY - A building containing four (4) or more dwelling units with separate cooking and toilet facilities for each dwelling. Multifamily Family dwellings may also include condominiums, as defined here.

DWELLING, ONE-FAMILY - A building containing one dwelling unit only.

DWELLING, TWO-FAMILY - A building containing two dwelling units only.

DWELLING, THREE-FAMILY - A building containing three dwelling units only.

DWELLING, TOWNHOUSE - A building containing three or more dwelling units wherein each unit has its own front and rear access to the outside, no unit is located over another unit, and each is separated from the other by one or more common vertical walls. (See also "row house or attached single-family dwelling.")

DWELLING UNIT - A building or portion thereof used for living purposes by one family and having cooking and sanitary facilities for its exclusive use.

EASEMENT - A permanent right in an individual, the public or other entity to use the land of another for a specific purpose not inconsistent with the general ownership of the property. (See also "right-of-way.")

EATING AND DRINKING ESTABLISHMENT - A retail establishment serving prepared food or drink within an enclosed building for immediate consumption within the building or off the premises, including restaurants, lunch counters, ice cream and pizza parlors, and luncheonettes, which have a customer service area limited to eight seats or space for no more than eight customers to eat within the establishment, but excluding all drive-in or drive-through restaurants, and bars or taverns. (See also "food and beverage store.")

ELEVATION - A vertical distance above or below a fixed reference.

ELEVATION, ARCHITECTURAL - See "architectural elevation."

ELEVATION, GRADE - See "grade elevation."

§ 223-5 Definitions.

ENLARGEMENT - An increase in the size of an existing structure, building or use, including the physical size of a property, structure, building, parking or other improvements.

ENFORCING AGENCY - The municipal administrative entity charged with the administration and enforcement of the regulations in accordance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1 et seq., which shall be the Construction Code Official or his designee unless otherwise designated.

ERECT - To build, construct, attach, hang, place, suspend or affix, including, but not limited to, the painting of wall signs.

EVERGREEN - A plant with foliage that remains green year-round.

EXISTING GRADE or EXISTING ELEVATION - The vertical location above some elevation point of the ground surface prior to excavating or filling.

FAÇADE - The exterior walls of a building exposed to public view or that wall viewed by persons not within the building.

FACING - The surface of the sign upon, against or through which the message is displayed or illuminated on the sign.

FAMILY - A group of individuals not necessarily related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, federation or like organizations, or any group of individuals who are in a group living arrangement as a result of criminal offenses.

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

FAST-FOOD RESTAURANT - An establishment in which food is pre-prepared and sold over a counter in disposable containers or wrappers selected from a limited menu for consumption on or off the premises.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLAG LOT or FLAGPOLE LOT - See "lot, flag or flagpole lot."

FLOOD HAZARD AREA - That portion of the floodplain as designated by the Federal Insurance Administration or the Federal Emergency Management Agency, as constituting particular hazards or risks applicable to the community by reason of flooding.

FLOOR AREA OF A BUILDING, GROSS - See "gross floor area."

FLOOR AREA RATIO (FAR) OF A BUILDING - The quotient of the gross floor area of a building divided by its lot area. Above-grade structured parking is included in the FAR while below-grade parking shall be excluded from the FAR calculation.

§ 223-5 Definitions.

FLOOR, MEZZANINE - See "mezzanine."

FOOD AND BEVERAGE STORE - An establishment selling food and beverages to the public, including but not limited to meat, poultry, fish, specialty foods, beverages, candy, nuts, dairy products, health food, liquor and wine, and including convenience stores, delicatessens and bakeries (for sale of goods on premises only), but not including eating and drinking establishments or restaurants.

FREESTANDING SIGN - See "sign, freestanding."

FRONTAGE - That side of a lot abutting a street.

FRONT LOT LINE - The lot line separating the front of a lot from a street right-of-way. (See also "street line or right-of-way.")

FRONT OF A STRUCTURE - When erected on a plot abutting on two or more streets, that abutting side which is so designated on the plot plan by the owner.

FRONT YARD - A space extending the full width of the lot between any building and the front lot line.

GARAGE, PRIVATE - See "private parking garage."

GARAGE, PUBLIC - See "public parking garage."

GARAGE, REPAIR SHOP - See "automobile repair shop."

GASOLINE SERVICE STATION - An establishment primarily used for the retail dispensing of vehicular fuel and oil to automobiles and the incidental servicing thereof, but not including body work or painting.

GOVERNMENT USE - The use of land, buildings or structures by any department, commission, independent agency or instrumentality of the United States, of a state, county, authority, district or other governmental unit other than the City of Union City.

GRADE or GRADIENT - The percent of rise or descent of a sloping surface, grade is defined as the average ground elevation of the land around the exterior walls of a building or structure. (See also "grade elevation.")

GRADE ELEVATION - The average ground elevation of the land around the exterior walls of a building or structure.

GROSS FLOOR AREA - The sum of the gross horizontal areas of the several floors and mezzanine floors of a building and its accessory buildings on the same lot, excluding basement or cellar areas devoted to parking and mechanical equipment space. All dimensions shall be measured between exterior faces of walls.

GROUND AREA OF A BUILDING - See "building coverage."

GUARANTEE - See "performance guarantee."



§ 223-5 Definitions.

HABITABLE SPACE – A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

HEALTH CARE FACILITY, RESIDENTIAL - See "residential health care facility."

HEALTH CLUB or GYMNASIUM - An establishment that provides facilities for physical exercise such as aerobics, running, jogging, weightlifting, game courts, swimming facilities, and accessory saunas, showers, massage rooms and lockers, within an enclosed building or buildings.

HEAVY INDUSTRIAL - An establishment which involves basic processing and manufacturing of materials or products predominantly from extracted or raw materials. (See also "light industrial" and "medium industrial.")

HEIGHT OF BUILDING - The vertical distance measured from the reference level to the level of the highest point of the roof beams.

HOME OCCUPATION - An activity carried out for gain by a resident, conducted entirely within a dwelling unit, which is clearly incidental and secondary to the use of the lot for residential purposes. The term shall not include businesses or occupations such as the operation of a beauty parlor, barbershop, automobile repair servicing or body shop, convalescent or nursing home, insurance or real estate agency, boardinghouse, kennel or stable, massage parlor, dancing instructions, band instrument instructions in group, child-care centers, drug counseling centers, antique shops, restaurants, tearooms, tourist homes, real estate offices, insurance offices, mortuary establishments, stores, trades, veterinary hospitals or similar establishments offering services to the general public. (See also "home occupation, major" and "home occupation, minor.")

HOME OCCUPATION, MAJOR - A home occupation that involves up to two employees other than a resident of the dwelling unit in which the occupation is being conducted. See § 223-43F for additional regulations.

HOME OCCUPATION, MINOR - A home occupation that does not involve any employees other than a resident of the dwelling unit in which the occupation is being conducted. See § 223-8G(2)(a) for additional regulations.

HOMEOWNERS' ASSOCIATION - An association of homeowners organized to own, maintain, operate and share the cost of maintaining common facilities and to enhance and protect their common interests.

HOSPITAL - An institution which maintains and operates organized facilities and services for the diagnosis, treatment or care of persons suffering from illness, injury or deformity and/or obstetrics, and in which all diagnosis, treatment and care are administered by or performed under the direction of persons licensed to practice medicine in the State of New Jersey.

HOSPITAL, VETERINARY - See "veterinary office or hospital."

HOTEL - A facility offering transient lodging accommodations to the general public wherein all rooms are connected to interior hallways, and thereby to interior elevators, lobbies or stairways, through which access to the exterior is gained. Hotels may include but not be limited to related services such as restaurants, meeting rooms or recreation facilities.

§ 223-5 Definitions.

HOUSE - See "dwelling unit."

HOUSEHOLD - A family living together in a single dwelling unit, with common access thereto and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

IMPERVIOUS SURFACE - A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

IMPROVEMENT - Any permanent structure that becomes part of, placed upon, or is affixed to real estate.

IMPROVEMENT, OFF-SITE - See "off-site improvement."

INDOOR COMMERCIAL RECREATIONAL USE - A building or group of buildings used for recreational purposes and operated as a business and open to the public for a fee, including bowling alleys, skating and roller rinks, pool and billiard halls, indoor rifle and pistol ranges, indoor batting cages, recreation centers, and indoor swimming pools or tennis courts. (See also "recreation use or facility.")

INDUSTRIAL, LIGHT - See "light industrial."

INFORMAL REVIEW or CONCEPT REVIEW - A review process undertaken by the Planning Board at the option of the applicant as provided for in this chapter, for the purposes of assisting an applicant to prepare an application for formal submission and to provide direction and feedback on such application, at which no decisions, resolutions or formal actions are taken, and wherein all comments or communications carry no legal obligation or vested rights, nor are binding on any party.

INSTITUTIONAL USE - A nonprofit or public use, such as a library, public or private school, or government-owned or -operated building, structure, or land used for public purpose.

INTERIOR LOT - A lot other than a corner lot. (See also "corner lot" and "through lot.")

LABORATORIES - An establishment or part thereof equipped and used for experimental study, testing or analysis in a field of science.

LANDSCAPED AREA - Areas containing trees, shrubs and ground covers, pedestrian and recreation areas, ponds, streams or any other areas or features which can be reasonably included, but shall not include areas occupied by buildings or structures, paving for parking, loading or access thereto, required buffers or areas utilized for outside storage.

LANDSCAPING - Lawns, trees, plants and other natural materials such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains and pools.

LAUNDROMAT - A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in a multifamily building or hotel.

LIGHT INDUSTRIAL - An establishment engaged in light nonnuisance fabrication or the assembly, packaging, storage and distribution of products from finished products or parts.

§ 223-5 Definitions.

LIVE ENTERTAINMENT - Any form of entertainment which is performed in person before an attending audience.

LIVE/WORK UNIT - A dwelling unit designed to provide space in which to conduct a business or trade, including offices, studios, crafts workshop area or laboratory space.

LOADING BERTH - See "loading space or berth."

LOADING, OFF-STREET - See "off-street loading."

LOADING SPACE OR BERTH - An off-street space or berth used for the loading or unloading of cargo, products or materials from vehicles.

LODGING HOUSE - See "boarding-, lodging or rooming house."

LOT - A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT AREA - An area of land which is determined by the limits of the lot lines bounding the area expressed in terms of square feet. Any portion of a lot included in a public or private street right-of-way shall not be included in calculating "lot area."

LOT, CORNER - A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed on 135°.

LOT COVERAGE - The area of the lot covered by impervious surfaces, including buildings and other structures.

LOT DEPTH - The mean horizontal distance between the front and rear lot lines. Where the front property line is an arc of a circle or irregular in shape, the depth shall be the average distance between the front and rear lines.

LOT, FLAG or FLAGPOLE LOT - A lot which does not meet the minimum lot width requirements and where access from the lot to the public road is by means of a narrow private right-of-way or driveway.

LOT, INTERIOR - See "interior lot."

LOT LINE - The boundary line of a parcel of land as shown on a certified filed map, Tax Map or as defined by a field map. A lot line shall not be considered unless legally subdivided or apportioned.

LOT LINE, FRONT - The street line of a lot. On a corner lot, the front line shall be the shorter street line. On a corner lot with equal street lines or having more than the required lot depth on two or more streets or on a through lot, the owner may elect which street line shall be considered the front lot line.

LOT LINE, REAR - The lot line which is more distant from and most nearly parallel to the front lot line.

LOT LINE, SIDE - Any lot line which is not a front or rear lot line.

§ 223-5 Definitions.

LOT, THROUGH - An interior lot which fronts upon two parallel streets or which fronts upon two streets which do not intersect at the boundaries of the lot.

LOT WIDTH - The mean width of any lot, measured at right angles to its depth.

LOT, NONCONFORMING - See "nonconforming lot."

MAINTENANCE GUARANTEE - A security acceptable to the City of Union City to assure that necessary improvements installed or completed by a developer will function as required for a specific period of time.

MARQUEE - A permanent nonretractable cover made of rigid building materials constructed as an integral part of the building, the supports of which are part of the original structure, which extends from the building over an entrance or sidewalk to shield a doorway, window or sidewalk from the elements.

MASSAGE ESTABLISHMENT - Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed massage therapist, physical therapist or health professional or barbershops or beauty salons in which massages are administered only to scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primarily source of revenue through the administration of massages.

MASTER PLAN - The current Master Plan of the City of Union City adopted in accordance with the requirements of N.J.S.A. 40:55D-28.

MEDICAL OFFICE - The office of recognized medical practitioners, including but not limited to doctors, dentists, dental surgeons, veterinarians, chiropractors, podiatrists, psychologists, and licensed therapists.

MEDICAL OR DENTAL CLINIC - An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight, and are provided treatment not commonly performed in medical or dental offices.

MEDIUM INDUSTRIAL - An establishment engaged in the processing, fabrication, treatment, packaging, storage and distribution of predominantly previously prepared materials, or finished products or parts, but excluding basic processing or manufacturing from predominantly new or extracted materials. (See also "heavy industrial" and "light industrial.")

MEZZANINE - An intermediate floor between the floor and ceiling of any story and covering less than 1/3 of the floor area immediately below. A mezzanine shall not be counted as a story, but its floor area shall be included in the computation of gross floor area.

MIXED-USE BUILDING - A building containing nonresidential use on the ground floor and residential use on upper floors.

§ 223-5 Definitions.

MOTEL or MOTOR HOTEL - A facility offering transient lodging accommodations to the general public wherein all rooms are not connected to interior hallways, and thereby to interior elevators, lobbies or stairways, through which access to the exterior is gained.

MOTOR VEHICLE USES - Any one of the following as defined herein: automobile body repair shops, automobile rental or short-term leasing establishments, automobile repair shops, automobile sales or long-term leasing establishments, gasoline service stations, automobile storage yards, automobile supply and service stores, automobile washes, convenience stores in conjunction with gasoline service stations, transport service businesses, truck and bus depots, rental, storage, leasing and sales establishments, truck and bus service stations, and repair shops.

MUNICIPAL USE - Any use of land, building or structure by the City of Union City or an agency thereof.

NADIR - The lowest point.

NIGHTCLUB - See "cabaret or nightclub."

NONCONFORMING LOT - A lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment. (See also "nonconforming structure" and "nonconforming use.")

NONCONFORMING STRUCTURE - A structure, the size, dimension or location of which was lawful prior to the adoption, revision, or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment. (See also "nonconforming lot" and "nonconforming use.")

NONCONFORMING USE - A use or activity which was lawful prior to the adoption, revision or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment. (See also "nonconforming structure" and "nonconforming use.")

NURSING HOME - An institution licensed and approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the institution's operator by marriage, blood or adoption.

OFFICE - A room or group of rooms used for conducting the offices of a business, profession, service, industry or government, and generally furnished with desks, tables, files, and communication equipment, including offices of general, business, executive, legal, accounting, architect, planning, engineer, real estate, contractor and employment agencies.

OFFICE, MEDICAL - See "medical office."

OFF-SITE OR OFF-TRACT IMPROVEMENT - Improvements to be made off site as a result of an application for development and including, but not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.

§ 223-5 Definitions.

OFF-SITE PARKING - Parking provided for a specific use but located on a site other than the one on which the specific use is located.

OFF-STREET LOADING - Designated areas located adjacent to buildings where trucks may load and unload cargo. (See also "loading space or berth.")

OFF-STREET PARKING - Parking for a motor vehicle not located within a street right-of-way. (See also "on-street parking.")

ON-STREET PARKING - Parking for motor vehicles located within a street right-of-way. (See also "off-street parking.")

OPEN-AIR MARKET - A public marketplace where food and merchandise is sold.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants and their guests, of land adjoining or adjacent to such open space.

OPEN SPACE, COMMON - See "common open space."

OUTDOOR SALES - The outdoor display of goods and merchandise for sale and shall include but not be limited to garage sales and the like. All outdoor sales shall be subject to the provisions of § 223-49 herein.

OUTDOOR STORAGE - The keeping of any goods, junk, material, merchandise or vehicles outdoors in the same place overnight or continually for a period of more than 12 hours.

OWNER - Owner of real property.

PARCEL - A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity, including members of an immediate family. (See also "lot" and "tract.")

PARK or PLAYGROUND - A tract of land designated and used by the public for active and passive recreation.

PARKING AISLE - See "aisle or parking aisle."

PARKING AREA - Any public or private area, inside, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

PARKING GARAGE - See "private parking garage" and "public parking garage."

PARKING LOT - An unenclosed parking area for the parking of vehicles.

PARKING LOT, NONACCESSORY - A parking lot that is the principal use of a property and is not an accessory use to any other use.

PARKING, OFF-STREET - See "off-street parking."

§ 223-5 Definitions.

**PARKING, SHARED** - Any off-street parking when land uses having different parking demand patterns are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately.

**PARKING SPACE** - A space conforming to applicable standards of this chapter for the parking of a motor vehicle within a parking area.

**PATIO** - A level, landscaped or surfaced area directly adjacent to a principal building at grade and not covered by a permanent roof. (See also "deck" and "porch.")

**PAWN SHOP or PAWNBROKER'S SHOP** -An establishment in which the proprietor lends money on the security of personal property pledged in his or her keeping.

**PENNANT** - Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind. This shall also include streamers and flags.

**PERFORMANCE GUARANTEE** - A security that is acceptable to the City of Union City to assure that improvements that are required as part of an approved development will be satisfactorily installed or completed.

**PERMITTED USE** - A use of a building or land that conforms with the provisions of this chapter.

**PERSONAL SERVICE ESTABLISHMENT** - An establishment engaged primarily in providing services involving the care of a person or his or her personal goods or apparel, including but not limited to linen supply, beauty and barber shops, dressmaker, tailor shops, watch repair, clothing and shoe repair, laundromats, drop-off laundry and dry cleaners (not including dry-cleaning establishments or plants), nail salons and tanning salons.

**PLACE OF WORSHIP** - A church, synagogue, temple, mosque, or other building or group of buildings which by design and construction is intended for the conducting of organized religious services and accessory uses associated therewith.

**PLANNING BOARD** - The Planning Board of the City of Union City.

**PLAYGROUND** - See "park or playground."

**PLOT** - See "lot."

**PORCH** - A roofed open area which may be screened but not enclosed by glazing, usually attached to or part of and with direct access to and from a building. Porches are part of a principal structure for purposes of setback. (See also "deck" and "patio.")

**PRINCIPAL BUILDING** - A building in which is conducted the principal use of the lot on which it is located.

§ 223-5 Definitions.

**PRINCIPAL USE** - The primary or predominant use of any lot, parcel, structure or building.

**PRIVATE PARKING GARAGE** - A structure that is accessory to a residential use which is used for the parking of vehicles, and which is not used by the general public.

**PRIVATE STREET** - A street that has not been accepted by the City of Union City or other governmental entity, but which is shown on the Official Map of the City of Union City.

**PRIVATE SWIMMING POOL** - A swimming pool located as an accessory use on the same lot as the principal use it serves, which is utilized only by the owner or tenants or his or their nonpaying guests.

**PROFILE or CROSS SECTION** - A drawing or side or sectional elevation showing the vertical elements of a structure from below ground through the top of the structure.

**PROHIBITED USE** - A use not permitted within a district. Those uses not permitted by Article VI of this chapter are prohibited. The listing of certain uses as specifically prohibited reiterates the prohibition regarding those particular uses to avoid doubt or confusion.

**PROJECTION** - An extension of a building which protrudes or juts out from the vertical plane of the building.

**PROPERTY** - A lot, parcel or tract of land together with the building and structures located thereon. (See also "lot, parcel" and "tract.")

**PUBLIC PARKING GARAGE** - A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

**PUBLIC OR PRIVATE UTILITY** - Any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection or other similar services.

**RADIO ANTENNA** - See "antenna, radio or television."

**RADIO STATION or STUDIO** - See "audio, radio, video and "television station and studio."

**RADIO TOWER, AMATEUR** - See amateur radio or television tower. (See also "telecommunications tower.")

**RECONSTRUCTION** - Any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.



§ 223-5 Definitions.

RECREATION USE OR FACILITY - A place designed and equipped for the conduct of sports and leisure time activities.

RECREATION VEHICLE - A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and designed primarily as a temporary living accommodation for recreation, camping and travel use, including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

REFERENCE LEVEL - The level of the established curb at the center of that street frontage of the building where the average curb level is highest. Where no curb level has been established or wherever the grade elevation of that portion of the parcel is higher than the curb level, such grade elevation shall be considered to be the reference level for the purpose of this chapter.

REGOLITH - The noncemented rock fragments and mineral grains, including soil, which overlie bedrock.

RENOVATION - The removal and replacement or covering of existing interior or exterior finish, trim, doors, windows, or other materials with new materials that serve the same purpose and do not change the configuration of space. Renovation shall include the replacement of equipment or fixtures.

REQUIRED SETBACK LINE - That line that is the required minimum distance from any lot line and that establishes the area in which a building must be erected or placed.

REQUIRED YARD - The open space between the lot line and the required setback line measured perpendicular to the lot line and within which no structure shall be located except as provided in this chapter.

RESIDENCE - A home, abode or place where an individual or household is actually living at a specific point in time.

RESIDENTIAL HEALTH CARE FACILITY - Any facility so defined by N.J.S.A. 26:2H-1 et seq. and regulated by the New Jersey Department of Health and Senior Services. "Residential health care facility" shall include the terms assisted living, congregate care, nursing home, convalescent home, extended care, and long-term care.

RESIDENTIAL USE - Any use in which one or more dwelling units or residences are present.

RESTAURANT - An establishment where food and drink are prepared, served and consumed within an enclosed building, and wherein food is served only to be consumed by customers seated at tables on the premises. (See also "eating and "drinking establishment," "drive-in restaurant" and "drive-through restaurant.")

RESTAURANT, DRIVE-IN - See "drive-in restaurant."

RESTAURANT, DRIVE-THROUGH - See "drive-through restaurant."

RESTAURANT, DRIVE-THRU - See "drive-through restaurant."

RESTAURANT, FAST-FOOD - See "fast-food restaurant."

§ 223-5 Definitions.

**RETAIL SALES ESTABLISHMENT** - An establishment engaged in selling of goods and merchandise to the general public for personal or household use, including automobile parts and supplies (with no service), clothing and shoes, fabrics, curtains, drapes, floor coverings, furniture, lamps, appliances, radios, television sets, computers, electronics, upholstery, china and glassware, luggage and leather goods, antiques, home wares, paint and wallpaper, arts and crafts, candles, records, tapes, videos, musical instruments, pets, books and stationery, flowers, tobacco, drugs, sporting goods, jewelry, sewing machines, photography equipment, keys, cards, gifts, and toys, and including television, appliance, computer and electronics sales and repair establishments, department stores, variety stores, hardware stores (with products for sale predominantly to the public), interior decorating stores, hobby shops and art galleries.

**RETRACTABLE AWNING OR CANOPY** - An awning or canopy that may be retracted by mechanical means so as not to project beyond the front facade of a building.

**RIGHT-OF-WAY** - An easement for ingress and egress, sometimes together with the right to maintain utilities within the easement area. (See also "easement.")

**RIGHT-OF-WAY LINE** - See "street line or right-of-way line."

**ROOMING HOUSE** - See "boarding-, lodging or rooming house" and "border."

**ROW HOUSE or ATTACHED SINGLE-FAMILY DWELLING** - See "dwelling, townhouse."

**SATELLITE ANTENNA** - Any accessory structure capable of receiving and/or transmitting, for the sole benefit of the principal use, radio or television signals from a transmitter or transmitter relay located in planetary orbit and including but not limited to satellite receivers, satellite dish antennas, satellite disks, direct broadcast systems (DBSs), and television reception only systems (TVROs).

**SCHOOL** - Any place of education or instruction, other than a commercial school, college, university, theological seminary, convent, monastery, child-care center, children's day camp or religious retreat.

**SCREENING** - A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. (See also "buffer or buffer area.")

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

**SETBACK** - The distance between a building and any lot line. When two or more lots under one ownership are used for a single development, the exterior lot lines so grouped shall be used in determining the setback.

**SHADE TREE** - A tree with a minimum caliper of 2 1/2 inches, usually deciduous, planted primarily for overhead canopy.

**SHED** - A small, fully enclosed structure for storage. (See also "accessory structure.")

§ 223-5 Definitions.

**SIDE SLOPE** - The section of a slope that is below the talus slope and generally of moderate or lesser gradient than the talus slope or cliff face.

**SIDE YARD** - A space extending from the front yard to the rear yard between the principal building and the side lot line.

**SIGN** - Any device, either freestanding or attached to a building or structure or erected, painted, represented or reproduced upon or in, to the extent provided herein, any building or structure, which displays reproduces or includes any letter, word, name, number, model, insignia, emblem, design, device or representation used for one or more of the following purposes: to identify the premises or occupant or owner of the premises; to advertise any trade, business, profession, industry, service or other activity; to rent or use all or a part of the premises, including that upon which it is displayed; to direct vehicular or pedestrian traffic, other than state, county or municipal highway and roadway markers; and shall include any announcement, declaration, demonstration, display, illustration, insignia or any representation used to advertise or intended to advertise or promote the interest of any person. In no event shall the word "sign" be construed to mean any sign in the interior of any structure except as specifically set forth in this chapter.

**SIGN, AREA** - The area of a sign face that encompasses the extreme limits of the writing, representation, emblem or other display, together with the sign frame and any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, or by delineating the area established by reason of distinctive variation in background color or by borders, whichever is greater.

**SIGN, BILLBOARD** - See "billboard."

**SIGN, BUILDING** - Any sign attached to any part of a building, as contrasted to a freestanding sign.

**SIGN, BUSINESS OR NONRESIDENTIAL** - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered upon the premises, provided that, at any location where a business sign is permitted, there shall also be permitted a sign containing noncommercial images or messages in lieu of any other images or messages, regardless of whether such noncommercial images or messages relate to activity conducted upon the premises.

**SIGN, CANOPY** - Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

**SIGN, FREESTANDING** - Any sign supported by a structure or supports that are placed on or anchored in the ground and that are independent from any building or other structure.

**SIGN, HANGING** - See "sign, projecting."

**SIGN, ILLUMINATED** - Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

**SIGN, INCIDENTAL** - A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar

§ 223-5 Definitions.

directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

SIGN, LIGHT BOX - A permanent wall-mounted sign with an exposed frame, a flat translucent face and internal illumination.

SIGN, MAINTENANCE - Includes replacement without substantial change of any parts or support of any sign and the painting without change of text, design or size of any sign, without removal of the sign from the wall or structure supporting it.

SIGN, MONUMENT - A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground.

SIGN, POLITICAL - Any sign, notice, poster or other device calculated to convey a pre-election political message or to obtain votes for a particular candidate, slate of candidates, public question or political issue when the same is placed in the view of the general public.

SIGN, PORTABLE - Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including but not limited to signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicles are used in the normal day-to-day operations of the business.

SIGN, PROJECTING - A sign attached to a structure, building wall or facade that projects at a right angle and/or is perpendicular to a building facade or structure.

SIGN, RESIDENTIAL - Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the zoning ordinance.[2]

SIGN, ROOF - Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

SIGN, TEMPORARY - Any sign used temporarily for a period not to exceed 30 days that is not permanently mounted or maintained on an existing structure. Temporary signage is subject to § 223-45E.

SIGN, WALL - Any sign attached to a wall, parapet or facade of a building or structure, in which the exposed face of the sign is erected on a plane parallel to the wall on which the sign is mounted.

SIGN, WINDOW or SIGN, WINDOW DISPLAY - Includes all signs, as defined herein, which are situated within 12 inches of the window surface. Window signage is subject to § 223-45C(3).

SITE PLAN - A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in Article IV of this chapter, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

SITE PLAN, EXEMPT – Pursuant to the standards of Article IV of this chapter.

§ 223-5 Definitions.

SITE PLAN, MINOR – A development plan for less than 1,000 square feet of additional gross floor area or soil disturbance between 1,000 and 4,999 square feet of soil, pursuant to Article IV and provided that the site plan

- (1) Conforms to the zoning requirements; and
- (2) Does not involve a planned development, new street or extension of any off-tract improvements, which is to be prorated pursuant to N.J.S.A. 40:55D-52; and
- (3) Contains the information reasonable required to make an informed decision for approval of a minor site plan.

SLOPE -The inclination of the surface of land from the horizontal.

SLUMP BLOCK - Unstable areas of very steep slope with tendency for vertical separation.

STEEP SLOPE - Slopes greater than 15% to be developed in accordance with Palisades Preservation Overlay District provisions herein.[3]

STORAGE FACILITY - An establishment engaged in the storage of goods, products or materials primarily for business or industrial purposes.

STORAGE FACILITY, SELF-SERVICE - See "mini-warehouse or self-service storage facility."

STORAGE, OUTDOOR - See "outdoor storage."

STORY - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof above, excluding spaces defined as "Half Story."

STORY, HALF - A habitable space that has a stairway as a means of access and egress and in which the ceiling area at a height of 7 feet above the attic floor is not more than one-third the area of the next floor below.

STREET-FACING SETBACK - The minimum distance from a public roadway or driveway from which a building may be located. Within a fee simple subdivision, this setback is typically referred to as the front yard setback.

STREET LINE or RIGHT-OF-WAY LINE - The dividing line between the street and a lot.

STREETSCAPE - A design term referring to all the elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, street paving, street furniture, landscaping, including trees and other plantings, awnings and marquees, signs and lighting.

STRUCTURAL ALTERATION - See "alterations."

STRUCTURE - A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water, which includes but is not limited to buildings, stadiums, platforms, towers, sheds, trailers, storage bins, fences, swimming pools and signs. (See also "building.")

§ 223-5 Definitions.

STRUCTURE, ACCESSORY - See "accessory structure."

STRUCTURE, NONCONFORMING - See "nonconforming structure."

STUDIO - The workshop of an artist, sculptor, photographer or craftsman or a place where radio, television or movies are produced. (See also "live/work unit.")

SURFACE - See "facing."

TALUS SLOPE - The apron, cone or embankment of rock waste sloping outward from the base of the cliff face that is the course of the rock waste.

TENNIS OR SPORTS COURT - A structure constructed on the ground consisting of a playing area of whatever consistency used to engage in the game of tennis or other sports. A backstop, consisting of netting, fencing or similar material and designed to prevent the passage of tennis or other balls shall be considered to be part of the tennis or sports court.

THEATER OR MOVIE THEATER - A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical or other live performances to the public for a fee.

TOP OF CLIFF - The portion of a slope located above the cliff face, overlain with regolith, and generally known as the plateau or hill crest.

TOWNHOUSE or TOWNHOUSE DWELLING - See "dwelling, townhouse."

TRACT - An area, parcel, site, piece of land or property that is the subject of a development application. (See also "lot" and "parcel.")

TRAILER - A structure which temporarily or permanently stands on wheels and is capable of being towed or hauled by another vehicle and used for temporary or long-term human occupation.

TREE, SPECIMEN OR SIGNIFICANT - Any tree that has a diameter of 20 or more inches or any tree which is a particularly impressive or unusual example of a species due to the size, shade, age or any other trait that epitomizes the character of the species.

USE - The specific purpose for which land, building or structure is designed or arranged for which it is or may be occupied or maintained.

USE VARIANCE - The authorization by the Zoning Board of Adjustment for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VETERINARY OFFICE OR HOSPITAL - An office or hospital where animals are given medical care and the boarding of animals is limited to short-term care incidental to the principal use.

WALL - A structure of wood, stone or other materials or combination thereof intended for defense, security, screening or enclosure or for the retention of earth, stone, fill or other materials as in the case of retaining walls.

§ 223-5 Definitions.

WINDOW - Includes any opening in the exterior wall or roof of any structure for the purpose of admitting air or light, whether or not covered with glass, plastic, or other covering.

WINDOW AREA - Window area includes the aggregate square footage of all windows on a facade or story of a building regardless of the angle or angles at which they are set. In computing "window area", all portions of any door which contains a window shall also be included.

WIRELESS TELECOMMUNICATIONS (WT) - Any personal wireless services as defined in the Telecommunications Act of 1996 which includes FCC-licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas, nor does it include noncellular telephone services.

WIRELESS TELECOMMUNICATIONS ANTENNA (WT ANTENNA) - Antenna of any type of design, which is or may be used for the delivery of wireless telecommunications, except for those radio antenna, dish antenna, or satellite receiving stations regulated pursuant to Article VI.

WIRELESS TELECOMMUNICATIONS EQUIPMENT (WT EQUIPMENT) - Any building, structure, or equipment, including without limitation, transmitters, power sources, or other equipment, except antennas or towers, which are or may be used for the delivery of wireless telecommunications.

WIRELESS TELECOMMUNICATIONS COMPOUND (WT EQUIPMENT COMPOUND) - The area which houses any combination of WT equipment.

WIRELESS TELECOMMUNICATIONS SERVICE PROVIDER (WT SERVICE PROVIDER) - Any person, business organization, or other entity of any kind, whether public or private, which seeks to install, operate, or maintain any combination of WT technology within the boundaries of the City of Union City, or which already operates or maintains such WT technology as of the effective date of this chapter.

WIRELESS TELECOMMUNICATIONS TECHNOLOGY (WT TECHNOLOGY) - Collectively, refers to all WT antennas, WT equipment, WT equipment compound and WT towers.

WIRELESS TELECOMMUNICATIONS TOWER (WT TOWER) - A vertical structure which is or may be used to support any WT antenna or other WT equipment, whether freestanding or attached to any existing structure.

YARD - An open space, which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

YARD, FRONT - A yard extending across the full width of the lot and lying between the front line of the lot and nearest point of the principal building. The depth of the front yard shall be measured at right angles to the front lot line.

YARD, REAR - A yard extending across the full width of the lot measured from the rear lot lines. The depth of a rear yard shall be measured at right angles to the rear lot line.

§ 223-6 Minimum requirements.

YARD, SIDE - A yard between the side line of the lot and the nearest point of the principal building and extending from the front yard to the rear yard or, in the absence of either or both such yards, to the front and/or rear lot line, as the case may be. A corner side yard is the yard extending to a corner side lot line and an interior side yard is the yard extending to an interior side lot line. The width of a side yard shall be measured at right angles to the side line of the lot.

ZONE or DISTRICT - A specifically delineated area as shown on the Official Zoning Map of the City of Union City within which regulations and requirements govern the use, placement, spacing and size of land and buildings.

ZONING AMENDMENT or ZONING MAP AMENDMENT - An alteration of or addition to the text of the Zoning Ordinance or Zoning Map by the City of Union City.

ZONING BOARD OF ADJUSTMENT - The Zoning Board of Adjustment of the City of Union City.

ZONING MAP - The map or maps which are part of the Zoning Ordinance as set forth in § 223-35 of this chapter.

ZONING OFFICER - The Zoning Officer of the City of Union City.

ZONING PERMIT - An approval issued by the Zoning Officer indicating that the proposed construction work or property development conforms to the requirements of this chapter and any resolutions of approval issued by the Planning Board or Zoning Board of Adjustment.

[1] Editor's Note: See N.J.S.A. 40:55D-1 et seq.

[2] Editor's Note: See Art. VI, Zoning, of this chapter.

[3] Editor's Note: See § 223-42H.

## **Article II. General Regulations**

### **§ 223-6 Minimum requirements.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. If the lot or yard areas required by this chapter for a particular structure are diminished, the existence of such structure shall be deemed a violation of this chapter. The lot or yard areas of structures existing at the time of the passage of this chapter shall not be diminished below the requirements herein provided for structures hereafter erected, and such required lot or yard areas shall not be included as a part of the required lot or yard areas of any structure hereafter erected.

### **§ 223-7 Relation to other regulations.**

A. This chapter shall not repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance or any rules or regulations previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, lots or land, provided that, where this chapter imposes a greater restriction upon the use of buildings, structures, lots or land or upon



§ 223-8 Supplementary regulations.

the height of structures or requires larger lots or yards than are imposed or required by such existing provisions or regulations, the provisions of this chapter shall control.

B. Conflicting standards. This chapter shall not be deemed to affect in any manner whatsoever any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater or lesser restriction upon the use of buildings or land, or upon the erection, construction, establishment, movement, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, covenants or agreements, the more restrictive requirements shall prevail.

**§ 223-8 Supplementary regulations.**

A. General. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter; and, if already less than the minimum required by this chapter, said area or dimension shall not be further reduced.

B. Yard regulations.

(1) Required yards.

(a) Every lot shall include front, side and rear yards having the areas and dimensions required within the particular zone in which said lot is located.

(b) No yard or other open space provided for any building for the purpose of complying with the provisions of this article shall be considered as providing a yard or other open space for any other building on any other lot.

(c) No land in a residential zone shall be used to fulfill open space, minimum areas, minimum yard and setback requirements, parking or other similar requirements for uses in nonresidential zones.

(2) Projections and encroachments. No building, structure or part thereof, such as balconies, porches or overhangs, shall be permitted to encroach into any street or other public right-of-way or extend over any property line, except that awnings on the first floor of a building may encroach not more than two feet into a street or other public right-of-way and wall signs may encroach not more than six inches into a street or other public right-of-way. Encroachments into a street or other public right-of-way other than those permitted by this section shall be specifically approved by way of the granting of an easement by the Board of Commissioners. Yards and courts required by this article shall be free of buildings, structures or parts thereof, and no building or structure shall project into any front, side or rear yard required by this article, nor shall use be made of such yard, except as follows:

(a) Unenclosed porches, including steps extending not more than 72 inches from the building line and not exceeding more than 20 square feet in size.

(b) Window wells affording light and air to basement and cellar areas.

(c) Chimneys, cornices and eaves which may project not more than two feet into any required yard.

§ 223-8 Supplementary regulations.

(d) Driveways providing access to permitted garages or parking areas; provided, however, that on single-family and two-family lots, driveways used to provide access to private garages shall not be wider than 10 feet.

(e) Sills, leaders and similar ornamental or structural features which may project not more than six inches into any required yard.

(f) Fences and retaining walls, where specifically permitted in this chapter.

(g) Freestanding flagpoles, television antennas and radio aerial masts, children's playground equipment, outdoor fireplaces and yard clothes lines and posts but must be set back at least three feet from any property line and shall not be located in the front yard, except for freestanding flagpoles.

(h) Accessory buildings and uses, including swimming pools, where specifically permitted in this chapter.

(i) Residential heating and cooling units, if located in the side yard and which shall be buffered from adjacent neighbors with evergreen plantings or a fence to help mitigate visual appearance, noise and vibration.

(j) Parking areas in connection with existing and proposed residences in the R Low Density Residential District and existing and proposed one-, two- and three-family dwellings in any zone or district.

(3) Lots abutting municipal parking lots. Any nonresidential lot abutting a municipal parking lot shall be required to meet only 1/2 of the minimum yard requirements for the zone in which located for the yard abutting the municipal parking lot.

(4) Prevailing setback. In order to maintain the character of the established building streetscape in residential neighborhoods, the average of the front setback of each existing building on the same side of the same street within the same block within 100 feet shall be calculated in those districts noted to require a prevailing setback calculation within the zoning schedule at the end of this chapter. The prevailing front setback shall be no more than twice the front setback noted within the zoning schedule for said district.[1]

[1] Editor's Note: See the Schedule of Bulk Regulations attached to this chapter.

C. Lot frontage.

(1) Every principal building shall be built upon a lot with the minimum required frontage upon an approved street which shall be improved in accordance with the street standards established by the City of Union City or the Residential Site Improvement Standards (RSIS), as applicable.

(2) On any through lot, the front yard shall be considered that frontage upon which the majority of the buildings in the same block front, but in case there has been no clearly defined building frontage established, the owner shall, when applying for a building permit, specify which lot line shall be considered the front lot line.

§ 223-8 Supplementary regulations.

D. Corner lots.

(1) Side yard requirements of a corner lot. The side street setback line of any corner lot shall be subject to the side yard setback requirements for the zone in which the lot is located.

(2) Wherein an existing lot is a corner lot as defined in this chapter, any future subdivision of that parcel of land shall be required to front new lots created by subdivision on the shorter street frontages bounding the limits of the City block in which the subject parcel is located.

E. Principal buildings.

(1) Related compatible buildings under one management may be erected, used or occupied, provided that all other open space, setback and coverage requirements of this article and Article VI are met.

(2) No new building shall be constructed on or any existing building altered or moved onto any lot for use as a dwelling when there exists on said lot a building which is being used for dwelling purposes. No building other than a structure permitted in and by this article shall be constructed in front of or moved to the front of a principal building situated on the same lot.

F. Height exceptions.

(1) Appurtenances attached to principal structures. Church spires, belfries, domes or antennas attached to buildings, stair towers, chimneys, ventilators, skylights, water tanks, bulkheads and necessary mechanical appurtenances usually carried above roof level shall not be considered when determining the height of the building and are not subject to height limitations, except that the total square footage of such features shall not exceed 20% of total roof area and shall not exceed a height such as is necessary to accomplish the purpose for which it is intended to serve.

(2) Freestanding noncommercial accessory structures. Water towers and radio and television antennas which are erected as freestanding structures may be erected to a height which can be demonstrated to the approving authority is necessary to accomplish their intended function. Federally licensed amateur radio facilities shall be subject to Federal Communications Commission (FCC) rules which govern the height of licensed amateur operator radio antennas. The height of the tower or antennas shall conform to United States Federal Communications Commission Regulations governing licensed amateur radio operators and, if required, Federal Aviation Administration (FAA) notification and FCC approval. All freestanding noncommercial accessory structures shall not be located within any required front, side or rear yard setback areas and shall be subject to the structural provisions of the New Jersey Uniform Construction Code.

G. Accessory structures and uses.

(1) General requirements.

(a) Any accessory structure attached to the principal building shall be considered part of the principal building.

(b) No accessory building shall be constructed on any lot on which there is not a principal building structure.

§ 223-8 Supplementary regulations.

(c) No accessory building or structure shall be permitted in any front yard.

(d) Except as permitted elsewhere in this chapter, accessory buildings built in a rear yard shall be no closer than three feet to any side or rear property line of the lot containing said accessory building; provided, however, that no accessory building shall be located closer than five feet to said line on any lot which has a rear lot line that serves as a side line of an adjoining property.

(e) No accessory building or structure shall be located closer than 10 feet to a principal building.

(f) Except as specifically permitted elsewhere in this article, no accessory building or structure shall exceed 15 feet in height.

(g) No accessory building shall have floor or ground area in excess of 500 square feet or 1/3 of the floor or ground area of the principal building, whichever is greater.

(h) No accessory building shall be used for human habitation.

(2) Requirements for specific accessory structures and uses.

(a) Minor home occupations. Minor home occupations shall be permitted as accessory uses in all residential zones and shall be exempt from approval by the Planning Board or Zoning Board of Adjustment if the following standards are satisfied:

[1] The practitioner must be the owner or lessee of the residence in which the minor home occupation is contained.

[2] The practitioner must reside in the home.

[3] There are no nonresidential employees working on the premises.

[4] The minor home occupation is clearly incidental and subordinate to the principal use of the dwelling for residential purposes. The maximum area devoted to the minor home occupation shall be limited to not more than 25% of the total area of the floor where located, excluding space used for a private garage or 400 square feet, whichever is smaller.

[5] There is no external evidence of the minor home occupation.

[6] No retail sales shall be conducted on the site.

[7] No clients shall visit the site.

[8] There is no sign identifying the minor home occupation.

[9] There are no delivery vehicles other than those associated with the residential use on site.

[10] No equipment or process shall be used in such minor home occupation which creates noise, glare, fumes, odors, electrical interference, medical waste or other nuisance factors detectable to the normal sense or to radio, telephone or television equipment off the lot.

§ 223-8 Supplementary regulations.

(b) Amusement machines. Such machines shall be permitted in the C-N and MU Zones as accessory uses to establishments where the primary use is a recreational/entertainment use, such as theaters, in accordance with the following limitations:

[1] There shall be 60 square feet of operating area for each machine. The calculations of the operating areas shall exclude any area of the premises which is used for other purposes but shall include access and walkways primarily serving the machine.

[2] Not more than five such machines as accessory uses shall be permitted in any single establishment.

[3] The maximum area devoted to such machines (60 square feet by number of licensed machines) shall not constitute more than 30% of the gross floor area of the establishment.

(c) Satellite antennas.

[1] Permitted districts. A receive-only satellite antenna shall be permitted as an accessory use in all zone districts. Satellite antennas shall not require site plan approval from the approving authority.

[2] Performance standards.

[a] No satellite antenna may be placed in the front yard of any lot in the City.

[b] The diameter of satellite antennas shall not exceed three feet. Receive-only satellite antennas shall be the only type permitted.

[c] No satellite antenna shall be closer to the side property line than a distance equal to the diameter of said antenna or side yard setback requirement for the principal structure on the lot, whichever results in the greater setback.

[d] No satellite antenna shall be closer to the rear property line than a distance equal to the diameter of said antenna or rear yard setback requirement for the principal structure on the lot, whichever results in the greater setback.

[e] When mounted on the ground, the overall height from the surrounding ground level to the lowest point of the antenna shall not exceed two feet, except in instances where additional clearance is needed to satisfactorily receive and/or transmit signals. No ground-mounted satellite antenna shall exceed five feet in height, as measured from the average grade of the base of the antenna to the highest point of the antenna.

[f] Roof-mounted antennas.

[g] Flat roofs and mansard-style roofs. No roof-mounted satellite antenna may extend above the roofline more than four feet when mounted on a flat roof or mansard-style roof. However, upon a showing that such a roof-mounted antenna will not receive adequate reception under the restrictions of this subsection, the minimum height necessary for

§ 223-8 Supplementary regulations.

reasonable satisfactory reception may be allowed. Roof-mounted antennas on a flat roof shall be located in the center of the roof structure to reduce visibility.

[h] All other style roofs. No roof-mounted satellite antennas may extend above the highest point of the roof more than three feet when mounted on all other style roofs, and the roof-mounted satellite antenna must be located on the portion of the roof facing the rear yard or, if this would unreasonably limit signal reception, the side yard. However, upon a showing that such a roof-mounted antenna will not receive adequate reception under the restrictions of this subsection, the minimum height necessary for reasonably satisfactory reception may be allowed.

[i] All satellite antennas shall be painted a solid, dark, nonmetallic, nonglossy color if ground-mounted. Roof-mounted antennas mounted on a flat roof or mansard-style roof shall be painted a solid, dark, nonmetallic, nonglossy light to medium gray. When mounted on all other style roofs, the satellite antenna shall be painted the color of the surface to which it is attached.

[j] The number of allowable satellite antennas on buildings containing a residential use shall be one per dwelling unit.

[k] The satellite antenna may only be used for occupants of the building located on the property.

[l] When the use of a satellite antenna is abandoned it shall be removed within 30 days.

[m] Satellite antennas may not be mounted on a portable or movable structure, such as a trailer.

[n] To the extent permitted by law, no satellite antenna shall be located on or abutting any property which is located within the National or State Register of Historic Places.

[o] No satellite antenna shall be erected on a public utility easement without the consent of the easement holder.

[p] Screening. Ground-mounted antennas shall be screened as to minimize visibility from public streets and adjoining properties. Screening shall be accompanied by the installation of landscaping and/or fencing or in the form of a wall or structure enclosing the antenna. The species, quantity, size and spacing of plant materials shall be specified on the site plan.

[3] Such satellite antennas, appurtenances, landscaping and fencing shall be kept and maintained in good condition.

(d) Outdoor storage.

[1] Outdoor storage of any kind is prohibited within the front yard.

§ 223-8 Supplementary regulations.

- [2] The outdoor storage of any items, materials and equipment, other than those customarily placed in courtyards and yards, incidental to authorized residential use and occupancy, is prohibited in all residential zones.
- [3] No outdoor vertical stacking of vehicles shall be permitted.
- [4] Outdoor storage of garbage trucks in any zone is specifically prohibited.
- [5] No flammable or explosive liquids, solids or gases shall be stored above ground unless as otherwise required by applicable federal, state or local regulations. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same premises as the tanks or drums of fuel are excluded from this provision.
- [6] All outdoor storage facilities shall be enclosed by a fence or wall not to exceed six feet in height adequate to conceal such facilities and the contents thereof from adjacent property and shall meet all required accessory building setbacks for the zone in which located. This provision shall not apply to outdoor storage of new cars or other vehicles on the premises of a dealer.
- [7] No materials or wastes shall be stored on any premises in such form or manner that they may be transferred off such premises by natural causes or forces such as wind or water.
- [8] All materials or wastes which might cause fumes or dust or which constitute a fire hazard, or which may be edible by or otherwise attractive to rodents or insects, shall be stored outdoors only in closed containers.
- (e) Decks, patios and terraces over three feet in height must meet the required yard setbacks for principal buildings.
- (f) Swimming pools.
- [1] No nonstorable pool and any related decking shall be closer than three feet to any side or rear lot line.
- [2] On any corner lot, no part of any private swimming pool shall be constructed within the front yard.
- [3] Artificial lights used or maintained in connection with a private swimming pool shall be so located and shielded that the illumination therefrom is not directed upon any adjacent property.
- [4] No private swimming pool shall be used other than as an accessory use of the premises whereon it is located.
- [5] The fence requirement set forth in this section shall be complied with.
- [6] Any buildings or structures erected in conjunction with a swimming pool shall comply with the provisions on accessory structures.

§ 223-8 Supplementary regulations.

(g) Family day-care homes. Family day-care homes as defined in § 223-5 are permitted as accessory uses in all residential zones.

(h) Automated teller machines (ATMs). Outdoor ATMs are permitted in association with on-site financial institutions, in accordance with the bulk and design standards of this chapter. Measures to enhance personal security at the ATM stations shall be provided. Other commercial uses shall be permitted to contain indoor ATMs that may operate during normal business hours and will be subject to the sign requirements of this chapter, where applicable.[2]

[2] Editor's Note: See § 223-45, Signs.

(i) Certain nonresidential accessory uses.

[1] Vending machines. In the C-N and MU Zone Districts, a nonresidential property is permitted to have no more than two outdoor vending machines in accordance with the following:

[a] The machine(s) shall be appropriately located so as not to interfere with sight triangles, required setbacks, on-site circulation, landscaping and parking.

[b] The machine(s) shall be accessory to an existing nonresidential use.

[c] A zoning permit for outdoor vending machines shall be required. The permit shall be granted when it is determined by the Zoning Officer that the most appropriate location for the machine(s) has been achieved.

[2] Used clothing bins. In the C-N Zone District, a nonresidential property is permitted to have up to two used clothing bins in accordance with the following:

[a] The bin(s) shall be appropriately located so as not to interfere with sight triangles, and on-site circulation, required setbacks, on site, circulation, landscaping and parking.

[b] The bin(s) shall be accessory to an existing nonresidential use.

[c] A zoning permit for used clothing bins shall be required. The permit shall be granted when it is determined by the Zoning Officer that the most appropriate location for the bin(s) has been achieved.

[3] Phone booths, mail and courier boxes and newspaper distribution boxes. These items may not be located in required sight triangles and should be located so as to not interfere with pedestrian or vehicular circulation and safety. These uses are recommended to be as aesthetically pleasing as possible and to incorporate a design theme where appropriate.

(j) Permanent standby generators required in certain residential properties (new construction only).

[1] Definitions. As used in this subsection, the following terms shall have the meanings indicated:



§ 223-8 Supplementary regulations.

COMMON AREA - A common undivided space intended for the use or enjoyment by all residents of the dwelling and their invitees, such as an elevator, hallway, lobby, or stairway.

PERMANENT STANDBY GENERATOR - Generators permanently connected to the property's electrical systems in order to provide backup power in the event of power outages to the residential structure. Once utility power is restored, the generator automatically transfers the electrical load back to the utilities or is manually switched off and power is turned back to the utilities.

PORTABLE STANDBY GENERATOR - Generators not permanently connected to the property's electric systems, which use a self-contained fuel source and have wheels or are light enough to be carried.

[2] Applicability and purpose.

[a] This subsection is applicable on new construction only.

[b] This subsection shall apply to the owner(s) of any residential property having:

[i] Five or more stories; or

[ii] Twenty or more residential units.

[c] The owner(s) of residential property to whom this subsection is applicable shall be required to install a permanent standby generator to provide backup power, in the event of a power outage, to all common areas of the property, including smoke detectors, carbon monoxide detectors, and emergency lights located therein.

[3] Fuel. All permanent standby generators shall operate only on natural gas.

[4] Time of use. All permanent standby generators shall only be used during electrical power outages and as required by the manufacturer for maintenance purposes. Maintenance operation shall only take place during daylight hours between the hours of 10:00 a.m. and 5:00 p.m., not to exceed once a week.

[5] Siting and placement requirements. All permanent standby generators must be located within the structure or on the rooftop of the structure in accordance with all applicable Code requirements.

[6] Impact on neighboring properties.

[a] All permanent standby generators shall be placed so as to minimize the visual impact on adjacent properties with the use of appropriate sound attenuating architectural materials and landscape screening such as shrubbery or fencing.

[b] The noise level of any permanent standby generator, when in use, shall not create a nuisance as determined by the New Jersey State noise statutes and regulations.

[7] Regulatory compliance.

§ 223-9 Certain permitted uses.

[a] The permanent standby generators shall be installed and operated in accordance with manufacturer's requirements as well as all building codes adopted by the State of New Jersey, whichever is more stringent.

[8] Enforcement.

[a] Any person, firm, corporation or other entity who shall violate any of the provisions of this subsection shall be punishable as provided in Chapter 1, General Provisions, Article IV, General Penalty, except that each violation therein shall be subject to a maximum fine of \$500 and each day that such violation shall continue shall be deemed a separate offense. Fines are payable through the Municipal Court Violations Bureau.

[b] Violation of any provision of this subsection shall be cause for a Municipal Court summons to be issued by the Police Department, Code Enforcement Official, and Health Officer.

[c] Any person convicted of violating any provision of this subsection in a criminal case or found to be in violation of this subsection in a civil case brought by a law enforcement agency shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs.

[d] Any interested person may seek an injunction or other relief to prevent or remedy violations of this subsection. The prevailing party in such an action shall be entitled to recover reasonable costs and any attorney fees.

[e] The remedies provided in this subsection are not exclusive, and nothing in this subsection shall preclude the use or application of any other remedies, penalties or procedures established by law.

H. Affordable housing. The City of Union City is committed to addressing its constitutional obligation to provide a fair share of affordable housing for moderate- and low-income households. It is the intent of this chapter to incorporate the applicable rules of the New Jersey Council on Affordable Housing or any other agency of the State of New Jersey that is responsible for administering affordable housing requirements. For additional affordable housing standards, see Chapter 40 of the City's General Code.

**§ 223-9 Certain permitted uses.**

A. Amusement events. Notwithstanding any other provisions of this chapter, the following uses may be permitted only by the Board of Commissioners, subject to all applicable ordinances:

(1) Temporary circuses, pony rides, animal acts, carnivals, bazaars, and educational sports, music or theatrical enterprises and displays when held out of doors in any zone, provided that the same are sponsored by a recreational, religious, charitable, social or services organization located within the City of Union City.

(2) Cultural or athletic events which are part of a house of worship, community house or school, and which are held on the premises owned or leased by or otherwise under the control of the institution conducting or sponsoring said program.

§ 223-9 Certain permitted uses.

(3) Bingo, raffles or other legalized games of chance, when properly licensed in accordance with state and municipal requirements.

B. Dwelling units above the ground floor. Where dwelling units are permitted as a principal permitted use on upper floors only, the following requirements shall be met:

(1) Each dwelling unit shall have its own entrance to a hallway, staircase or to the exterior.

(2) The ground floor entrance to the dwelling unit or units shall be separated from the entrance to the ground floor use.

(3) An applicant or developer shall provide credible evidence to the satisfaction of the approving authority that sufficient parking spaces are available and/or reserved in either public or private off-street parking lots for the overnight parking of vehicles of the prospective tenants of the apartment or apartments where off-street parking is required.

(4) A principal nonresidential use must be located on the ground floor of the building.

C. Child-care centers. Child-care centers as defined in § 223-5 are permitted uses in all nonresidential zones pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-66.6 and 40:55D-66.7. The floor area occupied in any building or structure as a child-care center shall be excluded in calculating 1) any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under state or local laws or regulations adopted thereunder; and 2) the permitted density allowable for that building or structure. New buildings shall comply with City parking standards.

D. Essential services. Public utility lines for the transportation, distribution and/or control of water, electricity, gas, oil, steam and telegraph and telephone communications, and their supporting members, other than buildings and structures, including pipes, shall not be required to be located on a lot, nor shall this chapter be interpreted to prohibit the use of a property in any zone for the above uses. For purposes of this provision, wireless telecommunications facilities shall not be deemed an essential service.

E. Outdoor dining on private property. It is the intent of this section to permit outdoor dining areas accessory to restaurant uses subject to site plan approval by the appropriate approving authority. Outdoor dining areas on private property shall comply with all applicable regulations of Chapter 185, Article IV, Outdoor Dining, as well as the following:

(1) The area utilized for outdoor dining areas must be accessory in nature to a fully enclosed eating establishment.

(2) Applicants proposing to establish outdoor dining areas shall submit to the approving authority a layout of the proposed seating areas, which shall include but not be limited to a depiction of the maximum size of the area, the maximum number and general layout of seats and tables, all aisles and routes of ingress and egress, clearances between tables and chairs, the location of all food preparation and serving areas, an illustration, rendering and/or photograph of all proposed furniture, umbrellas, awnings and signage and any other site detail the authority deems necessary in order to reach a decision for site plan approval. Tables and chairs shall be placed and maintained in an orderly fashion and shall not create a hazard. No picnic style tables are permitted.

§ 223-9 Certain permitted uses.

(3) No more than 25% of total on-site restaurant seating shall be provided outdoors. The actual maximum number of outdoor seats shall be decided by the approving authority during the site plan review process. This number shall be based on the total number of seats, the size of the property, the amount of on-site/available parking, the size of the outdoor area, and any other health and safety recommendations the authority or any agency of the City deems appropriate.

(4) The seating contained in an outdoor dining shall be considered in determining the parking space requirement for a retail food establishment.

(5) The outdoor dining and area must be directly accessible to the interior eating area. Areas that must be accessed via property not controlled by the applicant or property owner are not considered directly accessible.

(6) All outdoor dining areas shall provide adequate aisle area for the unimpeded passage of handicapped individuals.

(7) A six-foot fence and a minimum five-foot wide evergreen buffer shall be provided if the outdoor dining area is adjacent to a residential zone or property.

(8) All service areas shall be inside the enclosed restaurant area. No food or dining shall be prepared in the outdoor dining area, and no food or condiments shall be stored outside. Food and drink served in outdoor dining areas shall be the same as that served in the restaurant.

(9) All outdoor dining areas shall allow at least four feet of unobstructed access to building entrances and exits.

(10) No outdoor dining area shall be located in front of any driveway, parking lot entrance, alley, or other vehicular thoroughfare nor impede adequate sight distance for motorists.

(11) The applicant is responsible for keeping the area and the adjacent public and private areas free and clear of any debris or litter. Areas must be cleaned as needed and at the time the business is closed for the evening. Failure to keep outdoor dining areas clean shall constitute a fine in an amount not less than \$100 per violation.

(12) The applicant shall not direct or permit to be directed to or from the outdoor dining area any bell, siren, whistle, loudspeaker public address-system, or similar device. Outdoor music is permitted, provided that all noise audible from the outside shall be kept at such a level as to comply with all provisions of the City ordinances relating to noise.[1]

[1] Editor's Note: See Ch. 261, Noise.

(13) Nothing herein shall be construed to authorize outdoor dining areas for uses prohibited by the landowner or by this chapter or other rule or regulation. Nothing herein shall be construed to vary, alter, or amend any rule or regulation relating to the sale and consumption of alcoholic beverages. Alcoholic beverages may be served in outdoor dining areas operated by restaurants having a valid Alcoholic Beverage Control retail consumption license, but only in the licensed area and in accordance with the terms of the license.

§ 223-10 Applicability to municipal government.

(14) Permits for outdoor cafes shall be valid for one year from the date of issuance of the permit. Applicants receiving site plan approval for an outdoor dining area shall obtain from the City Construction Code Official a permit each year they wish to continue the area, provided that the operations have not changed and the applicant is in compliance with the requirements of this chapter and all other applicable City codes.

(15) There shall be no additional signage on any part of an outdoor cafe.

F. Outdoor dining in sidewalk cafe areas. Sidewalk cafe areas shall be permitted accessory to indoor food businesses with frontage on Park Avenue from 49th Street to South Marginal Highway and on Broadway from 49th Street to 45th Street and shall be governed by Chapter 185, Article IV, Outdoor Dining.

G. Temporary offices. Trailers or mobile structures used as temporary offices, workshops or for the storage of equipment and materials in connection with permitted construction of new buildings or structures may be temporarily permitted on the same site during the actual period of construction.

**§ 223-10 Applicability to municipal government.**

Regardless of whether the City is acting in or pursuant to the performance of a governmental function carrying out a legislative mandate or in the exercise of its private right as a corporate body, any municipally owned, operated or controlled building, structure, facility or use, either existing or proposed, shall be permitted in any class of zone, it being the intention that whatever the City may be authorized to do shall constitute a function of government and that whenever the City shall act pursuant to granted authority, it acts as government and not as a private entrepreneur. Further, the City shall submit development plans to the Planning Board for its review and recommendation but shall not pay to itself application fees.

## Article III. Development Requirements and Standards

### § 223-11 Design standards.

#### A. Purpose and applicability.

(1) The intent of this section is to ensure that all developments conform to design standards encouraging sound development patterns within the City. Where an Official Map or Master Plan has been adopted, development shall conform to them in accordance with the provisions of N.J.S.A. 40:55D-44 et seq.

(2) The standards in this section shall apply to all developments in the City requiring site plan or subdivision approval, except that developments consisting solely of residential uses shall comply with the New Jersey Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21 et seq., wherever there is a conflict between RSIS and the standards in this section. Unless required otherwise by law or regulation, RSIS shall not apply to nonresidential or mixed-use development.

(3) Relief from the standards herein shall be granted by way of exception pursuant to N.J.S.A. 40:55D-51.

#### B. General provisions.

(1) Layout. New streets and blocks shall be laid out in a manner which conforms to the historic street grid pattern of the City. New streets should be extensions of existing streets.

(2) Compatibility. New development shall be compatible with existing and proposed development with regard to urban design, pedestrian and vehicular circulation, infrastructure improvements, public access to the waterfront, and public open space.

#### C. Blocks.

(1) Geometry. Blocks shall be rectangular except where preexisting diagonal streets, natural features, municipal boundaries or railroad rights-of-way dictate otherwise.

(2) Boundaries. Block boundaries shall be defined by:

(a) Streets or pedestrian ways, which conform to the requirements of § 223-11N;

(b) Municipal boundaries; and/or

(c) Other unusual natural features such as cliffs.

(3) Block dimensions.

(a) The maximum length of any block face with a north-south orientation shall be 250 feet. The minimum length shall be 200 feet.

(b) The maximum length of any block face with an east-west orientation shall be 500 feet. The minimum length shall be 200 feet.

§ 223-11 Design standards.

(c) In areas with steeply sloping topography or other unusual natural features or adjacent to municipal boundaries, the approving authority may permit longer or shorter blocks than provided hereinabove.

D. Curbs and gutters.

(1) Concrete or granite curb shall be installed along all streets. Curbs shall also be required along all edges of pavement within a site, except where natural drainage methods are utilized. Curb and gutter design details shall be in conformance with current engineering standards and shall be subject to approval by the enforcing agency.

(2) Barrier-free curb ramps shall be constructed at all intersections and other appropriate locations in accordance with accessible design standards promulgated by the New Jersey Department of Transportation.

E. Fences and walls.

(1) Height. The maximum height of a fence, wall or railing shall be four feet in front and side yards and six feet in any rear yard.

(2) Materials. Fences, walls and gates adjacent to public rights-of-way shall be constructed of a durable and decorative material such as decorative aluminum or wrought iron. Other fences may be of any material or style.

(3) Electrified fences, razor wire and barbed wire are prohibited.

(4) In all districts the finished side of the fence shall face the neighboring property.

F. Lighting.

(1) All streets, alleys, sidewalks, pedestrian ways and parking facilities shall be sufficiently illuminated to ensure the security of property and the safety of persons.

(2) All entrances and exits in buildings used for nonresidential purposes or containing two or more dwelling units shall be adequately lighted.

G. Location of utility wires, boxes, meters, panels, devices and other similar equipment and installations.

(1) All electric power, telephone, cable television, Internet and other utility lines serving new development, other than an individual one- to three-family home shall be placed underground, subject to utility company requirements.

(2) Electric power, telephone, cable television, Internet, gas and other utility boxes, meters, panels, devices and similar equipment and installations shall not be constructed, placed and/or relocated to the portion(s) of any structure that is located adjacent to a street or roadway.

H. Lots.

(1) Each lot must front upon an approved street. No lot shall front on an alley.

§ 223-11 Design standards.

(2) Lots shall be rectangular insofar as practical. Side lot lines should be at right angles to straight streets and radial to curved streets. Rear lot lines should be parallel to streets.

(3) Lot lines bordering streets shall be coterminous with the street right-of-way.

I. Multifamily Family Dwelling.

(1) Building design and articulation.

(a) All multifamily structures shall be situated with proper consideration of their relationship to other buildings, both existing and proposed, in terms of light, air and usable open spaces, access to public rights-of-way and off-street parking, height and bulk.

(b) Groups of related buildings along with architectural focal points, shall be designed to present a harmonious appearance in terms of building silhouette, architectural style and scale; massing of building form; surface material, finish and texture; decorative features; window and doorway proportions, entryway placement and location, signage and landscaping.

(c) Efforts to coordinate the actual and apparent height of adjacent structures are encouraged. This is especially applicable where buildings are located very close to each other. It is often possible to adjust the height of a wall, cornice or parapet line to match that of an adjacent building. Similar design linkages can be achieved to adjust apparent height by placing window lines, belt courses, and other horizontal elements in a pattern that reflects the same elements on neighboring buildings.

(d) Large structures should be designed to reduce their perceived height and bulk by dividing the building mass into smaller-scale components.

(e) Projects should be compatible with the scale of development anticipated by the applicable land use policies for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step-in perceived height, bulk and scale between the project and development in adjacent zones.

(f) Multiple buildings on the same site shall be designed to create a cohesive visual relationship between the buildings.

(2) Bay spacing and differentiation.

(a) All street-facing building facades longer than 50 feet shall be broken up into smaller bays so as to give the appearance of a series of different buildings rather than a large building mass.

(b) The design and dimensions of bays along one building facade should create a varied articulation; a monotonous repetition of bays along a very long facade should be avoided.

(3) Vertical differentiation for multifamily dwellings taller than four stories.

(a) Buildings shall be articulated with a base, middle and top. This breaks down the scale of tall buildings while maintaining a pedestrian-friendly environment along the streets.



§ 223-11 Design standards.

(b) Base. The base is the lower one or two levels of a building. To define a base in residential buildings, unique materials and window pattern and proportion are encouraged. A base of bulkhead area of contrasting material is encouraged in order to highlight the first level.

(c) Middle. The middle of the building should be distinguished from the top and the base by horizontal belt courses or trim cornices, setbacks, and setback changes in material, masonry or fenestration pattern; and/or other appropriate means.

(d) Top and roof. Depending on the height and design of the building, the top of the building may be just the roofline or the top one or two floors. The roofline should relate to the bay massing so as to appear as a series of side-by-side buildings. Rooflines should be emphasized for example by variation in roof forms such flat roofs, with parapets and/or cornices. Flat roof areas can serve as landscaped roof decks for adjacent units or for the entire building or may be used as green roofs.

(4) Building entries.

(a) Primary pedestrian entrances should be sited to face, frame and open onto the interior streets, required open spaces and community facilities rather than alleys, driveways and parking lots.

(b) Provisions shall be made in any multifamily building to provide access for the handicapped, pursuant to the Americans with Disabilities Act and the new Jersey Barrier Free Code.

(5) Building setbacks. Building setbacks are an effective design strategy to reduce the overall mass and appearance of multifamily buildings and to create valuable private spaces such as terraces on upper stories. To achieve this design strategy, the following is required:

(a) Buildings taller than four stories shall provide front-facade and/or side-facade setback or other change in massing at upper floors in order to downplay their mass and visibility.

(b) Setbacks are measured with respect to lower-level facades and not property lines.

(c) One front-facade setback or change in massing of at least five feet shall be provided, beginning at the fifth floor. Other options include varying heights of facades, cornices or parapet lines to emphasize the top of the third story in a multifamily building and arrangements of window lines, belt courses, and other horizontal elements in a pattern that reflects the same elements on neighboring buildings. Other techniques are possible and use of more than one technique is encouraged.

(d) The following regulations apply to all multifamily residential buildings and refer to setbacks along the side facades, thus reducing the overall scale and mass of building facades:

[1] No setbacks are required for building stories one through four.

[2] In a multifamily dwelling taller than four stories building facades shall setback a minimum of 15% of the building footprint at the fifth floor.

[3] Setbacks are not required on facades that do not face a public street. For example, setbacks are not required on internal lot lines or on rear facades.

§ 223-11 Design standards.

(6) Rooftop mechanical equipment.

(a) All mechanical equipment shall be adequately screened from view from properties directly adjacent to the property line. This may be achieved in a variety of ways including using landscaping, decorative walls, and decorative fencing.

(b) All rooftop mechanical equipment shall be set back at least 10 feet from the upper-level building facades and be setback far enough that it is not visible from public rights-of-way.

(c) All rooftop equipment shall be screened from view in a manner consistent with the architectural design and materials of the buildings.

(7) Building transparency.

(a) Principal entries shall be visible and easily identifiable and highlighted by prominent architectural features.

(b) Secondary entrances should be clearly designed as secondary in importance with the overall facade requirements.

(c) Service entrances shall face parking lots or driveways and be placed at the rear and not facing streets or other public spaces.

(d) All residential multifamily buildings shall have primary entry hall or lobby area connected to the sidewalk via a pedestrian walkway. Individual entries for ground-floor units are encouraged as well.

(e) Secondary entries also shall be connected to the sidewalk by pedestrian paths and should be clearly designed to be secondary in importance in the overall facade arrangement.

(8) Ground-floor elevations.

(a) For all residential buildings, it is important to balance the need to provide a sense of privacy and separation for first-floor units with the need to provide transparency and a relationship to the street and the sidewalk.

(b) Common building entrances shall be located at grade. The finished floor elevations of ground-floor units should be raised at least several steps above grade but shall not be more than four feet above sidewalk grade.

(9) Windows.

(a) Window size and proportion are allowed to vary in order to complement a variety of building styles.

(b) Residential windows.

[1] At least 25% of the front facade area of upper-level residential floors shall be glazed with transparent windows.

§ 223-11 Design standards.

(c) Blank walls are prohibited for all buildings, except where Building or Fire Codes prohibit windows or doors.

(10) Common elements.

(a) The developer shall submit proposals for ownership and maintenance of common elements, including open space, recreation facilities, meeting rooms, parking areas, driveways, private streets and similar facilities. The proposal shall be reviewed and approved by the approving authority as a condition of preliminary site plan approval.

(b) All multifamily dwellings shall provide an indoor refuse and recycling storage area.

(11) Mechanical and utilities. A wall of venting for mechanical rooms shall not be permitted along facades facing streets, pathways, and open spaces.

(12) Minimum unit size. Minimum unit size in all multifamily buildings shall be as follows:

(a) Studio: 400 square feet.

(b) One-bedroom: 550 square feet.

(c) Two-bedroom: 750 square feet.

(d) Three-bedroom: 900 square feet.

J. Mixed-use buildings.

(1) Indoor/outdoor operations. All permitted uses in mixed-use buildings must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

(2) Floor-to-floor heights and floor area of ground-floor space.

(a) All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of 11 feet.

(b) Transparency.

[1] A minimum of 70% of the street-facing building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas. Ground floor windows for office buildings shall be designed similarly to retail windows so as to allow flexibility for future change in use to retail.

[2] The bottom of any window or product display window used to satisfy the transparency standard referenced above may not be more than four feet above the adjacent sidewalk.

[3] Product display windows used to satisfy these requirements must be internally lighted.

(c) Doors and entrances.

§ 223-11 Design standards.

[1] Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

[2] Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(3) Except for all applicable requirements in Subsection J(1) and (2) above, mixed-use buildings shall also meet the building design standards found within § 223-11I.

K. Refuse and recycling facilities.

(1) Outdoor refuse and recycling containers shall be visually screened within a durable enclosure, so as not to be visible from adjacent lots or sites, neighboring properties or streets.

(2) All materials or wastes which might cause fumes, dust, odor or which constitute a fire hazard or which may be edible or otherwise attractive to rodents or insects shall be stored outdoors only if enclosed in sealed and covered containers which are adequate to eliminate such hazards.

(3) Refuse and recycling collection areas shall be effectively designed to contain all refuse generated on site and deposited between collections.

(4) Refuse and recycling collection areas shall be located to provide clear and convenient access to refuse collection vehicles.

(5) Medical, hazardous or other regulated waste shall meet the state and federal standards for such materials.

(6) Recycling facilities for multifamily buildings.

(a) There shall be included in any multifamily building that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located.

(b) The recycling area shall be conveniently located for the disposition of source-separated recyclable materials by residents of the multifamily building, preferably near, but clearly separated from, a refuse dumpster.

(c) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

(d) Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor recycling area shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

§ 223-11 Design standards.

(e) Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

(f) Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

L. Screening of exterior mechanical equipment.

(1) Electrical and mechanical equipment shall be located within the interior of a building wherever possible. When an interior location is not practical, such equipment shall be placed in a location where it can be substantially screened from public view. Roof-mounted equipment shall be located so as to not be visible from the public road and shall be hidden with parapets or screens of materials which are in harmony with the building's architecture.

(2) Process equipment, such as stacks, hoppers, compactors, bins, storage vessels, blowers, compressors, piping, ducting, conveyors and the like, shall be located and screened so as to minimize the visual impact on adjacent properties.

(3) Ground-level utilities shall be screened so as to be unobtrusive when viewed from the public rights-of-way and adjacent uses.

M. Sidewalks and street trees.

(1) Location and dimensions of sidewalks.

(a) A sidewalk shall be provided within the right-of-way along both sides of all streets.

(b) The sidewalk shall be constructed flush with the curb.

(c) Sidewalks must have a minimum walking clearance of four feet in areas designed or intended primarily for ground-floor residential use and six feet in areas designed or intended primarily for ground-floor nonresidential use. Where street trees are present, the minimum walking clearance must be maintained in addition to the street tree grates and plantings. Sidewalk clearance must not be less than the minimum level set by the American with Disabilities Act.

(2) Trees.

(a) One tree shall be provided for each 25 feet of sidewalk. Trees shall be evenly spaced to the extent practicable. Trees shall be planted at least three feet from the curb, but shall be situated so as to provide at least four feet of clear sidewalk between the tree and the right-of-way line.

(b) All trees coming from the nursery shall have straight stems of 2.5 inches in caliper or more, with single leaders. Trees shall be of a species capable of tolerating harsh urban conditions and branching a minimum of seven feet from the ground. All trees shall be subject to approval by the enforcing agency.

(c) Trees shall be planted as soon as is practicable following the final paving of the sidewalk.

§ 223-11 Design standards.

(d) Trees shall not interfere with traffic signs, streetlights and fire hydrants.

(e) Any tree planted under a utility wire or wires shall have a mature height under 20 feet.

(f) Upon planting, trees shall be supported, maintained and watered thoroughly and shall be subject to inspection by the enforcing agency.

(g) The recommended types of street trees are as follows:

White oak

Honey locust

Bartlett pear

Black oak

London plane

Callery pear

Scarlet oak

Sweet gum

Cornelian cherry

Red oak

Sour gum

Sargent cherry

Tree selection should consider localized conditions, such as amount of traffic and presence of commercial uses. Small or large-leaf lindens, poplar, elm, ash, soft maple or sycamore trees are not recommended.

(h) Trees must be free of susceptibility to infestation by the Asian longhorn beetle.

(3) Trenches and materials. To provide adequate soil for the roots of street trees, a continuous trench or system of root path trenches shall be required underneath sidewalks.

(a) A continuous trench shall be at least 30 inches in depth by six feet in width and shall consist of structural soil or open-graded crushed aggregate mixed with soil. Where two or more trees are planted, the trench shall be continuous for the length of the planting. Pavement materials over continuous trenches shall have frequent open joints to admit air and water into the trench.

(b) If the root path trench method is selected, loam-filled trenches measuring four inches wide by 12 inches deep shall be provided under the base course to guide the growth of tree roots. For each tree, four radial trenches extending the length and width of the section of sidewalk being

§ 223-11 Design standards.

constructed shall be provided at ninety-degree angles. Where two or more trees are planted, trenches shall connect adjacent trees.

(c) Underground drainage structures may be required by the enforcing agency.

(d) The design details of sidewalks and trenches shall be appropriate to the method selected and shall subject to acceptance by the enforcing agency.

N. Streets, alleys and pedestrian ways.

(1) Relationship of streets, alleys and pedestrian ways to blocks. All blocks shall be bounded by streets, pedestrian ways, municipal boundaries and/or natural features in accordance with the provisions of § 223-11C. Blocks may be penetrated by pedestrian ways or alleys which serve the rear of buildings.

(2) Dead-end streets are prohibited except where through streets are made infeasible by natural features or railroad rights-of-way.

(3) Any new streets or alleys or extensions of existing streets or alleys should be dedicated to the City, conditioned upon the City's acceptance of such improvement. If a developer chooses to make a street or alley private, a permanent public easement shall be provided to allow, at minimum, unimpeded pedestrian access to the street or alley.

(4) All street names shall be subject to approval by the approving authority. An extension of an existing street shall have the same name as the existing street. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the name of an existing street.

(5) Right-of-way width.

(a) The minimum right-of-way width of a new street which is not an extension of an existing street shall be 50 feet, except that wider streets shall be permitted where deemed necessary to accommodate anticipated vehicular and/or pedestrian traffic or to accommodate an aesthetic feature such as a landscaped center median island. The minimum right-of-way width of a new alley which is not an extension of an existing alley shall be 11 feet for one-way traffic and 22 feet for two-way traffic. The minimum right-of-way width of a pedestrian way shall be 10 feet.

(b) The right-of-way width of a new street, alley or pedestrian way which is an extension of an existing street, alley or pedestrian way shall be the same as the right-of-way width of the existing street, alley or pedestrian way.

(6) On-street parking. All streets shall provide for parallel or angled parking on both sides of the street. Alleys are not required to provide for on-street parking.

(7) Cartway width. The minimum and maximum cartway widths of a new street or alley shall be as follows:

(a) One-way street with parallel parking on both sides: 30 feet.

(b) Two-way street with parallel parking on both sides: 35 feet.

§ 223-11 Design standards.

(c) One-way street with angled parking on one side and parallel parking on the other side: 44 feet.

(d) Two-way street with angled parking on one side and parallel parking on the other side: 49 feet.

(e) One-way street with angled parking on both sides: 55 feet.

(f) Two-way street with angled parking on both sides: 60 feet.

(g) One-way alley: nine feet.

(h) Two-way alley: 18 feet.

(8) Intersections.

(a) Offset. New intersections along one side of an existing street should coincide with existing intersections on the other side of the same street. Where intersections do not coincide, the minimum offset between two intersections shall be 150 feet for the intersection of two streets and 100 feet for the intersection of a street and an alley.

(b) Curb return radius. In general, the curb return radius at intersections should be 15 feet. A smaller or larger curb return radius may be permitted where appropriate. Smaller curb return radii induce slower vehicle turning movements and are safer for pedestrians, while larger curb return radii may be necessary to allow for turning movements by large vehicles such as buses and trucks.

(9) Curves. Streets should be straight whenever possible to conform to the City's historic grid pattern. Where curved streets are necessary, they should be designed in a manner that conforms with current engineering practices for the volume of traffic they are expected to carry and that is acceptable to the enforcing agency.

(10) Drainage. All streets and alleys shall have curb and gutter on both sides that meet the requirements of § 223-11D. Pedestrian ways shall provide for curb and gutter or natural drainage, as appropriate.

(11) Sidewalks. All streets shall have sidewalks and street trees on both sides that meet the requirements of § 223-11M. Sidewalks and street trees are not required for alleys.

(12) Grading, pavement and subgrade of streets, alleys and pedestrian ways shall be constructed to standards that conform to current engineering practices for the volume of traffic they are expected to carry and that are acceptable to the enforcing agency. Alleys should be paved with materials such as cobbles that are designed to slow traffic. The approving authority may also require the use of such materials in portions of streets, at crosswalks and/or at intersections where needed to slow traffic.

O. Parking design.

(1) Off-street parking and loading areas shall be coordinated with the public street system serving the area in order to avoid conflicts with through-traffic, obstruction to pedestrian walkways and vehicular thoroughfares.



§ 223-11 Design standards.

(2) As part of the goal of encouraging pedestrian-friendly design, the visibility of off-street parking areas from streets, sidewalks, open spaces and other public spaces shall be minimized.

(3) All parking and loading areas for nonresidential uses shall be graded and paved and shall be adequately drained in accordance with a drainage plan to be approved by the enforcing agency.

(4) Dimension of parking spaces.

(a) For single-, two-, and three-family dwellings: Parking spaces shall measure 8 ½ feet in width by 16 feet in length.

(b) For all other parking conditions: Every such space provided shall measure at least nine feet in width and 18 feet in length, exclusive of access drives and aisles. Hairpin striping (i.e., two lines located one foot apart and connected at one end separating parking spaces) shall be provided where appropriate. End-to-end parking spaces shall measure not less than eight feet in width by 23 feet in length. Twenty percent of required parking spaces may be compact spaces measuring 8 1/2 feet in width by 16 feet in length.

(5) Size of aisles. The width of all aisles providing direct access to individual parking spaces shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving parking spaces placed at an angle other than 90°. Single-, two-, and three-family dwellings are exempt from the following.

Parking Angle (degrees)	Aisle Width (feet)
0° (end-to-end parking)	12
30°	12
45°	13
60°	18
90° (perpendicular parking)	24

(6) Maximum grade of parking areas. Single-, two-, and three-family dwellings are exempt from the following.

Areas	Maximum Grade (percent)
Parking spaces and service aisles	5%
Main approach walkways to buildings	4%
Collector or other service walkways	6%
Swales	10%
Principal circulation aisles	6%
Driveway entrances and exits up to 25 feet from right-of-way line	2%
Driveway entrances and exits beyond 25 feet from right-of-way line	10%

(7) Access.

§ 223-11 Design standards.

(a) There shall be adequate provisions for safe and convenient ingress and egress to all parking areas.

(b) Every parking area shall have direct access to a street or alley.

(c) Access drives for newly constructed single-, two-, and three-family dwellings shall not be less than 10 feet wide with a curb cut not more than a 15-foot wide.

(d) For nonresidential uses:

[1] Access drives shall not be less than 10 feet wide and not more than 12 feet for one-way traffic or 20 feet wide for two-way traffic.

[2] Curb cuts shall be 15 feet in width for one-way traffic and 24 in width for two-way traffic.

(8) All off-street parking areas shall be used solely for the parking of passenger automobiles. No commercial repair work, service or storage of new or used motor vehicles, materials or merchandise of any kind shall be conducted on such parking area.

(9) Landscaping, screening, paving, and drainage for parking areas/garages.

(a) In outdoor parking lots with 15 or more spaces, not less than 10% of the parking area shall be suitably landscaped to minimize noise, glare and other nuisance characteristics, as well as to enhance the aesthetics, environment and ecology of the site and surrounding area.

(b) All parking and loading areas abutting residential areas shall be buffered about their periphery with landscaping and/or fencing. The landscaping shall be located at the entrance of the lots, in protected areas along walkways, center islands and at the end of bays. In narrow islands, low spreading plants, such as creeping juniper, English ivy, myrtle and pachysandra, are appropriate.

(c) All landscaping in parking areas shall be carefully located so as not to obstruct sight distance.

(d) Off-street parking areas shall be effectively screened by a fence or wall not less than four nor more than six feet in height, maintained in good condition; provided, however, that a screening hedge or other natural landscaping may be substituted for the required fence or wall if approved by the approving authority. The screening, as required by this subsection, may be waived by the approving authority if, in its judgment, because of topographic or other unusual conditions, said fence is not necessary to buffer adjoining property.

(e) Parking areas, loading areas and driveways, except for one-family, two-family or three-family residences, shall be curbed with granite or concrete. The driveway shall be concrete or other material approved by the enforcing agency.

(f) Off-street surface parking lots associated with multifamily dwellings shall be located to the rear of the building and away from direct view of streets.

(g) Parking garage facades shall be architecturally screened to harmonize with its surroundings.

§ 223-12 Construction requirements.

**§ 223-12 Construction requirements.**

A. City standards. All standards and specifications of the City as now or hereafter adopted, if any, shall govern the design, construction and installation of all required improvements. Failure of the developer, his contractor or agent to conform to said specifications shall be just cause for the suspension of the work being performed, in accordance with the Uniform Construction Code. No developer shall have the right to demand or claim damages from the City, its officers, agents or servants by reason of said suspension.

B. Other standards. In the event that the City has not adopted standards for a specific type of improvement, then generally accepted engineering standards, as set forth in current engineering and construction manuals as may be approved and modified by the enforcing agency for a specific situation, shall be used.

C. Grades. All construction stakes and grades shall be set by or under the supervision of a licensed land surveyor. One copy of all cut sheets shall be filed with the enforcing agency prior to the commencement of any construction.

D. Approved plans. Prior to commencement of construction of required improvements, the enforcing agency shall have received and approved the complete plans and profiles of all improvements to be installed or constructed. No improvements shall be accepted by the governing body and no performance guaranties released until the enforcing agency has received and approved drawings showing the plans, grades and profiles of all improvements as finally constructed. Plans approved by the Planning Board or Zoning Board of Adjustment shall be signed and dated by the Board's Chairman and Secretary.

E. Site conditions. During construction, the site shall be maintained and left each day in a safe, clean and orderly manner, and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer or upon an order by the Construction Code Official or other authorized personnel.

F. Disposal of dead trees, litter, building materials. All stumps, litter, rubbish, brush, weeds, dead and dying trees, debris and excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Construction Code Official prior to issuing an occupancy permit. No such refuse shall be buried on the site.

G. Changes in elevation.

(1) No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved preliminary plan.

(2) Minimal changes in elevation or contours necessitated by field conditions may be made only after approval by the enforcing agency. All said changes shall be shown on the final plan and indicated as a change from the preliminary, or if final approval has been granted, all changes shall be shown on the as-built plans.

H. Excavations. No excavation shall be created or maintained, except when required for the foundations of structures or in connection with and during the installation of facilities for permitted uses. Such excavation shall be used for the intended purpose or shall be refilled to the average surrounding ground

§ 223-13 Improvements.

level, in such a manner as to prevent the collection of water, erosion of earth or collapse or sliding of banks, within six months from the date of commencement of such excavation.

I. Topsoil removal. The applicant shall obtain all necessary permits.

J. Preconstruction meeting. Prior to the commencement of construction, the developer shall arrange for and attend a preconstruction meeting in conformance with the requirements of the enforcing agency.

K. Prohibited materials.

(1) The following four construction materials, and any other similar or like materials, are specifically prohibited for all new construction of a building facade or other street frontage:

(a) Thin brick;

(b) Tile;

(c) Synthetic stucco; and

(2) This subsection is applicable on new construction only.

**§ 223-13 Improvements.**

Prior to the granting of final approval, the applicant shall have installed, or constructed improvements required by the approving authority or have posted a performance guaranty or surety sufficient to cover the costs of said improvements. The approving authority may solicit local, county, state, federal, public or semipublic agencies and knowledgeable individuals on what improvements shall be required. Improvements recommended by other agencies, such as a utilities authority, county, state or other governmental agencies, may be required by the approving authority as a condition of final approval.

## **Article IV. Development Review Procedures and Plat Details**

### **§ 223-14 Regulation of land development.**

Regulation of land development and the attachment of reasonable conditions to development applications is an exercise of valid police power delegated by the state to the City. The applicant shall comply with reasonable conditions laid down by the approving authority for design, dedication, improvements, and the use of the land to conform to the physical and economic development of the municipality and to the safety and general welfare of the future residents and owners in the development and the community at large.

### **§ 223-15 County Planning Board report.**

Where County Planning Board review or approval is required on a subdivision or site plan, the approving authority shall condition any approval it grants upon either timely receipt of a favorable report by the County Planning Board or approval by the County Planning Board due to its failure to submit a report within the required time period. If the county's report is negative or attaches conditions, the original action by the municipal approving authority shall be null and void, and a new resolution shall be adopted which considers the County Planning Board's report.

### **§ 223-16 Granting of exceptions.**

The approving authority, when acting upon applications for preliminary or minor subdivision approval and preliminary site plan approval, shall have the power to grant such exceptions from the development requirements and standards in Article III of this chapter as may be reasonable and within the general purpose and intent of the provisions for subdivision or site plan review and approval if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. Exceptions from N.J.A.C. 5:21, Residential Site Improvement Standards, as adopted and amended, may be granted consistent with RSIS requirements.

### **§ 223-17 Exemptions from subdivision regulations.**

Divisions of land not considered a subdivision as defined in the Municipal Land Use Law shall be exempt from compliance with the requirements of this chapter. Unless exempted from the subdivision regulations by the approving authority, no person can transfer, sell, or agree to transfer or sell, as owner or agent, any land which forms a part of subdivision for which approval is required.

### **§ 223-18 Simultaneous review.**

The approving authority shall have the power to act upon subdivisions, conditional uses or site plans simultaneously without the developer making further application or the approving authority holding further hearings. The longest time period for action by the approving authority, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer in conjunction with a site plan or subdivision, notice of the hearing on the plat shall include reference to the request for such conditional use.

### **§ 223-19 Site plan approval required.**

A. All activities except the following shall require site plan approval:

- (1) The construction, customary use and modification of single- or two-family dwellings including any permitted accessory buildings and uses incidental to the principal use of the property.

§ 223-19 Site plan approval required.

- (2) Any structure or use for which site plan approval was granted prior to the effective date of this ordinance and that was developed in accordance with such approval.
- (3) Construction which is determined by the Construction Official to constitute ordinary repairs, as defined by the State of New Jersey Department of Community Affairs Uniform Construction Code.
- (4) Soil disturbance of less than 1,000 square feet in total,

B. A change in use or occupancy of a building or land requires minor site plan approval if one or more of the following criteria is met, as determined by the Zoning Officer when an applicant applies for a building permit.

- (1) The previous use never received site plan approval.
- (2) The proposed use requires more off-street parking than the previous use based upon the parking requirements of this chapter.
- (3) The proposed use has significantly different hours of operation than the previous use.
- (4) The proposed use has different loading requirements that affect site circulation.
- (5) The proposed use involves the storage or handling of hazardous chemicals or hazardous substances.
- (6) The proposed use requires quantitative change in exterior lighting, circulation, and/or landscaping.
- (7) The proposed use requires change in drainage and stormwater management.

C. Three-family dwellings that are the result of new construction, a conversion, or legalization of units within preexisting dwellings are subject to the minor site plan procedures found in Subsection D below.

D. Minor Site Plan Procedures

- (1) The Chairman of the Planning Board is hereby authorized to appoint a Site Plan Subcommittee of the Planning Board which shall be composed of at most four members of the Board, including at least the Mayor or City member of the Planning Board and two other members of the Planning Board. The Site Plan Subcommittee shall have the authority to:
  - (a) Approve minor site plan applications, including minor site plans involving alterations to the exteriors of existing conforming nonresidential structures as required by this chapter;
  - (b) Provide recommendations to the Planning Board for site plan waivers; and
  - (c) Refer an application without decision to the entire Planning Board for decision.

§ 223-19 Site plan approval required.

- (2) A site plan application or a letter request for a site plan waiver, together with the appropriate fees and maps, shall be filed with the Administrative Officer. Submission requirements for minor site plan approval are provided in the Minor Site Plan Checklist.
- (3) All minor site plans as defined by this chapter shall be reviewed by either the Planning Board or a subcommittee of the Planning Board appointed by the Chairman of the Board pursuant to Subsection (1) to review minor site plans.
- (4) The report of the Site Plan Subcommittee regarding minor site plan approval or regarding its recommendation of waiver of site plan shall be forwarded to the applicant and shall be included on the agenda of the next regularly scheduled Planning Board meeting. Such report shall then be adopted as the basis for an approval to be reflected in a memorializing resolution of the Planning Board. Minor site plan approval thus memorialized shall be deemed final approval of the site plan by the Board, provided that the Board or Subcommittee may condition such approval on terms ensuring the provision of improvements pursuant to N.J.S.A. 40:55D-38, 40:55D-39, 40:55D-41 and 40:55D-53.
- (5) A minor site plan, as defined in this chapter, shall not require notice or public hearing and shall not request or be deemed to need any bulk variance relief.
- (6) Minor site plan approval shall be granted or denied within 45 days of submission of a complete application to the Administrative Officer, or within such further time as may be consented to by the applicant. Failure of the Site Plan Subcommittee or the Planning Board to act within the period prescribed shall constitute minor site plan approval.
- (7) The Site Plan Subcommittee or the Planning Board may require the filing of an amended application, which shall proceed as in the case of the original application. No additional application fee shall be required. The time within which the Subcommittee or Board shall review the amended application and make its determination shall commence as of the date of the filing of the amended plat. If the applicant fails to submit an amended application within the original time for review authorized by this chapter, the Subcommittee or Board shall be obligated to act on the original application. If, at the discretion of the Subcommittee or Board, the change or changes are considered minor in nature, the applicant may be given approval subject to the submission of an amended plan indicating the changes.
- (8) The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted shall not be changed for a period of two years after the date of minor site plan approval. The Planning Board or the Subcommittee shall grant an extension of this period for a period determined by the Board or the Subcommittee but not exceeding one year from what would otherwise be the expiration date, if the applicant proves to the reasonable satisfaction of the Board that the applicant was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the applicant applied promptly for and diligently pursued the approvals. An applicant shall apply for this extension before what would otherwise be the expiration date, or the 91st day after the applicant receives the first legally required approval from other governmental agencies, whichever occurs later.

§ 223-20 Submission of concept plan for minor and major developments.

- (9) Lands resulting from minor subdivisions. No applicant shall be entitled to approval of a minor site plan for any land that has received minor site plan approval within 24 months immediately preceding the minor site plan application.
- (10) Minor site plan applications and plans shall be designed in accordance with current City regulations and design standards and in strict accordance with modern and accepted planning techniques and procedures by qualified persons with the cooperation of the Planning Board. For initial consideration by the Planning Board, prior to the granting of minor site plan approval, the minor site plans shall show or be accompanied by sufficient information to establish the design, arrangement and dimension of all plan features as to form, size and location. The information shall form the basis for the general terms and conditions upon which minor site plan approval may be granted and shall include all of the information stipulated in the "Minor Site Plan Checklist."

**§ 223-20 Submission of concept plan for minor and major developments.**

A. Submittal of a concept plan is optional. Any applicant may be placed on the agenda of a regular meeting of the Planning Board for discussion on an informally prepared plat. The purpose will be to review concepts to assist the applicant in the preparation of subsequent plans. Other than classification, no decisions will be made, no hearings held, and no formal action taken on an informal plat. Concept reviews are held only by the Planning Board and not the Zoning Board of Adjustment.

B. Filing procedure. The developer shall file with the administrative officer at least 21 days prior to the meeting of the approving authority 14 copies of the informal plat, a narrative description of the proposal by the developer, and the applicable fee and escrow amounts. In accordance with the Municipal Land Use Law, the fee charged for informal review shall be credited toward the fee for preliminary review at the time of preliminary submission.

C. Action by the approving authority. The approving authority shall hear the application at a public meeting and, if appropriate, shall determine whether the application is to be classified as a major or minor development and shall render such additional advice as to the approvals or variances required as a part of the review process. Discussion on the substantive aspects of the application shall not be binding on either the applicant or the approving authority.

**§ 223-21 Submission of preliminary plat for major developments.**

A. Filing procedure.

- (1) Preliminary plats are required for all major site plans and major subdivisions.
- (2) The developer shall submit to the administrative officer at least 21 calendar days prior to the public meeting of the approving authority:
  - (a) One original and 13 copies of the preliminary site plan;
  - (b) One original and 13 completed copies of the application for preliminary approval;
  - (c) One original and 13 copies of the area map and property owners' lists;
  - (d) One original and one copy of a proposed notice to owners within 200 feet;



§ 223-21 Submission of preliminary plat for major developments.

- (e) One original and one copy of a proposed public notice (advertisement);
- (f) One original and one completed copy of the preliminary site plan checklist;
- (g) Two completed copies of the County Planning Board application form;
- (h) Two copies of any protective covenants, deed restrictions and easements applying to the land being developed;
- (i) Two copies of the drainage calculations, soil erosion and sediment control data as required in Article III of this chapter, the applicable fee and escrow; and
- (j) One original and one copy of the certification by the Tax Collector that all taxes are paid to date.

(3) Additional requirements may be contained within the relevant checklists for development applications.

B. Actions following filing.

(1) The administrative officer shall review the submission for its completeness and take action on accepting or rejecting the submission as a complete application. If rejected, the applicant shall be notified within 45 days of submission.

(2) If accepted as a complete application, a public hearing date shall be set, and notice given. The applicant shall be responsible for providing public notice as required by law.

(3) Upon submission of a plat, the administrative officer shall submit one copy of the plat and supporting data to the enforcing agency, and any other agency or person as directed by the approving authority for their review and action. Each shall have not more than 30 days from receipt of the plat to report to the approving authority. In the event of disapproval, such report shall state the reasons therefor. If any agency or person fails to report to the approving authority within the designated period, said plat shall be deemed to have been approved by them.

(4) Preliminary approval of a subdivision of 10 or fewer lots shall be granted or denied within 45 days of the date of a complete submission or within such further time as may be consented to by the developer. Otherwise, the approving authority shall be deemed to have granted preliminary approval to the subdivision.

(5) The approving authority shall grant or deny preliminary site plan approval within the following time periods unless some further time has been consented to by the developer:

(a) A site plan for 10 acres of land or less: within 45 days of the date of a complete submission.

(b) A site plan of more than 10 acres: within 95 days of the date of a complete submission.

(6) If the approving authority requires any substantial amendment in the layout of improvements in either a site plan or subdivision as proposed by the developer, and that plan has been the subject of a hearing, an amended application for development shall be submitted and proceeded upon as in the

§ 223-22 Submission of final plat for minor and major developments.

case of the original application for development. The approving authority shall, if the proposed development complies with this chapter, grant preliminary approval.

(7) The approving authority may approve, disapprove, or approve with conditions the application. The decision shall be in writing and shall be sent to the applicant and the newspaper as required by the Municipal Land Use Law. If the approving authority grants preliminary approval, its Chairman and Secretary (or the Vice Chairman or Assistant Secretary in their absence, respectively) shall sign each page of the plat indicating approval. If the plat is conditionally approved, it shall not be signed until all conditions are complied with; if all conditions are not complied with within 90 days from the date of the meeting at which a plat was conditionally approved, the conditional approval shall lapse.

(8) Preliminary approval shall, except as provided in Subsection B(8)(a) below, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

(a) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to, use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; any requirements peculiar to site plan approval, except that nothing herein shall be construed to prevent the City from modifying by ordinance such general terms and conditions of preliminary approval as related to public health and safety.

(b) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plat.

(c) That the applicant may apply for and the approving authority may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance such revised standards may govern.

(d) In the case of a development for an area of 50 acres or more, the approving authority may grant the rights referred to in Subsection B(8)(a), (b) and (c) above for such period of time, longer than three years, as shall be determined by the approving authority to be reasonable taking into consideration 1) the number of dwelling units and nonresidential floor area permissible under preliminary approval; 2) the potential number of dwelling units and nonresidential floor area of the section(s) awaiting final approval; 3) economic conditions; and 4) the comprehensiveness of the development, provided that, if the design standards have been revised, such revised standards may govern.

**§ 223-22 Submission of final plat for minor and major developments.**

**A. Filing procedure.**

(1) The developer shall file with the administrative officer at least 21 days prior to the meeting of the approving authority:

(a) Fourteen paper prints of the plat;

(b) One original and 13 completed copies of the application form for final approval;

§ 223-22 Submission of final plat for minor and major developments.

- (c) One original and 13 copies of the area map and property owners' list;
- (d) One original and one copy of a proposed notice to owners within 200 feet of the subject property;
- (e) One original and one copy of a proposed public notice (advertisement);
- (f) One original and one completed copy of the final plat checklist;
- (g) Two completed copies of the County Planning Board application form;
- (h) The performance guarantee approved by the enforcing agency including off-tract improvements, if any;
- (i) The applicable fee and escrow;
- (j) Certification by the Tax Collector that all taxes are paid to date; and
- (k) Certification by the Soil Conservation District pursuant to the Soil Erosion and Sediment Control Act, Chapter 251 of the Laws of 1975 (N.J.S.A. 4:24-39 et seq.).

(2) Additional requirements may be contained within the relevant checklists for development applications.

(3) Where utility services are to be extended to a property or into the tract, the final plat shall be accompanied by letters directed to the Chairman of the approving authority and signed by a responsible officer of the water company, sewer authority, and utility which provides gas, telephone and electricity that has jurisdiction in the area. Such letters shall approve each proposed utility installation design and state who will construct the facility.

(4) The final plat shall be accompanied by a statement by the enforcing agency acknowledging receipt of a map showing all utilities and other improvements (both in the development and off-tract improvements) in exact location and elevation; that the Engineer has examined the drainage, erosion, stormwater control, and excavation plans and found that the interests of the City and all nearby properties are fully protected; identifying those portions of any improvements already installed; and that the developer has either:

- (a) Installed all improvements in accordance with the requirements of this chapter and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or
- (b) Posted a performance guarantee that has been approved by the enforcing agency.

B. Actions following filing.

(1) The approving authority shall grant final approval if the detailed drawings, specifications and estimates conform to the standards established by this chapter, the conditions of preliminary approval, and the standards prescribed by the Map Filing Law, N.J.S.A. 46:26A, B and C. Deviations from preliminary approval that are determined to be minimal by the administrative officer shall not require the developer to submit another application for preliminary approval.

§ 223-22 Submission of final plat for minor and major developments.

(2) Final approval shall be granted or denied within 45 days after submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. An approved final plat shall be signed by the Chairman and Secretary of the approving authority (or the Vice Chairman or Assistant Secretary in their absence, respectively). Failure of the approving authority to act within the period prescribed shall constitute final approval, and a certificate of the administrative officer as to the failure of the approving authority to act shall be issued on request of the applicant. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

(3) Whenever review or approval of the application by the County Planning Board is required by Section 5 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.3) or Section 8 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.6), the approving authority shall condition any approval that it grants upon timely receipt of a favorable report from the County Planning Board or upon their failure to submit a report within the required time period.

(4) Final approval of a minor subdivision shall expire 190 days from the date of municipal approval unless within such period a plat in conformity with such approval, including any conditions imposed by the approving authority, and in conformity with the provisions of the Map Filing Law, P.L. 1960, c. 141 (N.J.S.A. 46:26A, B and C), or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the City Engineer and the City Tax Assessor. Such plat or deed accepted for such filing shall have been signed by the Chairman and Secretary of the approving authority (or the Vice Chairman or Assistant Secretary in their absence, respectively). In reviewing the application for development for a proposed minor subdivision the approving authority may accept a plat not in conformity with the Map Filing Law, provided that if the developer chooses to file the minor subdivision by plat rather than deed, such plat shall conform with the provisions of said law.

(5) Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The approving authority may for good cause shown extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. No subdivision plat shall be accepted for filing by the county recording officer until it has been approved by the approving authority as indicated on the instrument by the signature of the Chairman and Secretary of the approving authority (or the Vice Chairman or Assistant Secretary in their absence, respectively) or a certificate has been issued as to the failure of the approving authority to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the developer has posted the required guarantees. If the county recording officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the municipality, the plat shall be expunged from the official records. It shall be the duty of the county recording officer to notify the Planning Board in writing within seven days of the filing of any plat, identifying such instrument by its title, date of filing, and official number.

(6) Provided the approved final subdivision plat has been filed with the county recording officer, the zoning requirements applicable to the preliminary approval first granted to a site plan or a major

§ 223-23 Plat design standards for subdivisions.

subdivision and all other rights conferred upon the developer pursuant to the Municipal Land Use Law, whether conditionally or otherwise, shall not be changed for a period of two years after the case of final approval. If the developer has followed the standards prescribed for final approval, the approving authority may extend such period of protection for extensions of one year, but not to exceed three extensions. Upon granting of final approval, the rights conferred upon the applicant by the granting of preliminary approval shall be terminated.

(7) Provided the approved final plat of a minor subdivision has been filed with the county recording officer, the zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two years after the date of subdivision approval.

(8) The developer shall submit three copies of the approved final plat to the administrative officer for distribution and shall supply one translucent cloth or Mylar copy to the administrative officer.

**§ 223-23 Plat design standards for subdivisions.**

A. Plat conformity. No development application shall be accepted unless submitted in plat form and no plat, other than an informal plat as set forth in this article, shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information. All plats shall be prepared by qualified professionals as set forth in N.J.A.C. 13:40.

B. The concept plan for subdivisions shall be clearly and legibly drawn at a graphic scale not less than one-inch equals 100 feet and shall contain the following:

(1) Existing and proposed street and lot layout, showing that portion proposed for development in relation to the entire tract.

(2) Existing lot lines to be eliminated.

(3) Area of original tract.

(4) Contours based on USGS data.

(5) Approximate location of existing structures and uses.

(6) All setback lines as well as the distances between buildings and proposed or existing lot lines.

(7) Approximate location of all streams, lakes and drainage rights-of-way including the direction of flow of all streams, brooks, and drainage rights-of-way; and the approximate location of flood hazard areas and floodway lines, steep slopes greater than 10%, wetlands and swamps based on Soil Conservation Service, USGS or Department of Interior data.

(8) Zoning district(s).

(9) The name, address, signature, and phone number of the owner, developer, and person preparing the plat.

(10) A key map with North arrow showing the entire development and its relation to surrounding areas.

§ 223-23 Plat design standards for subdivisions.

C. The preliminary subdivision plat shall be clearly and legibly drawn at a graphic scale not less than one-inch equals 50 feet and shall be based on a certified boundary survey and drawn by a land surveyor licensed in New Jersey with design and improvements drawn by a professional engineer licensed in New Jersey. If more than one sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision on one sheet and the sheets on which the various sections are shown. The preliminary subdivision plat shall contain the following:

(1) Key map with North arrow showing the entire subdivision in relation to surrounding areas including the names of principal roads and at a scale of not less than one-inch equals 2,000 feet.

(2) Title block with the name of the subdivision; any development names previously associated with the application; the name of the municipality; Tax Map sheet, block and lot number; date of preparation and most recent revision; meridian; North arrow; graphic scale; the names, addresses, phone numbers, and signatures of the owner, developer and person(s) who prepared the plat(s) including the seal of the latter; and space for the application number.

(3) The names of all property owners within 200 feet of the boundaries of the development as disclosed on the most recent municipal tax records and showing adjoining property in common ownership with the land on which the subdivision is proposed.

(4) Tract acreage to the nearest 1/1000 of an acre; the number of new lots; each lot line dimension scaled to the nearest foot; and each lot area to the nearest square foot.

(5) Existing and proposed contours at two-foot intervals. All elevations shall be related to a benchmark noted on the plan and wherever possible be based on United States Geological Survey mean sea level datum.

(6) Location of existing natural features such as soil types, slopes exceeding 10%, wooded areas, rock outcroppings, views within the development and the location of individual trees having a diameter of eight inches or more measured five feet above ground level. Soil types shall be based on United States Soil Conservation Service data.

(7) Plans and computations for any storm drainage system including the following:

(a) All existing or proposed storm sewer lines within or on lands or roads adjacent to the development and for all required off-site and off-tract drainage improvements showing size, profile and slope of the lines, direction of flow, and the location of each catch basin, inlet, manhole, culvert and headwall.

(b) The location and extent of any proposed dry wells, ground water recharge basins, detention basins, flood control devices, sedimentation basins or other water conservation devices.

(8) The names, locations and dimensions, including paved widths and right-of-way widths, of all existing streets within a distance of 200 feet of the boundaries of the development; existing driveways and any connections from proposed streets, sidewalks, and bike routes in the development to any adjoining streets, sidewalks or bike routes.

§ 223-23 Plat design standards for subdivisions.

(9) Plans, cross sections, center-line profiles, tentative grades and details of all proposed and existing streets in the tract and within 200 feet of the development based on USGS datum, together with full information as to the disposal of surface drainage, including plans, cross sections and profiles of streets, storm drains and drainage structures. Typical street cross sections shall indicate the type and width of pavement and the location of curbs, sidewalks, bike routes, typical underground utilities, and shade tree planting. At intersections, the sight triangles, radii of curblines, crosswalks and street sign locations shall be shown. Final street naming may be deferred. For streets where curbs and/or sidewalks are to be provided, separate curb and sidewalk profiles shall be required at street intersections.

(10) The names, locations, paved widths, right-of-way widths, and purpose(s) of existing and proposed easements, streets, and other rights-of-way in the subdivision. The text of any deed restriction shall be included.

(11) The location and description of all monuments, existing and tentatively proposed.

(12) All proposed lot lines, and all existing lot lines to remain and those to be eliminated; all setback lines required by the zoning provisions of this chapter with the dimensions thereof and any municipal boundary line where the boundary is within the tract or within 200 feet of the tract. Any lot(s) to be reserved or dedicated to public use shall be identified. Each block shall be numbered, and the lots within each block shall be numbered in accordance with numbers assigned by the City Tax Assessor.[1]

[1] Editor's Note: See Ch. 102, Buildings, Numbering of.

(13) Locations of all existing structures and their use(s) in the tract and within 200 feet thereof, including all structures on adjacent properties even if more than 200 feet from the subject tract, showing existing and proposed front, rear and side yard setback distances, structures of historic significance, and an indication of all existing structures and uses to be retained and those to be removed.

(14) Plans and profiles of proposed improvements and utility layouts (sanitary sewers, storm sewers, erosion control, stormwater control, excavation, etc.) showing location, size, slope, pumping stations, and other details as well as feasible connections to any existing or proposed utility systems. If service will be provided by an existing utility company, a letter from that company shall be submitted stating that service will be available before occupancy of any proposed structures.

(15) Zoning district(s) and zoning district lines.

(16) An itemization of all improvements to be made to the site in accordance with the standards specified in Article III and such other improvements on site, off site, on tract and off tract as the public interest may require, together with a listing of the work and materials to be used in installing such improvements including estimated quantities of necessary materials, sufficient to enable the enforcing agency to formulate a performance guarantee estimate.

D. The final subdivision plat shall be clearly and legibly drawn at a graphic scale not less than one inch equals 50 feet unless a larger scale is approved by the enforcing agency that is large enough to contain

§ 223-24 Plat design standards for site plans.

legibly written data on dimensions, bearings, and all other details of the boundaries. The plat shall be drawn by a licensed land surveyor in compliance with Map Filing Law (N.J.S.A. 46:26A, B and C). If more than one sheet is required to show the entire subdivision, a separate composite map shall be drawn showing the entire subdivision on one sheet and the sheets on which the various sections are shown. The submission for final plat approval shall show the following, except that the plat to be filed with the County Recording Officer need only contain the data required for filing with the county, and all other data may be submitted on separate sheets:

- (1) Signature blocks for the approving authority, City Engineer, and other endorsements required by law.
- (2) Tract boundary lines; municipal boundary line if within 200 feet of the tract being subdivided; street names; all lot lines and other site lines and chord bearings, with the distances of all curves, all based on an actual survey by a land surveyor licensed to practice in the State of New Jersey; minimum building setback lines; and the area of each lot shown to the nearest square foot. All dimensions, both linear and angular, of the exterior tract boundaries shall be based on and calculated from surveyed traversing which shall have an apparent error of field course of 1:10,000 or better and shall be corrected by accepted balancing methods to final errorless closure. All final exterior and lot boundaries shall be similarly balanced to final errorless closure.
- (3) Block and lot numbers in accordance with established standards and in conformity with the City Tax Map as approved by the City Tax Assessor, and all street numbers, where appropriate, shall be designed as specified by the approving authority.
- (4) The final plat shall be accompanied by the following:
  - (a) A copy of the preliminary plat revised to show all conditions and changes required by the approving authority at the time of preliminary approval.
  - (b) That the applicant is agent or owner of the land or that the owner has given consent to the development.
  - (c) Appropriate local, county and state approvals.

**§ 223-24 Plat design standards for site plans.**

A. Plat conformity. No development application shall be accepted unless submitted in plat form, and no plat shall be accepted for consideration unless it conforms to the following requirements as to form, content and accompanying information. All plats shall be prepared by qualified professionals as set forth in N.J.A.C. 13:40-1.1 et seq.

B. Concept site plan review. An informal site plan for review shall include the same data as required in § 223-23B. This submission shall also show to scale the lot lines, proposed building(s), proposed use(s), parking, loading, on-site circulation, driveways, wooded areas, approximate on-site or on-tract stormwater detention facilities, and water and sewer service.

C. Preliminary site plan plat.



§ 223-24 Plat design standards for site plans.

(1) Every preliminary site plan shall be at a minimum graphic scale of one inch equals 50 feet; certified by a New Jersey licensed architect or engineer, including accurate lot lines certified by a New Jersey licensed land surveyor. If one sheet is not sufficient to contain the entire territory, a separate composite map shall be drawn showing the entire development on one sheet and the sheets on which the various sections are shown. The following data shall be shown on or shall accompany the site plan:

- (a) All lot lines and the exterior boundaries of the tract;
- (b) North arrow;
- (c) Zone district(s) in which the tract is located;
- (d) Existing and proposed streets and street names;
- (e) Date of original drawing and each subsequent amendment;
- (f) Existing and proposed contours at two-foot intervals throughout the tract and within 100 feet of any building or paved area under review;
- (g) Title of the plan;
- (h) Streams, total area to one square foot;
- (i) Total number of parking spaces;
- (j) All dimensions, area and distances needed to confirm conformity with the ordinance such as but not limited to building lengths, building coverage, lot lines, parking spaces, setbacks, and yards;
- (k) A small key map giving the general location of the parcel within the City; and
- (l) A separate map showing the site in relation to all remaining lands in the present owner's ownership and buildings and other improvements on all adjacent lots.

(2) Building and use plan.

(a) The plan shall show:

[1] The size, height, location, arrangement and use of all proposed buildings, structures, including roof appurtenances, and signs, including an architect's scaled elevation of the front, side and rear of any structure and sign to be erected or modified to the extent necessary to apprise the approving authority of the scope of the proposed work;

[2] Any existing structures, identified either to remain or to be removed;

[3] A written description of the proposed use(s) and operation(s) of nonresidential buildings including total employees, members or expected occupancy;

§ 223-24 Plat design standards for site plans.

[4] The proposed number of shifts to be worked and the maximum number of employees on each shift;

[5] Expected truck and tractor-trailer traffic;

[6] Emission of noise, glare, vibration, heat, odor, air and water pollution;

[7] Safety hazards; and

[8] Anticipated expansion plans incorporated in the building design.

(b) Floor plans shall be submitted in multifamily and townhouse projects; the number of dwelling units, by type, shall be shown.

(3) Circulation plan. This plan shall show access streets and street names, acceleration/deceleration lanes, curbs, aisles and lanes, access points to public streets, sight triangles, traffic channelization, easements, fire lanes, driveways, number and location of parking spaces and loading spaces, pedestrian walks, bikeways and all related facilities for the movement and storage of goods, vehicles and persons on the site and including light, lighting standards, signs and driveways within the tract and within 100 feet of the tract. Sidewalks shall be shown from each building entrance/exit along expected paths of pedestrian travel, such as but not limited to access parking lots, driveways, other buildings on the site, and across common yard areas between buildings. Plans shall be accompanied by cross sections of new streets, aisles, lanes, driveways, sidewalks, and bikeways. Any expansion plans for the proposed use shall show feasible parking and loading expansion plans to accompany building expansion.

(4) Natural resources plan. This plan shall show existing and proposed wooded areas, buffer areas and/or sodded areas, ground cover, retaining walls, fencing, signs, recreation areas, shrubbery, trees, and other landscaping features. These plans shall show the location and type of man-made improvements and the location, number, species, and caliper of plant material and trees to be located on the tract. All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, rock formations, contours, existing foliage, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or reestablish the tone of the vegetation in the area and lessen the visual impact of the structures and paved areas. The established grades and landscaping on any site shall be planned for aesthetic, drainage, and erosion control purposes. The grading plan, drainage facilities, and landscaping shall be coordinated to prevent erosion and siltation as outlined under the provisions in Article III as well as assuring that the capacity of any natural or man-made drainage system is sufficient to handle the water from the site and contributing upstream areas.

(5) Utilities plan. This plan shall show the existing and proposed locations of all drainage and stormwater runoff; open space; common property; fire, gas, electric, telephone, sewerage and waterline locations; and solid waste collection and disposal methods, including proposed grades, sizes, capacities, and materials to be used for facilities installed by the developer. Installations by utility companies need only show their locations on the plat. All easements acquired or required on tract and off tract shall be shown, and copies of legal documentation that support the granting of an easement by the owner of an off-tract lot shall be included. All proposed lighting shall be shown,

§ 223-24 Plat design standards for site plans.

including the direction, angle, and height of each source of light. All utilities shall be installed underground. All required state and federal approvals for environmental considerations shall be submitted prior to preliminary approval or shall include facilities to comply with the drainage provisions in Article III. All public services shall be connected to an approved public utilities system where one exists.

D. Final site plan plat. The final plat shall follow preliminary site plan requirements and shall include all changes required as a condition of preliminary approval.

§ 223-25 Considerations in decision-making.

## **Article V. Administrative Provisions**

### **§ 223-25 Considerations in decision-making.**

These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the City of Union City. Any action taken by the Planning Board and Zoning Board of Adjustment under the terms of this chapter shall give the primary consideration to the requirements of this chapter and to the welfare of the entire community.

### **§ 223-26 Amendments.**

All provisions of this chapter may be amended in accordance with applicable laws.

### **§ 223-27 Board of Adjustment procedures.**

A. Establishment and composition.

(1) A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven regular members and four alternate members, all residents of the City of Union City appointed by the Board of Commissioners to serve for terms of four years and two years respectively, from January 1 of the year of their appointment. Alternate members shall be designated at the time of appointment by the Board of Commissioners as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4." The terms of the members first appointed under this chapter shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular members shall exceed four years, and that the initial term of no alternate member shall exceed two years. Thereafter, the term of each regular member shall be four years and the term of each alternate member shall be two years.

(2) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(3) Nothing in this chapter shall, however, be construed to affect the term of any present regular or alternate member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.

(4) No member of the Board of Adjustment may hold any elective office of the City of Union City or be employed by the City of Union City.

(5) No member of the Board of Adjustment shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

(6) A member may, after public hearing if he requests it, be removed by the governing body for cause.

(7) A vacancy occurring other than by expiration of term shall be filled for the unexpired term only.

§ 223-28 Planning Board procedures.

B. Board of Adjustment authority. The Board of Adjustment shall have such powers as are granted in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

C. Appeals and applications.

(1) Appeals to the Board of Adjustment may be taken by any interested party. Each appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(2) An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Adjustment or by the Superior Court of New Jersey on the application or notice to the officer from whom the appeal is taken and on due cause shown.

(3) Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to an administrative officer shall be filed with the Secretary of the Zoning Board of Adjustment. Twelve copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps, or other papers required by virtue of any provision of this chapter or any rule of Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

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

(5) Applications for interpretations shall comply with the requirements of the Municipal Land Use Law at N.J.S.A. 40:55D-70a.

D. Power to reverse or modify decisions. In exercising its power, the Board of Adjustment may reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and make such other requirements, decisions or determination as ought to be made and, to that end, have all the powers of the administrative officer from whom the appeal was taken.

E. Time for decision. The Board of Adjustment shall render its decision in accordance with the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

**§ 223-28 Planning Board procedures.**

A. Establishment and composition.

§ 223-28 Planning Board procedures.

(1) A Planning Board is hereby established pursuant to N.J.S.A. 40:55D-23 et seq., consisting of nine regular members and two alternate members consisting of the following four classes:

(a) Class I: the Mayor or his designee.

(b) Class II: one of the officials of the municipality other than a member of the governing body to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.

(c) Class III: a member of the governing body to be appointed by it.

(d) Class IV: six other citizens of the municipality to be appointed by the Mayor.

(2) The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. Alternate members shall be appointed by the appointing authority for Class IV members and shall meet the qualifications of Class IV member of nine-member Planning Boards. Nothing in this chapter shall, however, be construed to affect the term of any present regular or alternate member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed.

B. Terms.

(1) The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first.

(2) The terms of a Class IV member who is also a member of the Board of Adjustment or the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

(3) The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent, the expiration of such terms shall be evenly distributed over the first four years after their appointment, as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years, except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

§ 223-28 Planning Board procedures.

(4) Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years.

(a) No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

(b) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

C. Vacancies. If a vacancy of any class, including an alternate, shall occur other than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

D. Officers. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and shall also select a Secretary who may or may not be a Board member or another municipal employee.

E. Planning Board Attorney. There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint the Planning Board Attorney who shall be an attorney other than the municipal attorney. Compensation to be paid to said Planning Board Attorney shall be established by ordinance adopted by the governing body.

F. Experts and staff. The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

G. Powers and duties generally. The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

(1) To make and adopt and from time to time amend a Master Plan for the physical development of the municipality, including any areas outside its boundaries, which, in the Board's judgment, bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28.

(2) To administer the provisions of this chapter in accordance with the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

(3) To approve conditional use applications in accordance with the provisions of this chapter pursuant to N.J.S.A. 40:55D-67.

§ 223-29 Previously granted permits and approvals.

(4) To participate in the preparation and review of programs or plans required by state or federal law regulations.

(5) To assemble data on a continuing basis as part of a continuous planning process.

(6) To annually prepare a program of municipal capital improvement projects over a term of six years and amendments thereto and recommend same to the governing body.

(7) To consider and make a report to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Planning Board by the governing body, pursuant to the provision of N.J.S.A. 40:55D-26b.

(8) When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment variances pursuant to N.J.S.A. 40:55D-70c from lot area, lot dimensional setback and yard requirements. Whenever relief is requested, pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

(9) To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

H. Advisory Committee. The Mayor may appoint one or more persons as a Citizens Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

**§ 223-29 Previously granted permits and approvals.**

Nothing in this chapter shall require any change in a construction permit, site plan, or zoning variance which was approved before the enactment of this chapter, but is in violation of this chapter, provided that construction based on such a construction permit shall have been started within one year from the effective date of this chapter, and, in the case of a site plan or variance a construction permit shall have been issued within one year following the effective date of this chapter. In all instances the project shall be continuously pursued to completion, otherwise said approvals and permits shall be void.

**§ 223-30 Compliance required.**

All requirements of this chapter shall be met at the time of any erection, enlargement, moving or change in use. All developments resulting from subdivision and site plan approvals shall comply with all the design and performance standards, including conditions imposed by the approving authority as shown on the approved plat and/or included on the resolution adopted by the approving authority.

**§ 223-31 Effect of new approval.**

If there is a prior approval existing on any property that has been granted by the Planning Board or Zoning Board of Adjustment of the City of Union City that is still in existence at the time another approval is obtained from either of these Boards, then the prior approval shall be automatically vacated upon the subsequent approval.



§ 223-32 Conditional uses.

**§ 223-32 Conditional uses.**

A. Before any permit shall be issued for a conditional use, an application shall be made to the approving authority. The approving authority shall grant or deny the application after public hearing, but within 95 days of submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant.

B. Notice of the hearing for a conditional use shall include reference to all matters being heard, including site plan and/or subdivision, and the approving authority shall review and approve or deny the subdivision or site plan simultaneously with the conditional use application.

C. Failure of the approving authority to act within the required time period shall constitute approval of the application.

D. In reviewing the conditional use application, the approving authority shall review the number of employees or users of the property, the requirements set forth in this chapter, and shall give consideration to all reasonable elements which would affect the public health, welfare, safety, comfort and convenience, such as but not limited to the proposed use(s), the character of the area, vehicular travel patterns and access, pedestrianways, landscaping, lighting, signs, drainage, sewage treatment, potable water supply, utilities, and structural location(s) and orientation(s), and shall conduct a public hearing on the application.

E. A conditional use shall be deemed to be a permitted use in the zoning district in which it is located if all conditional use standards pertaining to the conditional use in §§ 223-43 and 223-44 are met, and each conditional use shall be considered as an individual case.

F. In all requests for approval of conditional uses, the burden of proof shall be on the applicant.

G. All conditional uses shall require site plan review and approval by the approving authority, including changes, modifications or alterations from one conditional use to another conditional use, or changes, modifications or alterations within the same conditional use.

**§ 223-33 Escrow deposits, application fees and inspection fees.**

A. Purpose. The purpose of this section is to provide for the establishment of a fee schedule for the payment of fees with respect to all applications submitted to the City of Union City pursuant to the City's zoning and land use regulations.

B. Procedures.

(1) Application fees covering administration and overhead shall be charged to the applicant and shall be submitted at the time of an application for a review or hearing by the Planning Board or Zoning Board of Adjustment.

(2) In addition to the fees to be paid herein, the applicant shall submit escrow deposits at the time of submission of an application for a review or hearing by the Planning Board or Zoning Board of Adjustment.

(3) All application fees and escrow funds shall be paid to the City's Tax Collector in cash, certified check, attorney's check, or money order made payable to the City of Union City. Application fees and

§ 223-33 Escrow deposits, application fees and inspection fees.

escrow funds shall be paid to the City Tax Collector with separate certified checks or money orders. Along with the application fees and escrow funds, the applicant shall submit a letter breaking out the totals into its component parts, pursuant to Subsection B(4) and (5) below.

(4) Where an application involves more than one of the categories itemized below, the fees and/or escrow deposit applicable to each category shall be required.

(5) The escrow funds shall be deposited into a separate trust account by the City, pursuant to N.J.S.A. 40:55D-53.1, and if the deposit amount required is greater than \$5,000, interest will accrue to the applicant. Disbursements may be made from the escrow fund only after approval by the City of Union City's Chief Financial Officer.

(6) Escrow funds shall be placed in an escrow account by the Chief Financial Officer. Such funds shall be used to pay the Board's Attorney, professional engineer, professional planner, traffic engineer, and other experts deemed necessary to review and comment on the application. Said experts shall submit vouchers to the City for all reasonable and necessary fees for review of the application, which fees shall be paid from the escrow account in a manner prescribed in N.J.S.A. 40:55D-53.2c and N.J.S.A. 40A:5-16 through 40A:5-18.

(7) Where the review costs exceed the escrow deposit fee, the applicant shall pay the additional amount within 15 days of the request. Failure to remit the additional required deposit within the requested time line shall render the application incomplete, and no further action or proceedings shall be taken by the Planning Board or Zoning Board of Adjustment until after compliance. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant within 120 days of final disposition of the application.

(8) In the event that an application is withdrawn, application fees are nonrefundable, but any escrow funds remaining at the time of withdrawal shall be returned to the applicant. If the same application is resubmitted at a later time, the applicant shall be required to repay all application fees and establish a new escrow account.

(9) An application is deemed incomplete until all application fees and escrow deposits are submitted.

(10) No construction shall commence, nor shall a certificate of occupancy be issued, until the inspection fees required by Subsection B(4) of this § 223-33 have been submitted.

C. The schedule of fees and escrow deposits is set forth in § 155-14C of this Code.

§ 223-34. Districts.

## **Article VI. Zoning**

### **§ 223-34. Districts.**

For the purpose of this chapter, the City of Union City is hereby divided into 14 classes of districts, redevelopment districts and overlay districts, as follows:

#### **Zoning Districts:**

R District: Residential

C-N District: Neighborhood Commercial

MU District: Multiple Use

P District: Public

P-A District: Parks-Air Rights

#### **Redevelopment Districts:**

D-BG District: Bus Garage Redevelopment

D-RS-A District: Roosevelt Stadium Redevelopment

D-RS-B District: Roosevelt Stadium Redevelopment

D-RS-S District: Roosevelt Stadium Redevelopment

D-ST District: Swiss Town Redevelopment

D-Y District: Yardley Building Redevelopment

8<sup>th</sup> Street Redevelopment

#### **Overlay Districts:**

HPOD Overlay District: Historic Preservation Overlay District

PPOD Overlay District: Palisades Preservation Overlay District

### **§ 223-35. Zoning Map.**

The location and boundaries of these districts are hereby established as shown on a map entitled "**Zoning Map**, City of Union City, Hudson County, New Jersey," dated July 2019, and as may be amended from time to time, which map accompanies and with all explanatory matter thereon is made part of this chapter.[1]

[1] Editor's Note: A copy of the **Zoning Map** is attached to this chapter.

§ 223-36. Interpretation of district boundaries.

**§ 223-36. Interpretation of district boundaries.**

Where uncertainty exists as to the location of any boundaries shown on the **Zoning Map**, the following rules shall apply:

A. District boundary lines shall follow street center lines or lot lines or extensions of and from the same, as such street and lot lines exist at the time of passage of this chapter, unless such district boundary lines are referenced by some street line dimension shown on the Zoning Map.

B. Where such boundaries are indicated as approximately following the lines of lots or other parcels of record and are not more than 10 feet distant therefrom, such lot or parcel lines shall be construed to be such boundaries.

C. If a district boundary line is not thus referenced or there is doubt in a particular instance as to what line is determining, the location of such district boundary line shall be determined by the Zoning Officer by scaling the **Zoning Map**.

**§ 223-37. Filing of copies with City Clerk.**

Duly certified copies of this chapter and the **Zoning Map**, together with all amendments thereof, shall be filed with the City Clerk and shall be open to public inspection.

**§ 223-38. Lots in two or more districts or municipalities.**

Where a lot in one ownership of record is divided by one or more district or municipal boundary lines, the following shall apply:

A. Uses permitted in one district may not extend into another district where they would not otherwise be permitted.

B. Dimensional requirements shall be measured from lot lines and not zoning district lines.

**§ 223-39. Schedule of Bulk Regulations.**

The applicable area, yard and building requirements are contained in the Schedule of Bulk Regulations at the end of this chapter and is hereby made part of this chapter.

**§ 223-40. Permitted uses.**

This Zoning article shall be viewed as permissive. After the adoption of this chapter, no uses or structures shall be permitted in the City which are not listed as a permitted, accessory or conditional use or unless permitted by the Zoning Board of Adjustment.

**§ 223-41. Conditional uses.**

Notwithstanding compliance with specific conditional use standards hereinafter set forth, conditional uses shall require site plan approval by the appropriate approving authority.

**§ 223-42. Zoning regulations.**

A. R Residential District.

(1) Purpose. The purpose of this zone is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 in order to maintain the character and scale of the City's residential neighborhoods by creating standards that encourage infill development in a manner consistent with the

§ 223-42. Zoning regulations.

City's current and desired future density, and by maintaining existing development intensity and population density consistent with the residential neighborhood patterns.

(2) Permitted principal uses.

- (a) One-family dwellings.
- (b) Two-family dwellings.
- (c) Three-family dwellings.
- (d) Assisted Living Facilities.
- (e) Nursing Homes
- (e) Municipal uses.
- (f) Public parks and playgrounds.
- (g) Legal, preexisting multifamily developments.

(3) Permitted accessory uses.

- (a) Uses which are customarily incidental and accessory to the principal use.
- (b) Private, ground floor parking garages.
- (c) Noncommercial private swimming pools.
- (d) Minor home occupations.
- (e) Family day-care homes.

(4) Permitted conditional uses.

- (a) Places of worship, subject to institutional use requirements.
- (b) Clubs for civic, political, charitable, social service, recreation or veterans' organizations, subject to institutional use requirements.
- (c) Schools, subject to institutional use requirements.
- (d) Nonaccessory parking lots.

(5) Supplemental Requirements

- (a) The off-street parking requirement shall be met through ground floor garage parking.
- (b) No habitable space is permitted on the ground floor.
- (c) The massing and spacing of buildings must be comparable to those on 2,500 square-foot lots, i.e. a 5,000 square-foot lot can either be subdivided into two 2,500 square-foot lots or two

§ 223-42. Zoning regulations.

structures with ground floor garage parking and upper floor residential can be built. A minimum of four (4) feet shall be maintained between the buildings.

B. C-N Neighborhood Commercial District.

(1) Purpose. This zone is intended to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 in order to provide commercial sales and service uses for the adjoining neighborhoods.

(2) Permitted principal uses.

- (a) Retail sales and personal service establishments.
- (b) Offices (upper floors only).
- (c) Medical offices (upper floors only).
- (d) Dwelling units (upper floors only) in a mixed-use building
- (e) Legal, preexisting multifamily developments.
- (f) Live/work units (upper floors only).
- (g) Restaurants, excluding drive-through restaurants.
- (h) Eating and drinking establishments, excluding drive-throughs.
- (i) Bars.
- (j) Banks, excluding drive-through banks.
- (k) Hotels.
- (l) Theaters.
- (m) Open-air markets.
- (n) Community centers.
- (o) Indoor commercial recreation.
- (p) Health clubs.
- (q) Child-care centers.
- (r) Municipal uses.
- (s) Government uses.
- (t) Public parks and playgrounds.
- (u) Places of worship, subject to institutional use requirements.

§ 223-42. Zoning regulations.

(3) Permitted accessory uses.

- (a) Uses which are customarily incidental and accessory to the principal use.
- (b) Minor home occupations.
- (c) Outdoor dining: sidewalk café areas, subject to Section 223-9.F.
- (d) Outdoor dining: private property.

(4) Permitted conditional uses.

- (b) Public and private parking garages.
- (c) Wireless telecommunications facilities.
- (d) Major Home Occupations
- (e) Nonaccessory parking lots.
- (f) Drive-through banks.
- (g) Drive-through restaurants.
- (h) Car washes.

C. MU Multiple Use District.

Purpose. The purpose of the Multiple Use District is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 in order to recognize the existing arrangement of industrial, commercial and residential properties in close proximity to each other and to encourage expansion and reinvestment in such properties when adhering to modern land use controls.

(2) Permitted principal uses.

- (a) Multifamily Dwellings
- (b) Retail sales and personal service establishments.
- (c) Offices.
- (d) Medical offices.
- (e) Dry-cleaning establishments and plants.
- (f) Light industrial.
- (g) Self-storage facilities.
- (h) Live/work units in conjunction with the adaptive reuse of an existing building.
- (i) Child-care centers.

§ 223-42. Zoning regulations.

(j) Municipal uses.

(k) Government uses.

(l) Public parks and playgrounds.

(3) Permitted accessory uses.

(a) Uses which are customarily incidental and accessory to the principal use.

(b) Minor home occupations.

(4) Permitted conditional uses.

(a) Places of worship, subject to institutional use requirements.

(b) Clubs for civic, political, charitable, social service, recreation or veterans' organizations, subject to institutional use requirements.

(c) Drive-through banks.

(d) Car washes.

(e) Public and private parking garages.

(f) Major home occupations.

(g) Wireless telecommunications facilities.

(h) Nonaccessory parking lots.

(5) Supplemental requirements.

(a) Minimum setback from a residential district: 1/2 of the building height, but a minimum of 20 feet.

(b) If a nonresidential use is adjacent to a residence district or a residential use, all facilities and buildings shall be screened by appropriate fences, walls and landscaping treatment.

(c) All site lighting shall be directed onto the site and shall be shielded from adjacent residential uses or zones and from the adjoining street.

(d) Roof structures, machinery, and mechanical equipment, such as equipment for heating ventilation and air conditioning, shall be integrated into the design of the buildings.

(e) A minimum of one building entrance shall face a public street.

(f) Fire escapes are prohibited on the principal facade of a building.

(g) Security gates of any kind are prohibited. These include solid or open gates and roll-up doors.



§ 223-42. Zoning regulations.

D. P Public District.

(1) Purpose. The purpose of this zone is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 and permit only the principal, accessory and conditional uses set forth within Subsections D(2) through (4) below on properties that are owned by the City of Union City, the Union City Board of Education, the Parking Authority or other governmental entity.

(2) Permitted principal uses.

(a) Municipal uses.

(b) Government uses.

(c) Schools.

(d) Public parks and playgrounds.

(e) Age-restricted housing and affordable housing in multifamily buildings on parking lots that are owned by the City of Union City, the Union City Board of Education, the Parking Authority or other governmental entity, subject to Subsection D(2)(f) through (i) below.

(f) The developers of such parking lots for these additional principal, permitted uses shall provide a sufficient number of parking spaces that will account for the number of parking spaces that will be lost as a result of the development and the number of parking spaces that are required by the resolution of approval of the City Zoning Board of Adjustment or Planning Board relative thereto, as applicable.

(g) The development of age-restricted housing and affordable housing in multifamily buildings shall not be permitted on parking lots measuring less than 5,000 square feet in size.

(h) The development of age-restricted housing and affordable housing in multifamily buildings on parking lots measuring between 5,000 and 9,999 square feet in size shall comport with the bulk requirements for the P Public Zone as set forth in the Schedule of Bulk Regulations of the Land Development Ordinance of the City of Union City.

(i) The development of age-restricted housing and affordable housing in multifamily buildings on parking lots measuring 10,000 square feet or more in size shall comport with the bulk requirements for the P Public Zone as set forth in the Schedule of Bulk Regulations of the Land Development Ordinance of the City of Union City. [1]

[1] Editor's Note: The Schedule of Bulk Regulations is included as an attachment to this chapter.

(3) Permitted accessory uses: accessory buildings having a building footprint less than 1,000 square feet in area.

(4) Permitted conditional uses: none.

E. P-A Parks-Air Rights District.

§ 223-42. Zoning regulations.

(1) Purpose. The purpose of this zone is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 and encourage decking and other streetscape improvements over Route 495 to create a public park to reduce the effects that Route 495 has on dividing the City. The standards of this zone are intended to create hardscape park space and do not advocate constructing buildings over Route 495, with the exception of small buildings of an accessory nature.

(2) Permitted principal uses: public parks and playgrounds within the air rights of Route 495.

(3) Permitted accessory uses: accessory buildings having a building footprint less than 1,000 square feet in area.

(4) Permitted conditional uses: none.

F. Redevelopment Districts. The regulations for the following redevelopment districts shall be in accordance with the respective redevelopment plan for each district.

(1) D-BG District: Bus Garage Redevelopment.

(2) D-RS-A District: Roosevelt Stadium Redevelopment.

(3) D-RS-B District: Roosevelt Stadium Redevelopment.

(4) D-RS-S District: Roosevelt Stadium Redevelopment.

(5) D-ST District: Swiss Town Redevelopment.

(6) D-Y District: Yardley Building Redevelopment.

(7) 8<sup>th</sup> Street Redevelopment

G. HPOD Historic Preservation Overlay District.

(1) Purpose. The purpose of the Historic Preservation Overlay District is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 and provide additional protection to the Monastery of the Perpetual Rosary (the "Blue Chapel") and the Monastery and Church of Saint Michael the Archangel historic sites and the existing residential areas surrounding them by preventing the intrusion of incompatible uses into the neighborhoods and by maintaining existing development intensity and population density consistent with residential neighborhood patterns.

(2) Permitted principal uses.

(a) One-family dwellings.

(b) Two-family dwellings.

(c) Existing institutional uses.

(3) Permitted accessory uses.

(a) Uses which are customarily incidental and accessory to the principal use.

§ 223-42. Zoning regulations.

- (b) Private garages provided that not more than 50% of the ground floor area of any dwelling is occupied by attached garage space.
- (c) Noncommercial private swimming pools.
- (d) Minor home occupations.
- (e) Family day-care homes.
- (4) Permitted conditional uses: none.

H. PPOD Palisades Preservation Overlay District.

(1) Purpose. The purpose of this overlay district is to ensure consistency with the Master Plan Reexamination Report, adopted January 22, 2019 and provide for reasonable control of development within areas of steep slopes along the Palisades in the City of Union City. The regulations of this overlay district are intended to minimize the adverse impact caused by the development of such areas, including, but not limited to, erosion, siltation, flooding and surface water runoff. The disturbance of soil and construction and development on steep slopes and cliff faces creates an additional hazard to the lives and property of those dwelling on the slopes and below them. The most appropriate method of alleviating such conditions is through the regulation of such vegetation and soil disturbances, construction and development. Therefore, it is determined that the special and paramount public interest in these slopes justifies the regulation of property located thereon as provided below, which is the exercise of the police power by the City for the protection of persons and the property of its inhabitants and for the preservation of the public health, safety and general welfare.

(2) Establishment of district.

(a) There is hereby established within the City of Union City an area which shall be known as the Palisades Preservation Overlay District (PPOD), in which land development and construction shall be subject to the special regulations contained in this section.

(b) The PPOD shall be designated on the Zoning Map of the City of Union City and shall run along the Palisades from 20th Street to the Jersey City boundary line.

(c) The PPOD shall prevail upon all land regulated under this chapter, as well as those properties within a duly adopted redevelopment area.

(d) All uses permitted in the zone shall meet all setback regulations and performance standards. This provision shall apply to any use permitted by right, by conditional use or by use variance.

(3) Applicability.

(a) Applicants for site plan or subdivision approval shall submit all information required under this section to the appropriate approving authority.

(b) Applicants for construction permits, including the construction of buildings, walls, driveways or other structures or the clearing of land shall submit an application with the information

§ 223-42. Zoning regulations.

required in this section to the City Building Department whenever development is proposed within the Palisades Preservation Overlay District to ensure that the proposed development of the lot will respect the natural features of the tract and minimize adverse impacts associated with such clearing and/or construction.

(4) Procedural regulations. The following information shall be submitted in addition to any information required to be submitted for site plan and subdivision applications as required in Article IV:

(a) A topographic map of the site at two-foot contour intervals (drawn in a lighter line weight) where the slope is less than 10%, and ten-foot contour intervals (drawn in a heavier line weight) where the slope exceeds 10%.

(b) A landform analysis which shows the location and extent of the site's major landforms, including the top of the cliff, the cliff face, the side slope and the base of the slope. Any exposed cliff face shall be shown. The area in each landform category shall be calculated and shown on the land form analysis.

(c) A physical description of the site which shall include a technical summary of site characteristics such as soils, load-bearing capacity, erosion potential, depth to bedrock, etc.

(d) Site grading and development data which shall include the type and location of development activity, procedures for grading, excavation, construction access and stockpiling, extent and phasing of construction and cut and fill operations.

(5) Permitted uses and bulk. The uses permitted in underlying zoning districts shall be permitted in the PPOD. The applicable bulk standards for the underlying zones shall apply, as modified by the regulations of the PPOD. The standards of the PPOD are the basis for development design in the overlay zone unless the requirement of the underlying zone district standard is more restrictive. In such cases, the more restrictive standard would govern.

(6) Permitted limit of disturbance.

(a) The minimum building setback line from the edge of the cliff face at the top of the cliff shall be 30 feet. The minimum building setback line from the edge of the cliff face at the base of the cliff shall be 65 feet.

(b) For purposes of preservation of the Palisades cliff face, no portion of any building or structure shall be constructed on that portion of a lot which has a grade, prior to such construction, in excess of 30%, or on any portion of the lot, which lies within 10 feet of the portion having such grade.

(c) Limited disturbance of steep slope areas is permitted under conditions is referenced herein but only in the following degree and under said conditions:

<b>Sleep Slope Category</b>	<b>Maximum Disturbance</b>
5% to 9.99%	70%
10% to 14.99%	40%

§ 223-42. Zoning regulations.

15% to 29.99%	10%
30% or greater	0%

(d) No portion of a building built below the Palisades within the PPOD and within 450 feet of the cliff face, including all bulkheads, parapets and penthouses, shall extend into the area occupied by the top 25% of the distance between the top of cliff and the lowest portion of existing grade of a development site.

(7) Performance standards.

(a) Any exposed soils shall be stabilized both during and after construction and development.

(b) The number and extent of cuts shall be minimized to prevent groundwater discharge.

(c) The maximum number of trees and other vegetative cover shall be preserved.

(d) Soil and rock slippage shall be impeded, and any environmentally sensitive areas shall be protected.

(e) Improvements shall be designed to follow the natural contours of the land and to provide the least disruption to the landform.

(f) Blasting shall not be conducted unless clearly necessary for site preparation. Blasting shall be conducted during daylight hours consistent with state and municipal laws.

(8) Design and construction standards.

(a) The lowest lateral dimension of any building greater than three stories in height must be oriented perpendicular to the Hudson River.

(b) The uppermost point of a cut slope shall not be higher than the top of the nearest downhill structure or building.

(c) Vegetation shall be reestablished on all exposed fill slopes. Exposed graded areas shall be mulched and seeded to provide a basic ground cover which will prevent erosion and permit revegetation. In the alternative, these areas may be ripped and blended into the natural setting.

(d) Parking spaces and lots in addition to walkways shall not be in excess of six-percent slope unless a provision is made to ease pedestrian access either by ramps or steps.

(e) Fill material shall not consist of or include organic material, nor rocks greater than eight inches in diameter.

(f) Fill material shall be compacted to 90% of maximum density.

(g) No parking structure shall be located so as to hang over the edge of the cliff face. All such structures shall be depressed into the ground area.

(9) Minor steep slope areas.

§ 223-43. Conditional use standards.

(a) The approving authority or Building Department may disregard small isolated pockets of steep slope areas that are under 1,000 square feet in size in their assessment of total disturbed area where such action would be in the interest of good planning, not seriously impair the purposes of this chapter and would otherwise result in practical difficulties to the applicant.

(b) Where, however, the approving authority or the Building Department finds such pockets to be significantly proximate and of such size so as to constitute a substantial contiguous area, the reviewing authority may consider them significant and subject to regulation under this chapter. In such case they would be included in the calculation of disturbed steep slope area.

(10) Time for decision.

(a) Where the request for steep slope disturbances is part of a site plan, subdivision or variance application, the time periods regulating those applications shall apply.

(b) Where the request for steep slope disturbance is part of a construction permit application that does not require site plan or subdivision approval, the Construction Department shall approve, approve with conditions or deny an application for a steep slope disturbance approval within 45 days from the date of submission of a completed application.

**§ 223-43. Conditional use standards.**

Any use permitted as a conditional use in a particular zoning district shall comply with the applicable standards pertaining to such use listed in this section. A conditional use that complies with all such applicable standards shall be subject to review by the Planning Board. Deviations from the standards for a particular conditional use listed in this section shall only be permitted if the Zoning Board of Adjustment grants a variance to permit such a deviation pursuant to N.J.S.A. 40:55D-70d(3).

A. Car washes. A car wash shall be permitted as a conditional use in the C-N and MU Districts, provided that it complies with the following standards:

(1) It shall be located on a lot with street frontage of at least 100 feet on John F. Kennedy Boulevard or Kerrigan Avenue.

(2) The minimum lot area shall be 10,000 square feet.

(3) A car wash shall be completely enclosed for all operations, except final hand-drying operations, which may take place on a surface lot.

(4) Outdoor storage and display of accessories, tires, auto parts, portable signs, outdoor repair work, or other equipment similar in nature shall be prohibited at all times. The premises shall not be used for the sale, rental or display of automobiles, trailers, mobile homes, boats or other vehicles.

(5) A minimum of eight waiting spaces shall be provided on the premises. Such spaces may be provided on a surface lot or indoors. No waiting shall be permitted within the public right-of-way.

(6) Any automatic car wash shall be so soundproofed, the entire development shall be so arranged, and the operations shall be so conducted that the noise emanating therefrom, as measured from any point on adjacent property, shall be no more audible than the ambient noise emanating from the

§ 223-43. Conditional use standards.

ordinary street traffic and from other commercial or industrial uses in the area measured at the property boundary line.

(7) No vehicles shall be stored outdoors when the business is closed.

(8) There shall be no more than two curb cuts for each street on which the car wash has frontage, and the maximum width of any curb cut shall be 10 feet for one-way traffic and 20 feet for two-way traffic.

B. Drive-through banks. A drive-through bank shall be permitted as a conditional use in the C-N and MU Districts, provided that it complies with the following standards:

(1) It shall be located on a lot with street frontage of at least 100 feet on John F. Kennedy Boulevard or Kerrigan Avenue.

(2) The minimum lot area shall be 10,000 square feet.

(3) No transaction window or speaker shall be located less than 25 feet from any property line or 50 feet from a property line of any residential use or a boundary of the R District.

(4) Such use shall comply with all applicable City ordinances and state statutes and regulations pertaining to noise.

(5) No drive-through window shall face any public right-of-way.

C. Drive-through restaurants. A drive-through restaurant shall be permitted as a conditional use in the C-N District, provided that it complies with the following standards:

(1) It shall be located on a lot with street frontage of at least 150 feet on John F. Kennedy Boulevard.

(2) The minimum lot area shall be 15,000 square feet.

(3) No transaction window or speaker shall be located less than 25 feet from any property line or 50 feet from a property line of any residential use or a boundary of the R District.

(4) Such use shall comply with all applicable City ordinances and state statutes and regulations pertaining to noise.

(5) No drive-through window shall face any public right-of-way.

D. Institutional uses. Institutional uses permitted as conditional uses in certain zone districts shall comply with the following standards.

(1) Minimum lot area: 5,000 square feet.

(2) Minimum frontage: 50 feet.

(3) Minimum front yard: 10 feet. No parking shall be permitted between the front building line and the street right-of-way.

§ 223-43. Conditional use standards.

- (4) Minimum rear yard: 30 feet.
- (5) Minimum side yards (each): same as zoning district requirements for permitted uses.
- (6) Maximum building height (excluding spires, steeples, cupolas, and other ornamentation): same as zoning district requirements for permitted uses.
- (7) Maximum lot coverage: 75%.
- (8) Maximum building coverage: 50%.
- (9) Minimum parking setback from property lines: five feet.

E. Major home occupations. A major home occupation shall be permitted as a conditional use in C-N and MU Districts, provided that it complies with the following standards:

- (1) It shall NOT be located on a lot with street frontage on Bergenline Avenue, New York Avenue, or Summit Avenue.
- (2) The practitioner must be the owner or lessee of the residence in which the major home occupation is contained.
- (3) The practitioner must reside in the home.
- (4) The practitioner shall not engage the services of more than two office employees. Use of the office by groups of other persons shall not be permitted.
- (5) The major home occupation shall not occupy more than 50% of the total area of the floor where located, excluding space used for a private garage or 900 square feet, whichever is smaller.
- (6) No client shall, in such relationship, remain on the premises overnight.
- (7) No retail sales shall be conducted on the site.
- (8) Adequate parking spaces shall be provided in accordance with the parking standards of this chapter so that no parking related to the major home occupation shall occur on the street.
- (9) No equipment or process shall be used in such major home occupation which creates noise, glare, fumes, odors, electrical interference, medical waste or other nuisance factors detectable to the normal senses or to radio, telephone or television equipment off the lot.

F. Nonaccessory parking lots.

- (1) A nonaccessory parking lot shall be permitted as a conditional use in the R, C-N, and MU Districts, provided that it complies with the following standards:
  - (a) Minimum lot area: 5,000 square feet.
  - (b) Minimum frontage: 50 feet.



§ 223-43. Conditional use standards.

(c) Minimum parking setback from property lines: five feet.

(2) Landscaping and/or fencing not less than four nor more than six feet in height, maintained in good condition, shall be provided adjacent to side and rear property lines in order to prevent impacts on adjacent properties.

G. Public and private parking garages. A public or private parking garage shall be permitted as a conditional use in the MU and C-N Districts, provided that it complies with the following standards:

(1) Bulk regulations. Parking garages shall adhere to the principal building setback regulations for the district in which they are located. The following limitations shall apply in addition to the setback requirements:

(a) Lot area:

[1] Minimum lot area: 10,000 square feet.

[2] Maximum lot area: 25,000 square feet for a parking garage serving private uses; 125,000 square feet for a parking garage serving public uses and located within 100 feet of the public building it is intended to serve.

(b) Lot width:

[1] Minimum lot width: 100 feet.

[2] Maximum lot width: 250 feet for a parking garage serving private uses; 500 feet for a parking garage serving public uses and located within 100 feet of the public building it is intended to serve.

(c) Maximum height. The maximum height for a parking garage serving private uses shall be the same as for the district in which it is located.

(d) Maximum lot coverage. The maximum lot coverage for a parking garage serving public uses and located within 100 feet of the public building it is intended to serve shall be 95%. For other parking garages, the lot coverage requirements for the district in which the garage is located shall apply.

(2) Principal uses permitted in parking garages. In addition to off-street parking, the following uses shall be permitted on ground level facing the street in a parking garage:

(a) Retail sales and personal service establishments.

(b) Offices.

(c) Medical offices.

(d) Restaurants, excluding drive-through restaurants.

(e) Eating and drinking establishments.

§ 223-44. Wireless telecommunications facilities.

(3) Accessory uses shall be those permitted for the above uses, subject to all applicable requirements of this chapter.

(4) A parking garage serving public uses and located within 100 feet of the public building it is intended to serve may be connected to said building by a pedestrian bridge.

(5) For any parking spaces visible from adjacent properties, landscaping and/or fencing not less than four nor more than six feet in height, maintained in good condition, shall be provided adjacent to side and rear property lines in order to prevent impacts on said properties.

**§ 223-44. Wireless telecommunications facilities.**

A wireless telecommunications facility shall be permitted as a conditional use in the C-N and MU Districts, provided that it complies with the following standards:

A. Purpose. The purpose of this section is to regulate the location, placement, operation and maintenance of wireless telecommunication (WT) technology within the City of Union City.

(1) This section is intended to meet the requirements of the Telecommunications Act of 1996, while at the same time reasonably regulating WT technology within the City.

(2) This section is also intended to protect the City from the visual or other adverse impacts of these facilities, while encouraging their unobtrusive development to provide comprehensive wireless telecommunications services in the City with its attendant benefits to residents and businesses.

B. Siting priorities. Pursuant to the needs analysis required by § 223-44G(2) below, an application to install, construct, erect, move, reconstruct or modify any WT antenna shall be subject to siting priorities as follows:

(1) If the analysis demonstrates that it is reasonably necessary to install, construct, erect, move, reconstruct or modify a WT antenna within the City of Union City, then, subject to all other permitted conditional use standards, the proposed WT antenna may be located upon an existing building or other structure within the C-N and MU Districts.

(2) If the analysis demonstrates that it is not reasonably practicable to install, construct, erect, move, reconstruct, or modify the proposed WT antenna upon an existing building or structure within the C-N and MU Districts, then, subject to all other permitted conditional use standards, the proposed WT antenna may be flush-mounted on an existing building within the C-N District only.

C. WT antennas. WT antennas shall be consistent with the following requirements:

(1) Microwave dishes, cones, or other antennas used for the purpose of point-to-point microwave transmission or microwave links are expressly prohibited.

(2) Platform-mounted or side-arm-mounted antennas of any kind are expressly prohibited.

(3) Subject to the siting priorities set forth in above, WT antennas may be flush mounted on existing buildings or other structures or on WT towers, provided that:

§ 223-44. Wireless telecommunications facilities.

(a) WT antennas mounted on existing buildings or other structures shall not, when combined with the height of the building or structure on which they are located, exceed the maximum permitted height in the zone or the height of the existing building or structure, whichever is greater, except when mounted on the face of new or existing mechanical rooms or structures on the roof of the building.

(b) WT antennas mounted on WT towers shall not extend beyond the height limitations for such towers.

(c) WT antennas shall be constructed, finished, painted and otherwise camouflaged so as to blend in with their background and minimize their visual impact on the landscape. Decorative screening of WT antennas shall be provided when mounted on the roof of a structure.

D. WT towers. WT towers shall be consistent with the following requirements:

(1) WT towers shall be limited to monopole designs only. Freestanding lattice towers and guyed towers of any kind are prohibited.

(2) Unless technologically infeasible, WT towers shall be designed to permit co-location of additional antennas.

(3) The maximum height of any WT tower, including any WT antennas or other equipment mounted thereon, shall not exceed 75 feet, except where sufficient engineering data clearly establishes that existing trees or buildings will interfere with the proper operation of the WT antennas, the height may be increased to a maximum of 100 feet.

(4) No WT tower shall be lighted except as may be required by state or federal law.

(5) No WT tower shall bear any signs, displays, or advertisements of any kind except as may be required by law.

(6) WT towers shall be constructed, finished, painted and camouflaged to blend in with their background and minimize their visual impact on the landscape.

(7) WT equipment and WT equipment compound. All WT equipment shall be housed within a WT equipment compound, consistent with the following requirements:

(a) WT equipment compounds shall be enclosed within a locked security fence at least seven feet in height, unless located within or on the roof of an existing building.

(b) No WT equipment compound nor any WT equipment housed therein shall exceed 12 feet in overall height.

(c) WT equipment compounds, including the fence enclosure, shall be constructed, finished, painted and camouflaged to minimize their visual impact on the landscape.

(d) When WT equipment is installed on the roof of a building, the area of the WT equipment and other structures permitted on the roof of the building shall not exceed 25% of the total roof area.

§ 223-44. Wireless telecommunications facilities.

(e) Landscaping shall be provided along the perimeter of the WT equipment compound to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall also be landscaped for the same purpose. All WT equipment shall be screened by an evergreen hedge seven to 10 feet in height at planting time or a solid or semisolid fence, or both.

E. Visual impact. The applicant shall demonstrate that all reasonable efforts were employed to camouflage and minimize the visual impact of any WT technology installed or constructed pursuant to the provisions of the article. All WT technology shall be located to minimize visual impacts on the surrounding area in accordance with the following standards. In applying these standards, locations in a higher priority category under § 223-44B above shall be deemed more acceptable than lower priority sites.

(1) Sites for WT technology must demonstrate that they provide the least visual impact on residential areas and public ways. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.

(2) WT technology shall be located to avoid being visually solitary or prominent when viewed from residential areas and the public right-of-way. Vegetation, tree cover, topographic features and/or other structures, whether natural or manufactured, shall obscure the facility to the maximum extent feasible.

(3) WT technology shall be placed to ensure that historically significant views, streetscapes, and landscapes are protected. The views of and vistas from architecturally and/or significant structures shall not be impaired or diminished by the placement of telecommunication facilities.

(4) WT technology shall fully conform with all applicable state, federal and local laws.

(5) Routine maintenance of WT technology shall be limited to the hours of 7:00 a.m. to 7:00 p.m.

F. Setback requirements for the location of WT technology.

(1) The minimum setback from any school lot line or other lot line on which a licensed educational facility is located shall be 100 feet.

(2) The minimum setback from the nearest lot line of a one-family, two-family or three-family home shall be 100 feet.

(3) No WT technology shall be located in the required setbacks of any lot.

(4) No WT technology shall be located on any one- to three-family residential property nor on any nonconforming use.

G. Additional site plan requirements.

(1) In addition to compliance with all applicable zoning and site plan requirements, applications for approval of WT technology shall include the following:

(a) The color or colors of the proposed WT equipment and the camouflage methods used;

§ 223-44. Wireless telecommunications facilities.

(b) A map of existing WT technology within the City of Union City which is owned, leased or otherwise under the custody, control, or use of the applicant at the time of application, and of sites within the City of Union City where WT technology is proposed or projected to be installed, constructed, erected, moved, reconstructed and/or modified by or for the benefit of the applicant within the next six months;

(c) A certified load analysis report for the building, structure, existing WT tower, or proposed WT tower upon which a WT antenna is proposed to be located, indicating its ability to support the proposed WT antenna and possible future, co-located WT antennas;

(d) The approving authority may waive any of these requirements, for good cause shown, where an application is made to locate the proposed WT antenna upon an existing building, structure, or WT tower.

(2) Needs analysis. The needs analysis shall contain documentary evidence demonstrating the need for the proposed installation, construction, erection, movement, reconstruction or modification of any WT technology within the City. This evidence shall include, at a minimum:

(a) The WT service provider's wireless telecommunications network layout and coverage area for a radius of at least one mile from the zone district where the WT technology is planned, identifying all locations:

[1] In operation as of the filing date of the conditional use application;

[2] Under construction as of the filing date of the conditional use application; and

[3] Pending approval before any licensing authority as of the filing date of the conditional use application.

(b) All results and, to the extent requested by the approving authority, supporting data derived from tests which must be conducted to determine before and after signal strength plots. These results and data:

[1] Shall demonstrate the actual existing signal coverage in effect at the time of application, contrasted with the proposed signal coverage which would result from the proposed installation, construction, erection, movement reconstruction, or modification of WT technology within the City of Union City; and

[2] Shall be certified by a qualified radio frequency engineer. The City reserves the right to retain a radio frequency engineer on its own behalf at the applicant's expense to review the results or data submitted by the applicant.

(c) A search ring of the zone in which the WT technology is proposed, prepared by a qualified radio frequency engineer and overlaid on an appropriate background map, demonstrating the area within the zone where the WT technology needs to be located in order to provide reasonably necessary signal strength and coverage to the target cell.

§ 223-44. Wireless telecommunications facilities.

(d) In connection with the signal strength plots and search ring described above, the applicant must provide a report prepared by a qualified radio frequency engineer which explains why the proposed location was selected and which specifically addresses at a minimum:

[1] If the applicant proposes to install, construct, erect, move, reconstruct or modify a WT antenna upon an existing structure or building why it is reasonably necessary to locate that WT antenna within the City of Union City.

[2] If the applicant proposes to install, construct, erect, move, reconstruct or modify a WT antenna upon an existing WT tower:

[a] Why it is reasonably necessary to locate that WT antenna within the City of Union City; and

[b] Why it is not reasonably practicable to locate or co-locate that WT antenna upon an existing building or structure within the zone; and

[3] If the applicant proposes to install, construct, erect, move, reconstruct and/or modify a WT antenna upon a new WT tower:

[a] Why it is reasonably necessary to locate that WT antenna within the City of Union City; and

[b] Why it is not reasonably practicable to locate or co-locate that WT antenna upon an existing building or structure within the zone; and

[c] Why it is not reasonably practicable to locate or co-locate that WT antenna upon an existing WT tower within the zone.

These requirements do not apply to changing the direction of any existing WT antenna.

[4] The maximum permissible exposure analysis for the power at which this proposed WT technology is expected to operate, subject to all applicable state and federal regulations in effect at the time of the installation.

H. The following criteria shall be considered by the approving authority prior to the approval or denial of a request for a conditional use application for WT technology. These criteria may be used as a basis to impose reasonable conditions on the applicant.

(1) Aesthetics. WT technology shall be located, buffered and camouflaged to the maximum extent practicable and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring residences to the extent possible, the approving authority may impose reasonable conditions on the approval of the application including the following:

(a) The approving authority may require the applicant to show that it has made good-faith efforts to minimize the height of proposed towers; to co-locate on existing buildings, structures or WT

§ 223-44. Wireless telecommunications facilities.

towers; or to locate proposed new WT towers near existing towers in an effort to consolidate visual disturbances.

(b) The applicant must submit a copy of its policy regarding co-location with other potential applicants on any proposed WT tower.

(c) The approving authority may require the applicant to use additional camouflage and/or otherwise modify the proposed construction to minimize the visual impact of the WT technology.

(2) Radio frequency emissions. The proposed WT antenna shall be operated such that exposure to the RF emissions in normally accessible locations remain within Federal Communications Commission (FCC) exposure guidelines and comply with other related state or federal regulations or requirements. The approving authority may impose conditions on the applicant that competent documentation be provided which establishes that the proposed WT antenna will comply with these guidelines and requirements, and that operation of the proposed WT antenna will not interfere with radio and television reception or with the operation of any other consumer or medical device.

(3) Removal of WT technology. The applicant shall agree to remove any WT technology if all or part of any such WT technology becomes obsolete, is unrepaired for an unreasonable period, or ceases to be used for its intended purpose for 12 consecutive months.

(a) The City of Union City may, at its sole discretion, require the applicant to provide a demolition bond to the City of Union City for the purpose of assuring the removal of any WT technology in accordance with the provisions of this section.

(b) The applicant will be responsible for providing, on an annual basis, written estimates to the City of Union City for the cost to demolish and/or remove the WT technology and to restore the land upon which it is located. Such estimates will be used to establish whether any adjustment is required in the amount of the required demolition bond.

(c) Structural safety. Upon written request from the City of Union City at any time during the application process or after the installation, construction, erection, movement, reconstruction, or modification of any WT technology, the applicant shall provide a report from a licensed professional engineer certifying as to the condition of the WT technology with respect to applicable structural safety standards. Such requests from the City shall not occur more often than once every three years.

[1] If the engineer's report recommends that repairs or maintenance are required, then a letter shall be submitted to the City which shall contain a reasonable schedule for the required repairs or maintenance.

[2] Upon their completion, a letter shall promptly be submitted to the City of Union City to certify same.

[3] In the event the applicant fails to comply with these requirements regarding structural safety, the City of Union City reserves the right in addition to all of its other rights and

§ 223-45. Signs.

remedies available under state, federal and local law to declare the applicant in default of its obligations under this chapter.

[4] Should that occur, the applicant will have 30 days to notify the City as to how it intends to cure its default, setting forth a reasonable schedule for same.

[5] In the event the applicant fails to so notify the City, or fails to cure as agreed, the City may draw on the applicant's demolition bond and arrange for the removal and/or demolition of the applicant's WT technology; declare the WT technology to be abandoned and arrange for the public auction of the WT technology; and/or pursue such other remedies at law and in equity as may be available.

[6] Nothing in this section shall be construed to limit the applicant's liability for criminal prosecution.

(4) Technical consultants. The approving authority may retain technical consultants as it deems necessary to provide assistance in the review of the application, the technical support data, and the proofs and documents submitted to demonstrate compliance with the ordinance. The applicant shall bear the reasonable costs associated with such review and consultation, which cost shall be deposited in accordance with the City's escrow provisions.

**§ 223-45. Signs.**

A. Permit required; application; issuance of permits; fees.

(1) Application. No sign shall be erected, altered, located or relocated within the City, except upon application and the issuance of a permit as hereinafter provided along with appropriate permits required by the Uniform Construction Code.

(2) Application for a permit for residential signs. Application for a permit for a sign for premises used for residential purposes shall be made, in writing, to the Construction Official or his designee and presented, together with the filing fee required by Chapter 155, Fees, and Uniform Construction Code where applicable. Such application shall be sufficient to describe the premises and the location at which the sign is to be affixed, together with a rendering of the sign, inclusive of its dimensions, design and color, and shall be submitted on a form proscribed by the Construction Official. There shall also be provided a statement as to the means by which such sign shall be constructed on the premises. The Construction Official or his designee shall act upon such application within 20 business days of the receipt thereof. A failure to approve the application within 20 business days shall constitute a denial of the application.

(3) Application for a permit for nonresidential signs. Any sign associated with a change in occupancy or ownership necessitates an application for a sign permit. Application for a permit for a permitted nonresidential sign conforming to the regulations set forth herein shall be made, in writing, to the Construction Official. Such application shall be sufficient to describe the premises and location at which the sign is to be affixed and shall include, at a minimum, the following items:

(a) The name and address of the applicant and name and the address of the company constructing and installing sign.



§ 223-45. Signs.

- (b) The name and address of the owner of the premises.
- (c) A statement as to whether the owner has consented to the application, if the applicant is other than the owner.
- (d) A rendering to scale which must show the front elevation and height of the nonresidential space along with the front elevation and height of the adjacent stores, indicating the following dimensions: dimension of the overall width of the storefront; dimension of the overall width of the sign; dimension and depth for the height of the letters; dimension of the depth of the total sign.
- (e) The exact size and style of lettering, artwork and materials used in the sign.
- (f) Drawings shall be accurate to scale and shall specify all details of sign construction, including materials, thickness, color, wiring, tubing, transformer specifications, and mounting details.
- (g) An applicant must submit:
  - [1] Five printed color photographs of the storefront.
  - [2] Five printed color photographs from a distance, showing the storefront in relation to the adjacent stores as well as all other signs on the building.
  - [3] Five color photographs of the facade with the sign superimposed to scale as to how it will relate to the building.
- (h) Issuance of permit; fees. Every applicant, before being granted a permit hereunder, shall pay the City filing fee required by Chapter 155, Fees, and the Uniform Construction Code where appropriate for each such sign or other advertising structure regulated by this chapter. The Construction Official or his designee shall act upon such application for a permit within 20 days of the receipt thereof. If not granted, it shall be deemed denied.
- (i) Exceptions. The provisions and regulations of this subsection concerning permits and fees shall not apply to the following signs:
  - [1] Real estate signs not exceeding 12 square feet in area which advertise the sale, rental or lease of the premises upon which such signs are located only.
  - [2] Residential nameplates identifying a single-family residence and/or street address, not to exceed one square foot in area.
  - [3] A sign identifying the architect, engineer or contractor. When placed upon a work site under construction, the sign shall not exceed 16 square feet in area, provided that the sign is set back at least 15 feet from the curb, and further provided that the same is removed within 24 hours after a final certificate of occupancy is issued.
  - [4] Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible materials.

§ 223-45. Signs.

[5] Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary, emergency or nonadvertising signs or signs of any governmental agency deemed necessary to the public welfare.

[6] Flags of the United States, the State of New Jersey or other governmental or quasi-public agencies, subject to reasonable size and location.

[7] Holiday decorations and lights on residential and nonresidential premises.

[8] Signs erected to control the movement of traffic on premises, provided that these signs shall provide traffic directions only and shall not be used for any advertising purpose. These signs shall not exceed four square feet in area and shall have been approved by the appropriate approving authority.

[9] Political signs. Any sign, notice, poster or other device calculated to convey a preelection political message or to obtain votes for a particular candidate, slate of candidates, public question or political issue, when the same is placed in the view of the general public.

B. Computation of sign area and sign height. The following principles shall control the computation of sign area and height:

(1) Computation of area of individual signs. The area of a sign face shall be computed by drawing a square or rectangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with the sign frame and any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, or by delineating the area established by reason of distinctive variation in background color or by borders, whichever is greater.

(2) Computation of area of multifaced signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such signs faces are part of the same sign structure and are not more than 42 inches apart at any point, the sign area shall be computed by the measurement of one of the faces.

(3) Computation of height. The height of a sign shall be computed as the distance from the base of the sign at grade to the top of the highest attached component of the sign.

C. Regulations governing nonresidential signs.

(1) Freestanding signs. Freestanding signs shall comply with the following regulations:

(a) No freestanding sign shall exceed an area of one square foot in size for every 10 feet of linear street frontage or 24 square feet, whichever is greater.

(b) The maximum height of a freestanding sign shall be 20 feet.

§ 223-45. Signs.

(c) Freestanding signs shall have an open area not less than three feet between the base line of such sign and the ground level. This open space may be filled in with a platform or decorative latticework, which shall not close off more than 1/2 of said open space underneath a sign.

(d) Freestanding signs shall be setback a minimum of 10 feet from the street right-of-way line and a minimum of 10 feet from side lot lines.

(e) Only one freestanding sign shall be permitted for any single development or lot.

(f) Freestanding signs shall advertise only the permitted use, products or service located on the premises on which they are placed.

(2) Wall signs. Wall mounted signs shall comply with the following regulations:

(a) Wall signs shall advertise only the permitted use, products or service on the premises on which they are displayed.

(b) One wall sign may be placed along the street frontage, provided that it does not exceed 10% of the total surface area of the building face upon which it is placed or 32 square feet, whichever is lesser.

(c) In those cases where a parcel or lot has more than one street frontage, one wall sign may be placed on each street frontage, provided that such wall sign shall not exceed 10% of the total surface area of the building face upon which it is placed or 24 square feet, whichever is lesser.

(d) For buildings and property containing more than one business or tenant, and where each business tenant occupies a physically distinct ground floor space or has a separate ground floor entrance, each business or tenant may have one wall sign conforming to the requirements of this section. For the purposes of determining the sign area permitted, only the face of each respective lease unit to which the respective sign will be attached shall be counted. Each sign must be attached to the leased unit containing the business tenant identified.

(e) No wall sign shall be placed above the first floor of any structure.

(f) No wall sign shall cover, wholly or partially, any wall opening nor project beyond the ends or top of the wall to which it is attached.

(g) No wall sign shall be permitted to project forward more than six inches from the building nor be attached to a wall at a height of less than eight feet above the sidewalk or ground.

(h) No wall sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape.

(i) Signs placed perpendicular to a wall of facade shall be prohibited.

(3) Window signs. Wall signs shall comply with the following regulations:

(a) In addition to any sign or signs permitted pursuant to Subsection C(2) above, window display signs as well as affixed window signs limited to indicate membership in a retail or professional

§ 223-45. Signs.

organization or credit card or credit association, to show manufacturers' or required licenses or advertisements referable to sales within, shall be permitted, provided that the aggregate area employed for such purpose shall not exceed 10% of the total window area on which it is located.

(b) Signage is also permitted for a second floor professional office use that shall not exceed 25% of the glass area of one window facing the street frontage. If a second floor professional office use includes frontage on more than one street, window signage may be placed in one window facing the additional street frontage that shall not exceed 15% of the glass area of the window. A permit shall be obtained for second floor window signage from the Construction Official.

(c) No window signs under this section can be illuminated.

D. Regulations governing residential signs. Residential signs, including name and address plates, professional nameplates, real estate signs and contractor signs as provided herein, are permitted in accordance with the applicable standards defined below:

(1) One real estate sign not exceeding six square feet in area within the R District or one real estate sign not exceeding 10 square feet for all other uses in all other residential districts which advertise the sale, rental or lease of the premises upon which said sign is located.

(2) Residential nameplates identifying a residence and/or street address, not to exceed one square foot in area.

(3) One multifamily identification sign not more than one square foot for each 10 linear feet of street frontage, but in no case to exceed 32 square feet in size per face shall be allowed per multifamily development project except where the project fronts on two or more streets. One sign shall be permitted on each frontage, provided that the project has a major traffic entrance on the street where the sign is to be erected. Multifamily identification signs shall not exceed eight feet above grade.

(4) One professional nameplate not exceeding one square foot in area for lawful occupants of the premises under this chapter.

(5) One bulletin board or sign not over 16 square feet in area for public, charitable or religious institutions when the same are located on the premises of said institution.

(6) One sign identifying the architect, engineer or contractor, when placed upon a work site under construction, not to exceed 10 square feet in area, provided that the sign is set back at least 10 feet from the curb, and further provided that the same is removed within 24 hours after the final certificate of occupancy is issued.

(7) Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

(8) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary, emergency or nonadvertising signs or signs of any governmental agency deemed necessary to the public.

§ 223-45. Signs.

(9) Flags of the United States, State of New Jersey or other governmental or quasi-public agencies, subject to reasonable size and location.

E. Temporary signs. Temporary signs shall comply with the following regulations:

(1) All temporary signage, except as specifically exempted under this section, shall require prior approval by the Construction Official or his designee on a form to be proscribed by the Construction Official. Such approval shall be valid for a period not to exceed 30 days from the issuance thereof and may be renewed for a period not to exceed 60 days in total.

(2) No temporary sign shall exceed an area of 12 square feet, except temporary signs, such as banners, which are allowed by permit by the Mayor and Board of Commissioners within the public right-of-way.

(3) Insurance for temporary signs may be required by the Mayor and Board of Commissioners. Any person obtaining a permit for the erection of a temporary sign where the Mayor and Board of Commissioners requires insurance shall provide proof to the satisfaction of the Construction Official or his or her designee that the person, firm or corporation actually doing the erecting shall have in force a public liability insurance policy with limits of no less than \$100,000 for property damage and \$300,000 for bodily injury per occurrence.

(4) Nothing contained herein shall be deemed to permit the erection or installation of any political signs upon any pole or tree located on public property or within the public right-of-way within the City, and their erection or installation is hereby specifically prohibited.

(5) Streamers, flags, pennants and banners shall be permitted as temporary signs in accordance with the permit requirements and time restrictions set forth in Subsection E(1) above.

F. Illumination.

(1) No sign shall be an illuminated sign except as provided herein.

(2) No sign shall be internally illuminated by neon gas-filled tubes.

(3) No sign shall be illuminated externally by more than one floodlight per surface of such sign. Such lighting shall be at grade and properly directed and shielded so as not to produce glare or offensive light off the property.

(4) Flashing signs, highly reflective glass or fluorescent paint, either red, green or yellow, and illuminated tubing outlining roofs, doors, windows or wall edges of a building, and scrolling text signs are prohibited.

(5) No sign shall be artificially illuminated after 11:00 p.m. or before 7:00 a.m. unless such premises are occupied and attended, except in the business and industrial zone of the City.

G. General regulations for signs.

(1) In order to preserve the basically residential character of this community and to facilitate the improvement of its commercial and industrial areas in a safe and orderly manner, no commercial

§ 223-45. Signs.

outdoor advertising signs, billboards or other signs which are not expressly and directly related to the business being conducted on the premises and which do not conform to the applicable requirements and standards set forth in other sections of this chapter shall be permitted, and all other such commercial outdoor advertising signs, billboards and other nonconforming signs are specifically prohibited. It shall be unlawful for any person to display upon any sign or other advertising structure any obscene, indecent or immoral matter.

(2) No billboard, or billboard signs, shall be permitted. No sign otherwise lawful under this section shall be prohibited because of this subsection.

(3) No sign shall be placed, located or displayed upon any sidewalk or area between sidewalk and curb, nor shall they project on or over a sidewalk.

(4) No sign shall include a silhouetted or three-dimensional design. This includes but is not limited to signage lacking a background and having letters, figures, objects or representational devices silhouetted against the sky or other open space not a part of the sign.

(5) No roof sign shall be permitted, and no sign shall be erected to project beyond the side or top of the wall to which it is affixed.

(6) No sign shall be erected, painted or composed of fluorescent, phosphorescent or similar material.

(7) No sign shall be, in whole or in part, flashing, intermittent, moving, fluttering, or revolving.

(8) No signs emitting a sound, odor or visible matter such as smoke or vapor shall be permitted. No sign erected shall contain audio equipment.

(9) Canopies and awnings with signage embossed upon them shall be considered a business sign. The use of awnings or canopies as signs shall be prohibited, unless no facade area is available on the building facade to place a wall sign. Determination of whether a business is permitted an awning or canopy sign due to inadequate facade area shall be made by the Construction Official. The internal illumination of awnings or canopies is prohibited.

(10) No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

(11) All signage shall reflect the character of the area of the proposed sign placement, and will respect the size, scale and mass of the facade, color, building height and rhythms and sizes of windows and door openings in the determination of the Construction Code Inspector. The use of bubble awnings and waterfall awnings are discouraged, and their use shall be at the discretion of the Construction Official for the proposed location.

(12) No signs shall extend more than six inches in depth from a building facade.

(13) Projecting signs perpendicular to a wall or placed at right angles to a facade or building face shall be prohibited. Hanging signs are strictly prohibited.

§ 223-45. Signs.

(14) Signs which are in a state of disrepair, including illuminated or neon signs, or signs which are abandoned shall be removed within 30 calendar days following such disrepair or abandonment.

(15) In addition to the other requirements of this chapter, every business or advertising sign referred to in this chapter must be kept in good condition and repair and shall not be allowed to become dilapidated.

(16) No references to the set pricing of products and services shall be permitted in the wording of a permanent sign, awning or canopy.

(17) Whenever there is a change in occupancy of business premises, all signs and displays which identify or advertise a business, product, or other item that is no longer present or available on the premises shall be removed within 21 calendar days from the date the previous occupancy ceased. The manner of removal of sign messages shall include, but not be limited to the following:

(a) In the case of a sign with a painted message, the message shall be painted in a color which matches the background or in a light neutral color.

(b) Window signs and displays shall be removed.

(c) In the case of a sign where the message is contained on a panel that is inserted into the sign frame or structure, the message panel shall be replaced with a blank panel.

(d) In the case of a sign where the message cannot be removed without also removing the sign structure, the structure shall be removed unless the owner demonstrates to the Zoning Official that the sign message could reasonably apply to the next occupant of the premises.

(18) A permitted second floor occupancy for a professional office or second floor retail space shall be permitted one announcement sign per occupancy of not more than 1.5 square feet at the main entrance of the building. One nameplate or professional sign with an area of not more than 1.5 square feet may be mounted flat against the door of each secondary entrance. Such sign may not be illuminated by interior or exterior lighting.

(19) All entrance doors must display the street number within 12 inches of the top of the door, and such street number shall not be less than three inches and not more than five inches high.

(20) A wall sign shall not be erected on any wall of a building, unless such wall fronts on and is immediately adjacent to a public street, public parking lot, or parking lot servicing the building on which it is placed. If a business occupies a parcel that includes two street frontages, a sign is permitted on each street frontage.

(21) No sign may be attached in any form or manner which will interfere with any opening for ventilation or with any architectural detail.

(22) No sign shall consist of more than four colors, including the background color.

(23) Facsimile and telephone numbers are prohibited on all signs.

(24) Any light box sign is subject to the following additional limitations:

§ 223-45. Signs.

- (a) Only the letters and symbols may be illuminated.
- (b) Any opaque background must set off the illuminated sections.
- (c) The letters, logos and symbols may take up a maximum of 40% of the sign area leaving 60% opaque.

(25) No sign or other advertising structure, as regulated by this chapter, shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, cause an optical illusion, or be confused with any authorized traffic sign, signal or device, or which makes use of words, phrases, symbols or characters in such manner as to interfere with, mislead or confuse traffic.

(26) All signs shall be constructed in accordance with the requirements of the current Building Code adopted by the State of New Jersey. If the Construction Official or his designee shall find that any sign is unsafe or insecure, the Construction Official or his designee shall give written notice to the owner, agent, or person having the beneficial use of the premises upon which the sign may be erected. If such owner, agent or person fails to remove or alter the sign so as to comply with the standards herein set forth in the notice, after such notice, such sign or other advertising structure shall be removed or altered to comply with the Construction Official or his designee, at the expense of the owner, agent or person having the beneficial use of the premises upon which such sign may be erected. The Construction Official or his designee shall cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

(27) No temporary signs made of paper, cardboard, canvas or similar material shall be permitted, except for temporary signage permitted by this chapter.

(28) Signs affixed to vehicles and/or trailers, or automobile windows which are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property are prohibited. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as permanent lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer, or for pricing information associated with the sale of new and used cars.

(29) If the City of Union City funds or undertakes a project, it reserves the right to mandate the type of signage displayed on the building, whether a private or public project, in accordance with this chapter.

H. Nonconforming signs.

(1) Any signs existing at the time of the passage of this section which violate any provisions hereof shall be deemed a nonconforming sign and may be continued, maintained and repaired upon the present premises or location, provided that such sign was lawful under any prior ordinance and that required permits and inspections were obtained. Any sign unlawful under any prior ordinance shall



§ 223-45. Signs.

remain unlawful unless it complies with the provisions of this section and there is issued by the Construction Official a sign erection permits therefor.

(2) Any sign which has been damaged to the extent that the cost of repairs shall exceed 50% of the current value of such sign shall be deemed as destroyed, and the owner thereof shall not be permitted to erect or restore the sign except in accordance with this section.

(3) Hanging signs shall be ordered to be removed to the extent that they are structurally unsafe and endanger the safety of the public.

(4) Upon abandonment of a nonconforming sign by the existing owner or lessee, said sign must be removed within 30 days by the landlord or tenant.

I. Awnings, canopies and marquees.

(1) Fixed or permanent awnings or canopies shall not project more than three feet from the building, nor be wider than 25 feet, or the width of the building, whichever is less. No awning shall be higher than four feet from its lowest point. Fabric swatches (as opposed to a color rendering) shall be provided to the Construction Official or his designee for any proposed awnings. An original, flame-resistant certificate completed by the fabric company shall be provided to the Construction Official or his designee. A fax or copy of said certificate shall not be accepted.

(2) No signage is permitted on any canopies or awnings, unless no facade area is available on the building facade to place a wall sign. Determination on whether an awning or canopy sign is permitted shall be made by the Construction Official.

(3) Awnings, canopies and marquees attached to the same building shall be the same shape color and height and in accordance with any applicable provisions of this chapter.

(4) Awnings shall not be illuminated and shall not display any graphic, logo, or business name.

(5) Awnings, canopies and marquees shall not be permitted above the first floor of a building, except awnings shall be permitted on the second floor of a building, subject to the following conditions:

(a) Second floor awnings shall not extend beyond 18 inches in depth from a building facade or wall.

(b) Second floor awnings shall be the same shape and color as first floor awnings, canopies and marquees attached to the same building.

(c) If awnings are installed on the second floor, all awnings must be installed on all second floor windows.

(d) Second floor awnings shall not extend more than six inches from either side of a window frame, and no awning shall extend more than 12 inches above a window frame.

(6) The lowest portion of an awning, canopy or marquee shall not be less than eight feet from the ground.

§ 223-46. Off-street parking and loading.

**§ 223-46. Off-street parking and loading.**

A. Off-street parking.

(1) Minimum required off-street parking schedule for nonresidential uses. The number of off-street parking spaces required for any nonresidential use shall be determined by reference to Parking Schedule I below.

<b>Parking Schedule I Parking Requirements for Nonresidential Uses</b>	
<b>Use</b>	<b>Required Parking Spaces</b>
Car wash	3 per washing lane
Child-care facilities	1 per employee
Banks and financial institutions	1 for each 300 square feet of gross floor area
Educational facility: Elementary and intermediate school Secondary school Postsecondary and other educational facility	1 per employee 1 per employee plus 1 per each 5 students in grades 11 and 12 2 per each 3 full-time students and 1 for each 5 part-time students
Gasoline service station or repair garage	3 for each bay, plus 1 per 300 square feet of gross floor area of retail space
Health club and fitness center	1 per 300 square feet of gross floor area
Home occupation (major)	1 per employee
Hotel	1 per room, plus 1 space for each 1,000 square feet of gross floor area of ballrooms, conference rooms or similar space
Indoor commercial recreation, including roller rink, ice rink, recreation center and sports club	4.5 for each 1,000 square feet of gross floor area
Light industrial, including laboratory and research uses	1 for each 400 square feet of gross floor area
Medical office	1 per 300 square feet of gross floor area
Office	1 per 300 square feet of gross floor area
Outdoor recreation: Court games Other	4 per court 1 per 150 square feet of assemblage space
Places of worship, community buildings, social halls and places of indoor public assembly	1 for every 3 seats. Where no permanent, individual seats are provided, 1 space for each 100 square feet of seating area or primary assembly area shall be provided.
Restaurant, eating and drinking establishments(a)	1 for each 3 seats
Bars	1 per 50 square feet of gross floor area
Retail and service uses not separately listed(b)	1 per 300 square feet of gross floor area
Theater	1 for each 3 seats
<p>NOTES:</p> <p>a. Take-out components of restaurants shall add one additional space for each 25 square feet of take-out service area.</p> <p>b. Retail uses such as delis, bakeries and coffee shops with on-site seating shall add one additional space for every 3 seats.</p>	

§ 223-46. Off-street parking and loading.

(a) **Unscheduled uses.** Off-street parking requirements for uses not listed in Parking Schedule I shall be established by the approving authority, based upon accepted industry standards.

(b) **Combined uses.** In the case of a combination of uses, the off-street parking requirement shall consist of the sum of the spaces required for each individual use, unless it can be demonstrated that staggered hours would permit modification to the parking requirement in accordance with the shared parking rules identified in § 223-C.

(c) **Fractional spaces.** Whenever the application of Parking Schedule I results in a fractional parking space in excess of 1/2, a full space shall be required.

(d) **No off-street parking or loading spaces** need be provided for nonresidential uses located on lots that are 2,500 square feet or smaller.

(e) **On-street parking** located directly in front of a nonresidential use shall count toward required off-street parking. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces.

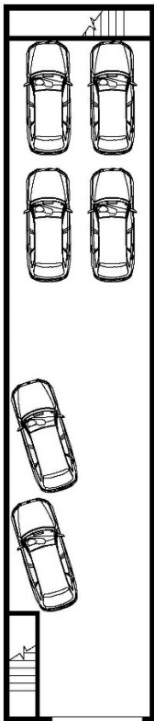
(2) **Minimum required off-street parking schedule for residential uses.** The number of off-street parking spaces required for residential uses shall be determined pursuant to N.J.A.C. 5:21, as amended, and by reference to Parking Schedule II below. Alternative parking standards to those shown in the schedule below shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking sources.

<b>Parking Schedule II(a) Parking Requirements for Residential Land Uses</b>	
<b>Housing Unit Type/Size(b)</b>	<b>Parking Requirement</b>
One-family and two-family:	
2-bedroom	1.5
3-bedroom	2.0
4-bedroom	2.5(c)
5-bedroom	3.0
Garden apartment(b)	
1-bedroom	1.8
2-bedroom	2.0(c)
3-bedroom	2.1
Townhouse(b, d)	
1-bedroom	1.8
2-bedroom	2.3(c)
3-bedroom	2.4
Mid-rise(b)	
1-bedroom	1.8
2-bedroom	2.0(c)
3-bedroom	2.1
High-rise(b)	
1-bedroom	0.8

§ 223-46. Off-street parking and loading.

2-bedroom 3-bedroom	1.3 1.9
Live/work space	Values shall be commensurate with the most appropriate housing type and size noted above that the unit resembles.
Retirement community	Values shall be commensurate with the most appropriate housing type and size noted above that the retirement community resembles.
Assisted living	0.5
Three-Family Dwellings	2.0 per dwelling unit; Parking must allow for the efficient movement of six vehicles; see Figure 223c for an example of a way in which parking may be configured to comply with this Section
<p>NOTES:</p> <p>a. As amended from time to time.</p> <p>b. Requirements for attached units (apartment/condominium/townhouse) include provisions for guest parking (0.5 spaces per dwelling unit). Guest parking must either be provided for on street or in common parking areas.</p> <p>c. If applicant does not specify the number of bedrooms per unit, this parking requirement shall apply.</p> <p>d. Four-family dwellings shall be subject to the parking requirements for townhouse development.</p>	

Figure 223c:



(a) Garage and driveway combinations shall be counted as follows:

§ 223-46. Off-street parking and loading.

[1] Each garage car space shall be counted as 1.0 off-street parking space regardless of the dimensions of the driveway.

[2] A one-car garage and driveway combination shall count as 2.0 off-street parking spaces, provided that the driveway measures a minimum of 18 feet in length between the face of the garage door and the right-of-way.

[3] A two-car garage and driveway combination shall count as 3.5 off-street parking spaces, provided that a minimum parking area width of 20 feet is provided for a minimum length of 18 feet as specified for a one-car garage and driveway combination.

(b) When housing is included in mixed-use development, a shared parking approach to the provision of parking shall be permitted.

(c) When, in the judgment of the Board, on-street parking is available, then only that proportion of the parking requirement which is not available on the street shall be provided in off-street parking facilities. A length of 23 feet per on-street parking space shall be used in calculating the number of available on-street parking spaces.

(d) For projects containing dwelling units required by the New Jersey Uniform Construction Code's Barrier Free Subcode (N.J.A.C. 5:23-7), to be accessible, parking spaces for people with disabilities shall be provided in accordance with the requirements of the Barrier Free Subcode and shall be considered part of the total number of required spaces.

(e) No off-street parking spaces shall be required for newly constructed non-residential uses on lots with frontage on Bergenline Avenue or Summit Avenue. Existing establishments or changes of use in existing buildings must comply with Parking Schedule 1.

(3) Commercial vehicles in residential zones.

(a) In a residential zone only one commercial vehicle of a rated capacity of one ton or less may be kept on the premises.

(b) Commercial trailers, tractors and mechanized equipment in residential zones. Commercial and industrial trailers, tractors, construction machinery and equipment, commercial trucks and vehicles greater than 6,000 pounds, or any open trailer, shall not be kept, placed or stored in any residence zone, except that equipment and machinery used in connection with the construction, alteration, removal, or demolition of any buildings or structures or the excavation of any land may be permitted to stand upon the premises where such work is being undertaken while the same is in progress.

(4) Parking of mobile dwellings, recreational vehicles and equipment. No mobile dwelling, trailer or any other recreational equipment shall be stored or parked on any premises in any residential zone district within the limits of the City, except as hereinafter provided:

(a) Mobile dwellings, trailers or recreational equipment may be stored or parked within an enclosed building or garage on the premises.

§ 223-46. Off-street parking and loading.

(b) Mobile dwellings, trailers or recreational equipment may be stored or parked outdoors on any premises upon the following terms and conditions:

- [1] Not more than one mobile dwelling, trailer, or any other recreational equipment shall be stored or parked on any premises in any residential zone district within the limits of the City, except as hereinafter provided. For purposes of this chapter, premises shall include adjoining lots in common ownership, unless said adjoining lots otherwise conform to this chapter and other provisions hereof.
  - [2] No mobile dwelling, trailer or recreational equipment shall be stored or parked within any residential district other than that lot upon which the principal residence structure of the actual owner of the recreational equipment is located.
  - [3] No mobile dwelling, trailer or recreational equipment shall be stored or parked at any time when said premises are not being occupied, except for vacation absences.
  - [4] No mobile dwelling, trailer or recreational equipment shall be stored or parked in any district as an accessory building or use, except as herein provided.
  - [5] No mobile dwelling, trailer or recreational equipment shall exceed the following bulk requirements:
    - [a] A maximum height of 12 feet as parked, including trailer, cradle or mount, but excluding mast in the case of a boat.
    - [b] A maximum body length of 30 feet, excluding trailer hitch, tongue and bumper.
    - [c] A maximum of eight feet in body width, excluding hardware.
    - [d] A maximum gross weight of 12,000 pounds, including trailer and mount.
- (c) No mobile dwelling, trailer or recreational equipment shall be stored or parked within any front yard or side yard required under this chapter. These requirements shall apply to both frontages on a corner lot. In addition, all recreational equipment shall be stored or parked to the rear of the rear building line of the principal building and shall comply with accessory setbacks.
- (d) All mobile dwellings, trailers or recreational equipment must be kept clean and in good repair at all times and shall carry a current year's license or registration as required by law.
- (e) The owner of any mobile dwelling, trailer or recreational equipment shall have and display upon request to any authorized officials of the City satisfactory proof of ownership of such recreational equipment.
- (f) All mobile dwellings, trailers or recreational equipment shall be maintained in mobile condition.
- (g) No mobile dwellings, trailers or recreational equipment shall be used for sleeping or dwelling purposes while on said premises and shall not be commercially stored or offered or displayed for

§ 223-46. Off-street parking and loading.

sale. Further, such recreational equipment shall not be connected with any electric, water, gas or sanitary sewer facilities.

(h) No construction or repair of any such mobile dwellings, trailers or recreational equipment shall be carried on outdoors in any residential district. For purposes of this chapter, construction or repair shall not include essential maintenance.

(i) No mobile dwellings, trailers or recreational equipment shall be stored, parked or maintained so as to create a dangerous or unsafe condition on the premises where parked.

(j) Loading and unloading of mobile dwellings, trailers or recreational equipment at any location on the premises is permitted, provided that said vehicle is not stored or parked for a period longer than 48 hours in any seven consecutive days.

(k) All mobile dwellings, trailers or recreational equipment shall be effectively screened with attractive plantings, shrubs and trees or fencing so as not to be readily visible from the street or from any adjoining or nearby properties. Said screening shall not exceed six feet in height and shall be maintained and kept in good condition.

B. Location of parking.

(1) Required off-street parking shall be located only in those locations as set forth below and shall meet all setback requirements set forth in that subsection.

(2) Off-street parking facilities as accessory to any use permitted in a residential zone shall be provided on the same lot with the permitted principal building.

(3) Off-street parking facilities as required by this chapter in nonresidential zones shall be provided on the same lot as the principal building or use, unless an applicant is granted permission by an approving authority for shared parking per the requirements of § 223-46C.

(4) Access to or egress from any property situated in a nonresidential zone through the use of a driveway located on property in a residential zone is prohibited.

(5) Bicycle racks. Bicycle racks shall be provided for all multifamily and nonresidential developments at the ratio of one bicycle space for each dwelling unit or one bicycle space for each 20 off-street parking spaces or fraction thereof over 20 spaces.

(6) The minimum setback for any parking area or driveway shall be five feet in all zones; however, there shall be no minimum setback for parking areas or driveways in connection with existing and proposed residences in the R Low Density Residential District or for existing and proposed one-, two- and three-family dwellings in any zone or district. Notwithstanding, parking in these areas shall not obstruct any City sidewalks and/or City rights-of-way.

C. Shared parking. In all districts, except the R Zone, shared accessory off-street parking shall be permitted in accordance with the following:

§ 223-46. Off-street parking and loading.

(1) A use for which an application for shared parking is made shall be located within 500 feet of the parking facility which is being shared.

(2) An agreement providing for the shared use of parking, executed by all the parties involved, shall be approved by the approving authority's attorney and filed with the City Clerk. Shared parking privileges shall continue in effect so long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, parking shall be provided as otherwise required in this chapter.

(3) Shared parking for uses with different hours of operation. Shared parking shall be permitted between two uses with differing hours of operation, provided that the approving authority shall have discretion in determining which uses are daytime uses and which are nighttime or Sunday uses. The following shall serve as general guidelines:

(a) The following uses may be generally considered daytime uses:

[1] Offices.

[2] Retail sales and services, except restaurants, bars and entertainment uses.

[3] Wholesale, storage and distribution uses.

[4] Manufacturing uses.

[5] Other similar primarily daytime uses as determined by the approving authority.

(b) The following uses may be generally considered nighttime or Sunday uses:

[1] Places of worship, clubhouses, and theaters.

[2] Bars.

[3] Other similar primarily nighttime or Sunday uses as determined by the approving authority.

(4) The approving authority may authorize the use of up to 90% of the required off-street parking for a daytime use to serve as the required off-street parking for a nighttime or Sunday use and vice versa. The applicant shall demonstrate that the hours of operation of the two uses will not conflict, and the approving authority shall place conditions limiting the hours of operation to ensure that adequate parking is available to all users at the appropriate times.

(5) Shared parking for uses with similar hours of operation. The approving authority may approve shared parking arrangements between two or more uses with the same or overlapping operating hours by up to 20% of the total parking that would be required for all of the uses calculated separately.

(6) In all shared parking situations, the approving authority may require that an applicant for shared parking provide testimony and/or a shared parking feasibility study in support of the application from a licensed engineer in the State of New Jersey with expertise in parking operations. A shared parking feasibility report shall include, but is not limited to, the following:



§ 223-46. Off-street parking and loading.

- (a) A site plan sheet depicting the parking spaces intended for shared parking and their proximity to land uses they will serve.
- (b) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses as appropriate.
- (c) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.
- (d) A safety and security plan that addresses lighting and maintenance of the parking areas.

D. Off-street loading.

(1) Application. In any building or building group or part thereof hereafter erected and having a gross floor area of 20,000 square feet or more of nonresidential space, there shall be provided and maintained on the same zone lot with such building, off-street loading berths.

(2) Required off-street loading facilities.

- (a) No off-street loading spaces shall be required for buildings located within the C-N District.
- (b) No off-street loading spaces shall be required for nonresidential uses located on lots that are 2,500 square feet or smaller.
- (c) Location of loading berths. All loading areas shall be on the same lot as the use to be served. Such areas shall be located only in a side or rear yard. Such areas shall not encroach upon any required open space, accessway, off-street parking area or public right-of-way. Where located adjacent to any residential district, they shall be set back a minimum of five feet from such property line.
- (d) Access. All required off-street loading areas shall provide sufficient turning spaces and access.
- (e) Calculation of required spaces. The number of off-street loading berths required for any use shall be determined by application of the standards set forth below:

<b>Principal Building Size (square feet)</b>	<b>Required Number of Loading Berths</b>
Up to 20,000	1
20,000 to 50,000	2
Each additional 100,000	One additional space

E. Development of surface parking lots

- (1) The redevelopment of any surface parking lot must accommodate parking needs of the proposed development in addition to the parking spaces that will be eliminated as a result of the development.

**§ 223-47. Nonconforming uses, structures and lots.**

A. Nonconforming buildings or structures. A building or structure that is conforming in use but does not conform to the lot dimension, yard dimension, height, building coverage, floor area ratio, off-street parking, loading, or similar dimensional requirements of the chapter shall be deemed to be a nonconforming building or nonconforming structure. No permit shall be issued that will result in the increase of any dimensional nonconformity, but any building or structure or portion thereof may be altered to decrease its dimensional nonconformity.

B. Continuance of existing nonconforming uses and structures. Any nonconforming use or structure which lawfully existed at the time of the passage of this article may be continued, and any existing legally nonconforming building or structure may be reconstructed or structurally altered, but only in accordance with the requirements of this article.

C. Discontinuance of a nonconforming use. Any nonconforming use that has been deemed to be abandoned (as defined in this Chapter) shall not be permitted to resume.

D. Alteration, extension or enlargement of nonconforming use or structure.

(1) A nonconforming use of any building, structure or land shall not be increased, enlarged, extended or changed in any manner whatsoever.

(2) No building in which a nonconforming use exists shall be enlarged, extended or structurally altered in any manner; provided, however, that:

(a) Nothing herein shall prevent the repair and maintenance of any building wherein there exists a nonconforming use, provided that such maintenance and repair does not in any way constitute or result in a further expansion of a nonconforming use.

(b) Minor alterations and improvements which do not constitute or require structural changes may be made in or to a building wherein a nonconforming use exists, provided that such nonconforming use will not be increased, extended or enlarged thereby.

(c) Nothing herein shall prevent the strengthening or restoration to a safe and lawful condition of any part of any building which is nonconforming.

(3) Structural alterations, internal rearrangements and renovations may be made in a building or structure which is nonconforming because it fails to comply with height, area, yard, off-street parking or other like requirements of this article, other than use, so long as the structural alteration or increase, internal rearrangement or renovation does not extend or enlarge the nonconformance of said building or structure.

(4) A nonconforming use changed or altered to a conforming use may not thereafter be changed back to a nonconforming use.

E. Restoration of existing building or structures nonconforming because of use. Whenever a building or structure is nonconforming by reason of its use, such building or structure may be restored or repaired in the event of partial destruction thereof.

§ 223-47. Nonconforming uses, structures and lots.

F. Restoration of existing buildings or structures nonconforming for reasons other than use. Whenever a building is nonconforming because it fails to comply with any height, area, yard, off-street parking or requirements of this article, other than use, and such building is partially destroyed, such building may be restored to its prior condition; provided, however, that such restoration shall not enlarge the previously existing nonconformance.

G. Nonconforming improved lot. When an improved lot in a residential zone exists as a separate isolated lot under separate ownership and does not adjoin any vacant land or vacant lot of the same owner, and which said improved lot is nonconforming due to size, shape, area or setback, any existing residential building or structure on the lot may be further improved, provided that:

- (1) The number of dwelling units shall not be increased even if such increased number of dwelling units is allowed in the zone, unless approved by the approving authority.
- (2) Any existing nonconforming setbacks from streets, side lot lines or rear lot lines shall not be made more nonconforming including any vertical additions of any type.
- (3) Any existing and proposed improvement on the nonconforming improved lot shall not exceed the percentage of maximum building coverage set forth in the Schedule of Bulk Regulations.[1]

[1] Editor's Note: The Schedule of Bulk Regulations is attached to this chapter.

- (4) The Construction Code Official of the City of Union City is hereby authorized and empowered to issue any necessary construction permits in accordance with the provisions of this subsection.

H. Nonconforming unimproved lot. Notwithstanding any other provisions of this article, any existing nonconforming lot in the R Zone not adjoining any vacant land and which is nonconforming due to shape or area may be improved with a new building or structure in accordance with the use requirements of this article, provided that the minimum setbacks shall be as required in the Schedule of Bulk Regulations, except required side street setbacks on corner lots may be reduced six inches for each foot the lot is under the minimum width required in the zone district, but shall not be reduced below 1/2 the minimum required setback.

I. Nonconforming signs.

- (1) Billboards as defined herein and as previously permitted as advertising signs shall be deemed to be distinct nonconforming uses, as defined in this chapter.
- (2) Any roof sign as defined in this chapter or any outdoor display sign erected, constructed, maintained or painted on or over the roof of any building or on or above any roof level of a parapet wall shall be deemed to be distinct nonconforming uses as defined in this chapter.

J. Any nonconforming structure located in the C-N and MU Districts, with the exception of lots fronting on Bergenline Avenue, New York Avenue, and Summit Avenue, can be further developed, provided that the degree of nonconformity is not further increased.

§ 223-48. Exemption of certain residential developments.

**§ 223-48. Exemption of certain residential developments.**

Dwellings containing units that are exempt from site plan approval pursuant to Article IV within Chapter 223, of the City Code shall also be exempt from all other land development requirements of Chapter 223 thereof, without the need for additional variance or other approval. These dwellings shall be exempt, provided that the conversion, creation or legalization of the new units does not result in the creation of additional building area. Notwithstanding the language of this section and the exemption granted thereby, these dwellings and units shall be required to comply with any and all provisions of the Uniform Construction Code and the Uniform Fire Code, and all necessary permits shall be obtained, and a certificate of occupancy shall be required therefor.

**§ 223-49. Outdoor sales.**

A. Outdoor sales, as defined in § 223-5, shall be permitted on private, residential property only, subject to the following:

(1) Goods and merchandise and ancillary items associated with the outdoor sale thereof shall not be located within the City's public right-of-way or on City streets or sidewalks.

(2) The outdoor sales of goods and merchandise is permitted on Saturdays only from 9:00 a.m. to 6:00 p.m. and from May 1 through October 31. The outdoor sales of goods and merchandise shall be hereby prohibited on all other days, at all other times and during all other months.

B. Violations of this section shall be subject to the imposition of any and all monetary and other relief permitted by the provisions of this Code.