

# Chapter 170

## Zoning

**[HISTORY: Adopted by the Board of Trustees of the Village of Newark 4-17-1967, as amended through L.L. No. 1-1997, adopted 3-18-1997. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Building construction and fire prevention — See Ch. 62.

Unsafe buildings — See Ch. 67.

Cemeteries — See Ch. 72.

Sales — See Ch. 117.

Signs — See Ch. 130.

[Solar Energy Systems — See Ch. 132.](#)

[Wind Energy Systems — See Ch. 133.](#)

Site plan review — See Ch. 134.

Subdivision of land — See Ch. 149.

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### Article I- **General Provisions-**

#### **§ 170-1 Title.**

- A. The title of this chapter shall be "An ordinance regulating and restricting the location, construction and use of buildings, structures and the use of land in the Village of Newark, and for said purposes dividing the Village into districts."
- B. This chapter shall be known and may be cited as the "Zoning Ordinance of the Village of Newark."

#### **§ 170-2 Purpose.**

- A. The zoning districts and regulations herein set forth and as outlined on the Zoning Map are made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals or the general welfare of the public. They have been designed to lessen congestions in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid

undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land.

- B. They have been made pursuant to the authority and power granted by laws of the state to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

## Article II **Definitions**

### **§ 170-3 Word usage; terms defined.**

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure," the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."
- B. As used in this chapter, the following terms shall have the meanings indicated:

#### **ACCESSORY BUILDING-**

~~A building, the use of which is incidental to that of a principal building and located on the same lot therewith, including a detached garage or greenhouse.~~

#### **ACCESSORY USE-**

~~A use customarily incidental and subordinate to the principal use or building and located on the same lot, including parking and swimming pools.~~

#### **AGRICULTURAL USE-**

~~Land containing at least two acres which is used for raising agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits and the storage of agricultural equipment used. It includes riding academies, livery or boarding stables, kennels and veterinaries. It includes as an accessory use the sale of agricultural products raised on the property.~~

#### **ALLEY-**

~~A narrow service way providing a secondary means of public access to abutting properties.~~

#### **AUTOMOBILE SALES SHOWROOM-**

~~All enclosed establishments for the display and sale of new and used cars, trucks, trailers, mobile homes and boats and shall not include open display or storage of such~~

~~vehicles.~~

**~~BAR-~~**

~~All establishments licensed to sell alcoholic beverages for on-premises consumption.~~

**~~BASEMENT~~**

~~A story partly or completely underground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the basement ceiling and the average grade level of the adjoining ground is more than six feet.~~

**~~BLOCK-~~**

~~The length of a street between two intersections.~~

**~~BOARDINGHOUSE-~~**

~~A dwelling wherein more than four people are sheltered and/or fed for profit.~~

**~~BUILDING-~~**

~~Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.~~

**~~BUILDING AREA-~~**

~~The total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces or walls.~~

**~~BUILDING, DETACHED-~~**

~~A building surrounded by open space on the same lot.~~

**~~BUILDING FRONT LINE-~~**

~~The line of that face of the building nearest the front line of the lot. This face includes covered porches, whether enclosed or unenclosed, but does not include steps.~~

**~~BUILDING HEIGHT-~~**

~~The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, and to the mean height between eaves and ridge for gable, hip, mansard and gambrel roofs.~~

**~~BUILDING, PRINCIPAL-~~**

~~A building, including covered porches, in which is conducted the principal use of the lot on which it is situated.~~

**~~CAMP-~~**

~~Any area on which are located two or more cabins, shelters, houseboats or other~~

~~accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.~~

#### **~~CLUBHOUSE MEMBERSHIP~~**

~~Includes YMCA, YWCA, YMHA, fraternity, sorority, lodge, religious and similar membership clubs which may have dormitory accommodation on the premises.~~

#### **~~CLUB, PRIVATE~~**

~~A building or use catering exclusively to private club members and their guests for recreational or athletic purposes and not operated primarily for gain or profit.~~

#### **~~COMMUNITY CENTER~~**

~~Includes public or private meeting hall, place of assembly, museum, art gallery, library, place of further education or church, not operated primarily for gain or profit.~~

#### **~~COURT~~**

~~An unoccupied open space other than a yard. An outer court is one which extends to the front, side or rear yards; an inner court is any other court.~~

#### **~~COVERAGE~~**

~~That percentage of the lot or land area covered by the building area.~~

#### **~~DEVELOPMENT PLAN~~**

~~The development plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner and shall include the following information presented in drawn form and which may be accompanied by a written text:~~

- ~~(1) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights of way and land use.~~
- ~~(2) Site plan showing proposed building locations.~~
- ~~(3) Traffic circulation, parking areas and pedestrian walks.~~
- ~~(4) Landscaping plans, including site grading and landscape design.~~
- ~~(5) Preliminary drawings for buildings to be constructed in current phase, including floor plans, exterior elevations and sections.~~
- ~~(6) Preliminary engineering plans, including street improvements, drainage system and public utility extensions.~~
- ~~(7) Engineering feasibility studies, as required by the Planning Board.~~

~~(8) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.~~

**~~DEVELOPMENT PLAN, PRELIMINARY~~**

~~A preliminary development plan shall include the following information presented in drawn form and which may be accompanied by a written text:~~

- ~~(1) Proposed site plan, showing building locations and land use areas.~~
- ~~(2) Proposed traffic circulation, parking areas and pedestrian walks.~~
- ~~(3) Proposed landscaping layout.~~
- ~~(4) Proposed construction sequence for buildings, parking spaces, landscaped areas.~~

**~~DORMITORY USE~~**

~~Includes rooming house, boardinghouse, fraternity, sorority, nurses' home, college dormitory.~~

**~~DRIVEWAY~~**

~~Land used or intended to be used as access to, and situated on, the property or lot by vehicular traffic.~~

**~~DUMP~~**

~~Land used for the disposal or abandonment, dumping, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.~~

**~~DWELLING~~**

~~A building designed as a residence, used or intended to be used as living quarters for one or more families. The terms "dwelling," "one family dwelling," "two family dwelling" or "dwelling group" shall not be deemed to include a motel, hotel, boardinghouse or tourist home.~~

**~~DWELLING, MULTIPLE FAMILY~~**

~~A building designed as a residence for or used as living quarters by three or more families living independently of each other.~~

**~~DWELLING, ONE FAMILY~~**

~~A detached building designed as a residence for or used as living quarters by one family.~~

**~~DWELLING, TWO FAMILY~~**

~~A building designed as a residence for or used as living quarters by two families living independently of each other.~~

**~~DWELLING UNIT-~~**

~~A dwelling or part thereof providing complete living quarters for one family.~~

**~~FAMILY-~~**

~~One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants; a number of persons living together as a single housekeeping unit, although not related by blood, adoption or marriage shall be deemed to constitute a family unit.~~

~~[Amended 4-21-1998 by L.L. No. 1-1998]~~

**~~FARM-~~**

~~Any parcel of land containing at least two acres which is used for grain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used.~~

**~~FLOOR AREA-~~**

~~The sum of the gross horizontal area on the same lot, excluding basement floor areas. All of the floors of a building and its accessory buildings dimensions shall be measured between interior faces of walls.~~

**~~FLOOR AREA, HABITABLE-~~**

~~The floor area of rooms in a dwelling unit used or intended to be used for bedrooms, living rooms, dining rooms and kitchens.~~

**~~GARAGE, PRIVATE-~~**

~~An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.~~

**~~GARAGE, PUBLIC-~~**

~~Any garage available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing or equipping motor vehicles.~~

**~~GASOLINE STATION-~~**

~~Any land, including structures thereon, that is designed or used for the sale of motor fuel, oil and any motor vehicle accessories and which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including painting or major repairs to vehicles.~~

**~~GRADE, FINISHED-~~**

~~The completed surfaces of ground, lawns, walks, paved areas and roads brought to grades as shown on plans or designs relating thereto or in existence at the time the certificate of occupancy is issued.~~

**~~HOME OCCUPATION-~~**

~~An accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof or have any exterior evidence of such secondary use and which conforms to the following additional conditions:~~

- ~~(1) The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.~~
- ~~(2) Not more than two persons outside the family shall be employed in the home occupation.~~
- ~~(3) There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.~~
- ~~(4) No offensive noise, vibration, smoke, dust, odors, heat, light or glare shall be produced.~~
- ~~(5) A home occupation includes dressmaking, home cooking, teaching, musical instruction (limited to a single pupil at a time), and similar pursuits, and the skilled practice of an artist, insurance agent, musician, realtor or member of any profession within a dwelling occupied by the same. However, a home occupation shall not be interpreted to include the following: barbershops or beauty parlors, commercial stables and kennels, animal hospitals, restaurants and tearooms, musical instruction to groups, dancing instruction to groups, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles, TV, radio or electrical appliances, and other trades and businesses of a similar nature.~~

#### **~~HOSPITAL~~**

~~Includes sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged and any other place for the diagnosis, treatment or other care of human ailments.~~

#### **~~HOTEL~~**

~~A building containing rooms used, designed or intended to be used, which are rented or hired out to be occupied for sleeping purposes, and where only a general kitchen and dining room may be provided within the building or in an accessory building.~~

#### **~~JUNKYARD~~**

~~Land, building or structure used for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, wrecking, dismantling, storage, salvaging and sale of machinery parts or vehicles not in running condition.~~

#### **~~LOT~~**

~~Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access, as may be determined by the Planning Board to be adequate as a condition of the issuance of a building permit for a building on such land.~~

**~~LOT AREA-~~**

~~The total area within the property lines, excluding any part thereof lying within the boundaries of a public street or proposed public street.~~

**~~LOT, CORNER-~~**

~~A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.~~

**~~LOT DEPTH-~~**

~~The mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line in the general direction of the side lines of the lot.~~

**~~LOT FRONTAGE-~~**

~~The distance measured across the width of the lot at the building front line or the proposed building front line.~~

**~~LOT LINES-~~**

~~The property lines bounding a lot.~~

**~~LOT OF RECORD-~~**

~~Any lot which has been established as such by plat, survey or deed prior to the date of adoption of this article, and as shown on the records of the County Clerk.~~

**~~LOT WIDTH-~~**

~~The mean measured at right angles to its lot depth, at the required building front line.~~

**~~MALL/PLAZA-~~**

~~A commercial location where groups of four or more stores are located in close proximity to each other on the same parcel of land under one ownership or where a lesser number of stores total not less than 20,000 square feet of gross leasable area and meet the same criteria.~~

**~~[Added 6-15-1999 by L.L. No. 2-1999]~~****~~MEDICAL OFFICE-~~**

~~Includes medical, dental and clinical offices for the diagnosis and treatment of human ailments and Planned Parenthood centers.~~

**~~MOBILE HOME-~~**

~~Manufactured housing bearing a seal issued by the Federal Department of Housing and Urban Development.~~



#### **~~MOBILE HOME PARK~~**

~~A property of 10 acres or more maintained by a licensed operator for two or more mobile homes and buildings or other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes other than recreation, traveling or vacationing, and who are provided services or facilities necessary for their use of the property.~~

#### **~~MOTEL~~**

~~A building or group of buildings containing rooms used, designed or intended to be used which are rented or hired out as a series of sleeping units for the accommodation of automobile transients, each sleeping unit consisting of at least a bedroom and a bathroom.~~

#### **~~MUNICIPAL BUILDINGS~~**

~~Includes government owned or maintained buildings, municipal community halls, fire houses, ambulance houses, public works buildings.~~

#### **~~NONCONFORMING USE, BUILDING OR STRUCTURE~~**

~~A building, structure or use of land lawfully existing at the time of enactment of this chapter and which does not conform to the regulations of the district or zone in which it is situated.~~

~~[Amended 4-21-1998 by L.L. No. 1-1998]~~

#### **~~NONRESIDENTIAL LAND USE~~**

~~All uses of land and buildings, except one family dwellings, two family dwellings and multiple family dwellings.~~

#### **~~NURSING HOME~~**

~~Any building where persons are housed or lodged and furnished with meals and nursing or convalescent care.~~

#### **~~OFFICE, BUSINESS~~**

~~Includes all business, professional, banking, finance, insurance, real estate, medical, dental, clinical, governmental and utility service company offices.~~

#### **~~OWNER~~**

~~The person or persons holding title to the property.~~

#### **~~PARKING SPACE~~**

~~An off street space used or intended to be used for the temporary location of one licensed motor vehicle, which is at least nine feet wide and 19 feet long, not including access driveway, and having direct access to a street or alley.~~

#### **~~PERSONAL SERVICES~~**

~~Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, dry cleaners and businesses providing similar services of a personal nature.~~

#### **~~PROFESSIONAL RESIDENCE OFFICE~~**

~~A residence in which the occupant has a professional office of an architect, certified public accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, professional engineer or psychologist, which is clearly secondary to the dwelling use for living purposes and does not change the residential character thereof.~~

#### **~~PUBLIC ASSEMBLY USE~~**

~~Includes auditoriums, theaters, public halls, school halls, meeting halls, churches and temples.~~

#### **~~PUBLIC UTILITIES~~**

~~Includes offices and accessory uses of gas, electricity, water, sewerage, telephone and telegraph service companies.~~

#### **~~QUARRY~~**

~~Land use for the purpose of extracting stone, sand, gravel, lime or topsoil for sale as a commercial operation.~~

#### **~~RECREATION COMMERCIAL, OUTDOOR~~**

~~Includes golf driving ranges, golf pitch and putt courses, miniature golf, outdoor amusement parks.~~

#### **~~RECREATION, INDOOR~~**

~~Includes indoor bowling alleys, movie theaters, pool halls, ice and roller skating rinks, gymnasiums, table tennis halls, swimming pools, hobby workshops and similar places of indoor commercial recreation.~~

#### **~~RECREATION, PRIVATE OUTDOOR~~**

~~Includes golf courses, trap, skeet and archery ranges, swimming pools, skating rinks, riding stables, parks, lakes and beaches, tennis courts, outdoor recreation stadiums and skiing facilities.~~

#### **~~RECREATION, PUBLIC OUTDOOR~~**

~~Includes publicly owned and operated tot lots, playgrounds, playfields, parks, open space, swimming pools, operated not for gain.~~

#### **~~RELIGIOUS INSTITUTION~~**

~~Includes churches, temples, parish houses, convents, seminaries, religious institutions and retreat houses.~~

**~~RESIDENTIAL USE-~~**

~~Includes one family dwellings, two family dwellings, multiple family dwellings, professional residence offices, tot lots, playgrounds, playfields and swimming pools.~~

**~~RESTAURANT-~~**

~~Establishment for the sale and on premises consumption of food and beverages, including alcoholic beverages.~~

**~~RETAIL STORE-~~**

~~Includes enclosed restaurants, cafes, shops and stores for the sale of retail goods, personal service shops and department stores and shall exclude all drive up services, shops, freestanding retail stands, gasoline service and automobile repair service, new and used car sales and service, trailer and mobile home sales and service.~~

**~~ROOM, HABITABLE-~~**

~~In any dwelling unit, the rooms used, designed or intended to be used for bedrooms, living rooms, dining rooms and kitchens.~~

**~~SCHOOL-~~**

~~Includes parochial, private and public schools, nursery schools, colleges, universities and schools accredited by the state, and shall exclude commercially operated schools of beauty culture, dancing, driving, music and similar establishments.~~

**~~SERVICE AREA-~~**

~~Includes those parts of any lot which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage and collection of wastes and provision for maintenance.~~

**~~SIGN-~~**

~~Any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, which shall display or include any letter, word, model, banner, flag, pennant, insignia or representation which is in the nature of an announcement, direction or advertisement. The word "sign" does not include the flag or insignia of any nation, state or city; nor any political, educational, charitable, philanthropic, religious advertising campaign, provided that such advertising shall not be displayed for a period exceeding 30 days.~~

**~~SIGN, ADVERTISING-~~**

~~A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon same lot.~~

**~~SIGN, BUSINESS-~~**

~~A sign which directs attention to a business or profession conducted or to products sold upon the same lot, including "For Sale" or "For Rent" signs relating to the lot on which it is displayed.~~

**~~SIGN, FLASHING~~**

~~Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.~~

**~~SIGN, ILLUMINATED~~**

~~Any sign designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.~~

**~~STABLE~~**

~~A building in which horses are kept for public or private use, remuneration, hire or sale.~~

**~~STORAGE, ENCLOSED~~**

~~Enclosed buildings used for the temporary keeping of goods, wares, supplies or equipment.~~

**~~STORAGE, OPEN~~**

~~Land used for the temporary keeping of goods, wares, supplies or equipment.~~

**~~STORY~~**

~~That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the ceiling above it.~~

**~~STREET~~**

~~A public way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, drive, place, alley or other similar designation and which affords the principal means of access to abutting properties.~~

**~~STREET, CENTER LINE~~**

~~A line midway between and parallel to two property lines, or as otherwise defined by the Planning Board.~~

**~~STREET FRONTAGE~~**

~~Those lot lines which abut a street.~~

**~~STREET GRADE~~**

~~The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.~~

**~~STREET LINE~~**

~~The right-of-way line of a street as dedicated by a deed or record.~~

**~~STRUCTURE~~**

~~Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.~~

**~~SWIMMING POOL-~~**

~~Any body of water or receptacle for water having a depth greater than two feet, designed, used or intended to be used for swimming or bathing and constructed, installed or maintained in or above the ground.~~

**~~THEATER-~~**

~~A building or part of a building devoted to the showing of moving pictures or the performing of plays.~~

**~~THEATER, DRIVE-IN-~~**

~~Open land with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions to patrons seated in automobiles or on outdoor seats.~~

**~~TOT LOT-~~**

~~A recreation area designed and equipped for use of preschool children at least 1,000 square feet in area. The equipment may consist of a sandbox, play sculpture, swings, slide, jungle gym.~~

**~~TOURIST HOME-~~**

~~A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.~~

**~~TRAILER-~~**

~~Includes any vehicle used or capable of being used as sleeping or living quarters, mounted on wheels or on rigid supports and includes an automobile trailer equipped with living quarters or sleeping facilities and a house car and a vehicle which is customarily towed by an automobile or truck and is used or intended to be used for carrying goods, chattels, machinery, boats or camping equipment.~~

**~~TREE, SHADE-~~**

~~Includes trees, such as maple, oak, sycamore, plane, fir, spruce, hemlock, birch, ash, hackberry, tulip, maidenfern, linden, locust, alder, dogwood, magnolia, willow, chestnut, hawthorn trees, which are at least 10 feet in height, and at least two inches in diameter measured at a point six inches above finished grade level.~~

**~~USE-~~**

~~The specific purpose for which land, building or structure is designed, intended, arranged, used or maintained.~~

**~~USE, ACCESSORY-~~**

~~A use customarily incidental and subordinate to the principal use or building and located on the same lot, including parking and swimming pools.~~

**~~USE, PERMITTED-~~**

~~Any use specifically allowed in the district, excluding illegal uses and nonconforming uses.~~

**~~WAREHOUSE-~~**

~~Includes warehouses, wholesale establishments, discount houses, bulk storage and bulk sales outlets.~~

**~~WILDLIFE REFUGE-~~**

~~Includes bird sanctuaries, zoos, forest reserves, game reserves, botanical gardens.~~

**~~YARD-~~**

~~The space on a lot not occupied with a building or structure.~~

**~~YARD, FRONT-~~**

~~A yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.~~

**~~YARD, REAR-~~**

~~A yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured between the rear lot line and the rear line of the building.~~

**~~YARD, SIDE-~~**

~~A yard between the principal building or accessory building and a side lot line and extending through from the front yard to the rear yard.~~

Accessory Use - see "Use, Accessory"

Adult Day Care Facility – a facility providing licensed supervision and personal care for fewer than 24 hours per day for more than five unrelated adults.

**Adult Uses**

- Adult Arcade – any business where the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, videos or disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- **Adult Bookstore** – any business that has as a substantial portion (25 percent or more of gross floor area) of its stock-in-trade and offers for sale for any form of consideration any one or more of the following: (1) books, magazines, periodicals or other printed matter, or films, motion pictures, photographs, slides, video cassettes, DVDs, discs, computer-generated visuals or other visual representations which are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; or (2) devices, instruments or paraphernalia which are designed for use with specified sexual activities.
- **Adult Cabaret** – a nightclub, bar, restaurant or similar establishment that regularly features live performances characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, DVDs, discs, or computer-generated visuals, or other photographic reproductions in which more than 10 percent of the total presentation time is characterized by any emphasis on the depiction of specified sexual activities or specified anatomical areas.
- **Adult Motion Picture Theater** – any business where, for any form of considerations, films, motion pictures, motion pictures, video cassettes, DVDs, discs, computer-generated visuals, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**Agricultural Use** – the use of land for the production, preparation, marketing and transportation of food crops, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings, structures, equipment, manure-processing and –handling facilities and associated operations necessary to support these production activities. Agricultural use includes stables.

**Alley** – a public right-of-way that affords a secondary means of access to abutting properties.

**Alteration** – any addition to a structure, a change or rearrangement in the structural parts, or any change in use from one district classification to another, or movement of a structure from one location to another.

**Animal Hospital/Veterinary Clinic** – any facility maintained by – or for the use of – a licensed veterinarian to diagnose, treat or prevent animal diseases. Animals treated in this facility are limited to dogs, cats or other comparable household pets. Overnight care of these animals is prohibited except when necessary for medical treatment of the animal.

**Art Gallery**– an establishment engaged in the sale, loan or display of art books, paintings, sculpture, photographs, fabrics, artisanal crafts or other works or art.

**Auditorium** – A building or structure designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

**Bank** – A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary

activities.

**Bar** – a business licensed to sell alcoholic beverages that will be consumed on the premises – includes taverns, night clubs, private clubs and similar facilities that serve liquor.

**Basement** – the portion of a building that is completely or partially underground, having at least one-half of its height (the distance between the ceiling and the floor) below the average grade of the adjoining ground.

**Block** – the length of street between two intersections.

**Boat Launch** – An inclined slab, set of pads, rails, planks or graded slope used for launching boats with trailers or by hand.

**Buffer Area/Strip** – a continuous strip of land area covered with grass, bushes, trees, fencing, embankments or berms that is designed to provide a visible and physical screen between adjacent land uses to reduce intrusion of litter, fumes, dust, noise, artificial light or other noxious or objectionable elements.

**Building** – any structure with a roof that is supported by columns or by walls and is intended to shelter, house or enclose persons, animals or property.

- **Building, Accessory** – a detached building or structure which is: (1) customarily incidental and subordinate to, and serves, a principal building on a property; (2) subordinate in area, extent or purpose to the principal building served; (3) contributing to the comfort, convenience or necessity of occupants of the principal building use; (4) located on the same parcel as the principal building. Private detached garages and greenhouses are included; truck trailers are not.
- **Building Area** – the total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, steps and ramps. All dimensions shall be measured between the exterior faces of walls.
- **Building, Detached** – an accessory building surrounded by open land.
- **Building Front Line** – the line of that face of a principal building nearest the street line. For a corner lot, each building line facing a street line is considered a front building line. This face includes covered porches, whether enclosed or unenclosed, but does not include steps or ramps.
- **Building, Non-conforming** – a building or structure constructed before the adoption of local law which does not now conform with provisions of local law.
- **Building, Principal** – the structure in which the principal use of the property is conducted.

**Business** – any lawful commercial enterprise engaged in manufacturing, purchasing, selling, leasing or exchanging of goods and or providing services.



**Business, Drive-In** – see “*Drive-In Business*”

**Car Wash** – a building or portion thereof containing facilities for washing more than two cars, using mechanical production-line methods and an attendant to provide some of the service rendered.

**Car Wash (self-service)** – an attendant-less car wash wherein the customer provides labor and where no self-propelled wash racks are provided; a drive-in automatic car wash wherein the vehicle does not move and is cleaned and rinsed by circulating soap-and-water fixtures.

**Cemetery** – any facility created to dispose of or bury deceased human beings or pets in a grave, mausoleum, vault or other receptacle.

**Child Day Care** – the care for a child on a regular basis provided away from the child’s residence for less than 24 hours per day by someone other than a parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of said child.

- **Family Day Care Home** – a residence in which child day care is provided on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise.
- **Group Family Day Care Home** – a residence in which child care is provided on a regular basis for more than three hours per day per child for seven to 12 children for compensation or otherwise.
- **Child Day Care Center** – a program or facility which is not a residence, in which child care is provided on a regular basis to more than six children for more than three hours per day per child for compensation or otherwise.
- **Nursery School** – a school, which is not a residence, designed to provide daytime care and instruction for two or more children up to age 6, operated on a regular basis, for profit or otherwise.

**Church**– see “*Place of Worship*”

**Club, Private** – a building or use catering exclusively to private club members and their guests, used for recreational, athletic or organizational purposes and not operated primarily for profit.

**Community Center** – A facility where social, recreational, welfare, health, or child care assistance is provided, usually by a public, quasi-public, tax exempt, church, or municipal agency.

**Convention Center** – A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption. (

**Convenience Store** – a retail store that stocks food, beverages and household supplies to customers who buy relatively few items. May include sale of prepared foods (sandwiches, baked goods, soups, coffee, ice cream) but no sale of gasoline.

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**Coverage** – the percentage of the lot covered by permanent structures.

**Curb Cut** – the opening along a street at which point vehicles may enter or leave the roadway.

**Day Care** – see “*Adult Day Care Facility*” or “*Child Day Care*”

**DEC/New York State Department of Environmental Conservation** -- the abbreviation “DEC” when used in these definitions refers to the state Department of Environmental Conservation.

**Dock** – any permanent or temporary structure that extends from the land into the water to provide additional canal or lake access to boats, swimming, or any other purpose. For purposes of measuring the square footage of a dock, and dock constructed shall be determined to begin at the Mean High Water Mark as defined by the DEC.

**Donation Collection Bin** – a receptacle designed with a door, slot or other opening that is intended to accept and store donated items. This definition does not include trailers where personnel are present to accept donations.

**Drive-in Business** – where products are sold or services are performed for customers while they are in or near their vehicles in off-street parking or service areas (convenience store, drive-in bank, fast-food or take-out restaurant, kiosks). A car wash is not considered a drive-in business.

**Driveway** – land used or intended to be used to allow vehicular access to the interior of a lot.

**Dump** – land used for the disposal, abandonment or burial of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**Dumpster** – a container designed to receive, transport or dump waste

**Dwelling** – a house or other building designed or used for human habitation. “Dwelling” does not include tourist homes, motels, hotels, bed-and-breakfasts or other structures designed for transient residence.

- **Boarding House** – a dwelling where more than two – but fewer than six – rooms are provided for lodging for definite periods of time. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests.
- **Condominium** – the ownership of individual dwelling units located on a lot or lots which are owned in common by individual unit owners, or any division of the interests in real property, including easements and leases of over five years, that have

the effect of permitting more than one dwelling unit on a lot without the division of the fee simple interest in said lot.

- **Dormitory** – a structure specifically designed for a long-term stay by students of a college, university or non-profit organization for the purpose of providing rooms for sleeping purposes. One common kitchen and some common gathering rooms for social purposes may also be provided.
- **Fraternity/Sorority House** – A house occupied by a college or university fraternity or sorority containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining area maintained exclusively for members of the fraternity or sorority and their guests or visitors.
- **Manufactured Home** – a factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length, or, when erected on-site is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein. “Manufactured home” includes any structure that meets all the requirements of the definition except the size requirements with respect to which the manufacturer voluntarily files a certification required by HUD and complies with all standards established under the Manufactured Housing Construction and Safety Act of 1974, as amended. “Manufactured home” does not include any self-propelled recreational vehicle. (*See also, “Mobile/manufactured home park”*)
- **Mixed Use** - a building or buildings on one tax parcel that includes housing and one of the following or similar uses open to the public: office, retail, medical, recreational, and commercial uses, but excludes industrial uses.
- **Mobile Home** – a factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or as specific state standard, transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length, or, when erected on-site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein. “Mobile home” shall not include travel trailers or any self-propelled recreational vehicle.
- **Mobile/Manufactured Home Park** – a property of 10 acres or more under single ownership that is maintained by a licensed operator for two or more mobile/manufactured homes and buildings or other structures that may be pertinent to

their use. Persons may own or rent their mobile/manufactured homes and are provided services or facilities necessary for the use of their homes on the property.

- **Multi-Family Dwelling** – a building or portion thereof used or designed as a residence for three or more apartments or dwelling units.
- **Row or Townhouse** – a building on its own separate lot containing one dwelling unit that occupies space from the ground to the roof and is attached to one or more other row or townhouse dwelling units by at least one common wall and having totally exposed front and rear walls.
- **Seasonal Dwelling** – a dwelling unit occupied only during certain seasons of the year for recreational purposes (beach cottages, camps, hunting cabin, vacation cottage, summer cottage, vacation lodge).
- **Single-Family Dwelling** – a detached building containing only one dwelling unit.
- **Two-Family Dwelling** – a detached or semi-detached building where no more than two individual single-family dwelling units are entirely separated by vertical walls or horizontal floors.

#### **Dwelling, State Licensed**

- **Assisted Living Residence (ALR)** – a special combination of housing, supportive services, personalized assistance and health care designed to respond to the individual needs of those elderly people who need help with activities of daily living. An ALR provides or arranges for housing, 24-hour on-site monitoring, personal care (help with bathing, dressing, eating, grooming, and transferring), and/or home care services in a home-like setting to five or more adult residents. In addition, supportive services, socialization activities, meals, case management, and the development of an individualized service plan for each resident are also provided. Residents requiring continuing nursing or medical care are not eligible for an ALR. The facility has a central or private kitchen, dining, recreational and other facilities, with separate bedrooms or living quarters. The three types of Assisted Living Residence are:

△ Basic Assisted Living Residence – a state-licensed ALR providing congregate meals, housekeeping, homemaking, transportation, social activities and person care for elders aged 65 and older who require minimal help in activities of daily life.

△ Enhanced Assisted Living Residence – a state-licensed ALR providing an enhanced level of care for elders who are more physically frail and may need another person to assist them to walk, to transfer, to descend stairs, or to operate medical equipment.

△ Special Needs Assisted Living Residence – a licensed ALR serving individuals who, due to Alzheimer's Disease or dementia conditions, require more specialized services, more intense supervision, and a safer, secure

environment specifically designed to appropriately meet their evolving needs as their cognitive abilities decline.

- **Community Residence** – a residential facility operated by the State or which is operated by a provider of services and which is designed to assist mentally disabled people transition from institutional to independent living in the community, to provide a long-term supervised residence to individuals who require such support, to provide a temporary supervised shelter as an alternative to institutionalization, or to offer temporary supervised shelter as a means of providing respite to the family of an individual with supervisory/support needs. Community residences include, but are not limited to, halfway houses.
- **Family Care Facility** – a family-owned and –operated state-certified residential facility that provides care for no more than 10 elderly or mentally disabled people.
- **Institutional Care Facility** – a residence or other structure used to provide supervised housing and related services that are licensed by the County or a specific New York State organization. Services are provided by New York State Office of Mental Retardation and Developmental Disabilities, Veterans of Foreign Wars, the County or local agencies.

△ Supervised Group Home – residents’ activities are supervised 24 hours a day.

△ Semi-Independent Supervised Group Home – residents’ activities are supervised for fewer than 24 hours per day.

- **Nursing Home** – a home for the infirm aged or chronically or incurably ill persons, licensed by the state, in which five or more persons not of the immediate family are provided with food, shelter and skilled nursing care for compensation. Does not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Dwelling Unit** – one or more rooms connected for occupancy by one family through rental or lease on a weekly, monthly or longer basis, physically separated from any other rooms or dwelling units in the same structure, and containing independent cooking, sleeping and bathroom facilities.

**Easement** – authorization by a property owner for the use by another, and for a specified purpose, of a designated part of his or her property.

#### **Education**

- **College/University** – A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This may also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

- **Primary/Secondary School** – A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of New York State.
- **Trade/Business School** – A school established to provide for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school, modeling school).

**Equipment Sales/Rental Establishment** – Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

**Family** – one or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain more than six persons, including any roomers, boarders, and/or domestic servants. A home for independent living with support personnel that provide room and board, personal care and habilitation services in a family environment as a single housekeeping unit for not more than six resident elderly or disabled persons (mentally or physically impaired) with at least one but not more than two resident staff persons shall be considered a family. Here, “family” is defined as a single housekeeping unit, rather than as persons related by blood or marriage. This definition shall also include nontraditional groups to whom the courts have extended due process protection.

**Farm** – any tract of land containing at least five (5) acres used to produce, prepare and market grain, vegetable, fruit, and other crops, for horticultural, floricultural and viticulture products, animal husbandry, livestock and livestock products, as well as the buildings and structures necessary to support such production activities and practices.

**Farm Animal** – horses, cows, goats, sheep, pigs, fowl, llama, mules, donkeys, cattle, livestock and any animal customarily kept on a farm. Minimum land area for the first animal is five acres; one acre is required for each additional animal.

#### **Farm Labor Camp**

- **Private Farm Labor Camp** – any structure or combination of structures, building or buildings on a farmer’s own property where people are housed who are employed in the farmer’s personal farming operation, on that farmer’s land or land controlled by the farmer via valid lease.
- **Commercial Farm Labor Camp** – any structure or combination of structures intended to be used to house people engaged in casual or per diem labor for farmers other than the owner of the camp.

**Farm Stand** – a permanent structure with more than 120 square feet of gross floor area where farm produce and agricultural products and crafts are displayed and sold. May also involve the accessory sales of other unprocessed foodstuffs, home-processed food products (pies, jams, jellies, breads, pickles, sauces, baked goods) and homemade handicrafts.

**Farm Produce Seasonal Roadside Stand** – a non-permanent (removable and temporary) structure where agricultural products grown principally by the operator of the stand are sold during the harvest season. This is treated as an accessory structure.

**Farmers' Market** – the offering for sale of fresh agricultural products directly to the consumer in an open-air market designated by the Village Board of Trustees as a community activity.

**Floor Area, Gross** – the sum of the gross horizontal areas of the floor(s) of a building or buildings, excluding basement floor areas, measured from the inside faces of the exterior walls or from the center line of walls separating two separate dwelling units or uses.

**Floor Area, Habitable** – The floor area of rooms in a dwelling unit used or intended to be used for bedrooms, living rooms, dining rooms and kitchens.

**Food Processing Plant** – a manufacturing facility producing or processing foods for human consumption, including:

- Bakery products, sugar and confectionary products (except facilities that produce goods for on-site sales only, with no wider distribution)
- Dairy products processing
- Fats and oil products (not including rendering plants)
- Fruit and vegetable canning, preserving, and related processing
- Grain mill products and by-products
- Meat, poultry and seafood canning, curing and by-product processing (not including facilities that also slaughter animals)
- Miscellaneous food preparation from raw products.

**Freight/Trucking Terminal** – A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck or rail.

**Funeral Home** – a building or portion thereof used to principally prepare (embalm) human bodies for interment. The home may also be the site of funeral services. A mortuary may be included; a crematorium is not included in this use.

**Garage, Private** – an accessory building used to store motor vehicles or household items by the occupants of the property on which the garage is erected, with no provision for repairing or servicing such vehicles for profit.

**Garage, Public** – Any garage available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing or equipping motor vehicles, recreational vehicles, boats or other tangible personal property.

**Garage, Service or Repair** – an enclosed building (garage) used to repair motor vehicles for profit, including bodywork and painting, and the sale of parts and accessories.

**Gasoline Station Minimart** – any area of land, including buildings or structures on it, where gasoline, motor oil, lubricants or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store or supermarket and which may include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including painting or major repairs to vehicles.

**Golf Course** – A facility other than a miniature golf course for the playing of golf at which there may be a clubhouse including rest rooms and locker rooms. A golf course may provide additional services customarily furnished such as swimming, outdoor recreation, and related retail sales that may include a restaurant and cocktail lounge if approved as a part of the Planned Unit Development process.

**Governmental Office/Municipal Building** – A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.

**Grade, Finished** – the completed surfaces of ground, lawns, walks, paved areas and roads, brought to grade as shown on plans or designs submitted in the site-approval process and in existence when certificate of occupancy is issued.

**Gym/Fitness Center/Health Club** – a facility where members or nonmembers use equipment or space for the purpose of physical exercise.

#### **Habitable Space**

A room or enclosed floor space arranged for living, eating and sleeping purposes (not including bathrooms, water closet compartment, laundries, pantries, foyers, hallways and other similar floor spaces).

**Healthcare Research Facility** – a use engaged in research and development, testing, assembly, repair and manufacturing in the fields of biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Office, warehousing and distribution of the finished products produced at the site are also allowed as part of this use.

**Height** – the vertical distance of the highest point of the roof or any rooftop deck, fence, railing, widow's walk, or other rooftop structure or feature above the mean finished grade of the ground adjoining the building. Chimneys, ventilators, antennas, skylines, tanks, bulkheads or solar panels shall not be considered part of the height of the building if they do not extend more than four feet above the specific height limit. Domes, towers, minarets or spires that are an integral part of a church or religious building are not subject to these limitations provided that such features are not used for living quarters.

#### **Home Occupation**

An accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary to the dwelling use for living purposes and does not change the character thereof or have any exterior evidence of such secondary use and which conforms to the following additional conditions:

- A. The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.
- B. Not more than two persons outside the family shall be employed in the home occupation.
- C. There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.



D. No offensive noise, vibration, smoke, dust, odors, heat, light or glare shall be produced.

E. A home occupation includes dressmaking, home cooking, teaching, musical instruction (limited to a single pupil at a time), and similar pursuits, and the skilled practice of an artist, insurance agent, musician, realtor or member of any profession within a dwelling occupied by the same. However, a home occupation shall not be interpreted to include the following: barbershops or beauty parlors, commercial stables and kennels, animal hospitals, restaurants and tearooms, musical instruction to groups, dancing instruction to groups, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles, TV, radio or electrical appliances, and other trades and businesses of a similar nature.

**Hospital** – an institution that provides health services, medical and/or surgical care, primarily for people who become temporary inpatients. Related facilities on-site can include laboratories, outpatient clinics and training facilities.

**Junkyard** – an area of land, with or without buildings, primarily used for the outside storage of used and discarded material including but not limited to wastepaper, rags, scrap metal, building materials, appliances, machinery, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition thereof.

**Kennel** – an establishment where dogs are boarded for compensation or where dogs are bred or raised for sale purposes.

**Library** – a public, non-profit facility in which literary, musical or reference material such as – but not limited to – books, manuscripts, recordings, computers, magazines, newspapers are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

#### **Lodging**

- **Bed and Breakfast** – Owner occupied one-family dwelling that provides overnight or short-term sleeping accommodations and breakfast daily. The entire service, food, lodging and amenities are included in one stated price. Up to 10 guests may be accommodated per night, but not more than five bedrooms for such guests. The use is clearly incidental and secondary to the principal use of the property (the owner's dwelling). Must provide sufficient off road parking for each guest room.
- **Bed and Breakfast Inn** – Owner/host occupied one-family dwelling that provides overnight or short-term sleeping accommodations and breakfast daily. The entire service, food, lodging and amenities are included in one stated price. May serve meals other than breakfast, but only by advance reservation. Up to 40 guests may be accommodated per night, but not more than twenty bedrooms for such guests. The use is clearly incidental and secondary to the principal use of the property (the owner's dwelling). Compliance with New York State, local building (zoning), fire and health department codes and regulations. Must provide sufficient off road parking for each guest room.
- **Country Inn** – a commercial business located in a house or building that provides overnight or short-term sleeping accommodations and has a walk-in restaurant available to guests and the public, serving meals throughout the day. Up to 40 guests may be accommodated per night, but not more than twenty bedrooms for such guests.

Compliance with New York State, local building (zoning) fire and health codes and regulations. Must provide sufficient off road parking for restaurant and overnight guests.

- **Hotel/Motel** – a building or group of buildings in which lodging is provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding or rooming house.

**Lot** – a parcel of land occupied or intended for occupancy by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for said lot in the zoning district in which the lot is situated, and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate as a condition for the issuance of a building permit.

- **Corner Lot** – a lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side-lot lines intersect at an interior angle of less than 135°.
- **Lot Area** – the total area within the property lines, excluding any portions lying within the boundaries of a public street or proposed public street.
- **Lot Depth** – the mean horizontal distance from the street line of the lot to its opposite rear line, measured at right angles to the building line in the general direction of the side lines of the lot.
- **Lot Frontage** – the uninterrupted linear or curvilinear extent of a lot measured along the street right-of-way from the intersection of one side lot to the intersection of the other side lot line. The measurement of lot frontage shall not include irregularities in the street line and, in the case of a corner lot, shall extend to the point of the intersection of the side line of the rights-of-way. If a lot has frontage on more than one street, frontage on one street only may be used to satisfy the minimum lot frontage.
- **Lot Lines** – the property lines bounding a lot.
- **Lot, Non-conforming** – a lot of record existing at the date of the passage of local law that does not have the minimum width or contain the minimum area for the zone it is located in.
- **Lot Line, Rear** – a lot line which is opposite and most distant from the front lot line and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.
- **Lot of Record** – any lot which has been established as such by plat, survey or deed prior to the date of adoption of this article, and which is shown in the records of the County Clerk.

- **Lot Width** – the horizontal distance between side lines measured along a line that is parallel to the front lot line and located at the required building front line.

**Lumberyard** – An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail. (

**Marina** – A dock or basin establishment providing docking, slips, moorings, and often supplies, repairs, and other services for pleasure boats and yachts, and accessory facilities including but not limited to showers, toilets, and self-service laundries.

**Municipal Buildings** – all government-owned or -maintained buildings.

**Museum** – Any building serving as a repository for a collection of natural, scientific or literary curiosities or objects of interest arranged, intended and designed to be used by members of the public for viewing, with or without an admissions charge, and which may include as an accessory use the sale of goods to the public.

**Nursery/Greenhouse** – a greenhouse or dedicated outside area used for the retail handling of any article, substance or commodity related to the planting, maintenance or harvesting of flowers, garden plants, shrubs, trees, packaged fertilizers, soils, chemicals or other nursery goods and related products in small quantities to consumers.

**Nursery School** – see “*Child Day Care*”

**Nursing Home** – see “*Dwelling, State-Licensed, Nursing Home*”

**Office, Business** – includes all business and professional uses (*other than “medical office”, “home occupation” and “professional residence-office”*) – banking, financial, insurance, real estate, governmental, utility services, legal, architectural, engineering.

**Office, Medical** – includes medical, dental, chiropractic and clinical offices for the diagnosis and treatment of human ailments. Planned Parenthood centers are also included.

**Office, Professional Residence-Office** – A residence in which the occupant has a professional office which is clearly secondary to the dwelling use for living purposes and does not change the residential character thereof.

- A. The occupation or profession shall be carried on wholly within the principal building or within a building accessory thereto.
- B. Not more than two persons outside the family shall be employed in the professional residence-office.
- C. There shall be no exterior storage of materials and no other exterior indication of the professional residence-office or variation from the residential character of the principal building.

D. No offensive noise, vibration, smoke, dust, odors, heat, light or glare shall be produced.

E. Permitted uses (as a guide) include architect, certified public accountant, chiropractor, dentist, doctor of medicine, landscape architect, land surveyor, lawyer, optometrist, professional engineer or psychologist. Uses not permitted (as a further guide) include: barber shop, beauty parlor, commercial stable or kennel, animal hospital, restaurant, tea room, group musical instruction, group dance instruction, convalescent home, mortuary, vehicle repair, appliance repair.

**Open Space** – That part of the lot area that is not used for buildings, parking, or service. Open space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, pools water courses, wooded areas and paved surfaces used as access drives, but not used for vehicular parking of any kind.

**Park or Recreation Area – Private** – any outdoor recreation or entertainment facility operated by an organization solely for the benefit of its members and guests.

**Park or Recreation Area – Public** – any outdoor recreation or entertainment facility operated as a non-profit enterprise by the Village of Newark or any other governmental entity or non-profit organization which is open to the general public.

**Parking Space** – an off-street paved or surface area which, exclusive of access driveways and turning areas, is nine feet wide by 19 feet long and is accessible and available for the parking of one vehicle.

**Personal Services** – includes barber, hairdresser, beauty parlor, shoe repair, tailor, laundry, dry cleaner, nail salon, body art, and any other businesses providing similar services of a personal nature.

**Pharmacy** – A business that sells pharmaceutical items, supplies, and equipment such as prescription drugs.

**Place of Worship** – any church, synagogue, mosque, meeting house, tabernacle, temple or similar structure used for worship or religious instruction qualifying for property tax exemption by the State of New York.

**Pond/Body of Water** – any body of water other than a man-made swimming pool that is at least two feet deep; a natural or man-made pond, lake, reservoir or other area that has a discernible shoreline.

- **Farm Pond** – a pond whose purpose is to support agricultural processes, provide fire protection, conserve a water supply, or provide flood or drainage control.
- **Retention Pond** – a permanent, natural or man-made structure that provides for the temporary storage of storm-water runoff by means of a slowly dissipating pool of water.

**Printing Service** – A commercial printing operation involving a process that is considered

printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

**Private Club** – *see “Club, Private”*

**Public-Assembly Use** – includes auditoriums, churches, temples, synagogues, tabernacles, public halls, theaters, school halls, meeting halls, fire halls, and other similar uses.

**Public Utilities** – Buildings, or accessory uses of gas, electric, water, sewage, phone, internet, and television cable companies. Excludes business offices and towers.

**Quarry, Sand pit, Gravel Pit, Topsoil Stripping** – a lot or land or part thereof used for the purpose of extracting stone, sand, gravel or other aggregate or topsoil for sale, as an industrial or commercial operation, and exclusive of the process of grading preparatory to the construction of a building for which a building permit has been issued, or highway construction.

**Rail Transportation** – the use of land, buildings, and structures for purposes directly connected with rail transportation of articles, goods, and passengers

**Railroad Yard, siding and repair** – an area of land, a portion of which is covered by a system of tracks, that provides for the making up of trains by railroads or private industry. Necessary functions of a railroad yard and siding include – but are not limited to – the classifying, switching, storing, assembly, distribution, consolidation, movement, repair, weighing or transferring of cars, trains, engines and rolling stock.

**Recreational Vehicle (RV)** – *see “Trailer, camp or travel”*

**Recycling Collection Center** – an accessory use, enclosed structure or enclosed area that serves as a drop-off point for temporary storage of recyclable materials. May also include a facility for temporary collection of used clothing and household goods.

**Restaurant** – a building or structure intended or designed to be used for the sale of on-premises consumption of food and beverages (including in some cases, alcoholic beverages).

**Retail Store** – a commercial activity designed for and characterized by the on-premises sale of goods directly to an ultimate household consumer but also including servicing, preparation, storage and wholesale business transactions related to such goods. Includes restaurants, cafes, shops and stores for the sale of retail goods, personal-service shops, department stores. “Retail store” excludes drive-up services, freestanding retail stands, gasoline service and car-repair service, new and used car sales and service, trailer and mobile-home sales and service.

**Rooming House** – *see “Boarding house”*

**Self-storage Facility** – a building or group of buildings consisting of individual, self-contained units leased to individuals, organizations or businesses for self-service storage of

personal property.

**Service Area** – Includes those parts of any lot which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage and collection of wastes, and provisions for maintenance.

**Sight Distance** – the unobstructed line of sight along a roadway from a vehicle entering that roadway at a given point.

**Sign** – any device, structure, building or part thereof for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, which shall display or include any letter, word, model, banner, flag, pennant, insignia or representation which is in the nature of an announcement, direction or advertisement.

- **Flashing Sign** – an illuminated sign that purposefully varies in position, color, or light intensity.
- **Illuminated Sign** – a sign characterized by the use of artificial light either projecting through the surface of the sign (internally illuminated) or reflecting off the surface of the sign (externally illuminated).

**Solar Energy System** – equipment that directly converts solar energy into thermal or electrical energy.

- **Solar Energy System, Ground-Mounted** - A system of solar panels that are mounted on the ground of the property rather than on the roof of a building.
- **Solar Energy System, Rooftop** - A system of solar panels wholly contained on the rooftop of a building and designed to provide energy principally to the parcel on which the system is installed.
- **Solar Energy System, Rooftop, Commercial** - A system of solar panels wholly contained on the rooftop of a business/industrial building and designed to provide energy principally to the parcel on which the system is installed.

#### **Stable**

- **Agricultural Stable** – structures or land used, designed or arranged for the maintenance of horses or mules used exclusively for agricultural purposes.
- **Commercial Stable** – any structure or land used, designed or arranged for the use, maintenance or rental of horses, mules, ponies or donkeys either with or without a bridle path or riding area. Riding instruction is included in this use.

**Storage Area** – the temporary keeping of goods, wares, supplies or equipment either in a building (“enclosed storage”) or on open land (“open storage”). Does not include the activities associated with a junkyard (*see “junkyard”*).

- **Outside Storage, Contractor’s** – Any land, buildings, or structures used primarily

for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

- **Outside Storage for Commercial Use (Bulk)** – Goods for sale, storage or display that have a large size, mass, or volume and are not easily moved or carried (e.g., railroad ties, large feed bags, fertilizer, wood, pallets, tanks, barrels, etc.)
- **Outside Storage for Commercial Use (Non-bulk)** – goods for sale, storage or display that are distinguished from bulk items by being small in size or volume and not requiring a mechanical lifting device to move them (e.g., bikes, outdoor furniture, lawn accessories and like items that could be moved inside at the end of a business day).

**Story** – that portion of a building included between the surface of any floor and the surface of the next floor or roof above it.

**Street** – A public right-of-way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, drive, place, alley or other similar designation, or trafficway, which affords the principal means of access to abutting properties.

- **Street Center Line** – a line midway between and parallel to two opposing property lines that abut a street, or a line as established by the Village Planning Board.
- **Street Frontage** – those lot lines that abut a street
- **Street Grade** – the officially established grade of the street a lot sits on. If no grade has been officially established, the existing grade of the street will be considered as the street grade.
- **Street Line** – the right-of-way of a street as dedicated by a deed or record.

**Structure** – Anything constructed or erected with a fixed location on the ground, supported by the ground or attached to something having a fixed location on the ground.

**Swimming Pool** – any structure used to hold a body of water at least 24 inches deep that is used for swimming, bathing or wading and is installed or constructed above or below ground.

**Telecommunications Antenna** - Any structure or device operated for commercial purposes to collect or radiate electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas, which are located on the exterior of, or outside of, any building, or structure.

**Telecommunications Tower** - A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, freestanding, guyed, or on a building or other structures.

**Theater** – a building or portion of a building devoted to public showing of motion pictures or the performing of plays.

- **Drive-in Theater** – an open lot, with appurtenant facilities and structures, devoted primarily to showing motion pictures or theatrical productions on a paid-admission basis, usually to patrons seated in automobiles or on outdoor seats.

#### **Trailer**

- **Boat or Cargo** – A vehicle designed exclusively for the transportation of one boat or the hauling of cargo.
- **Camp or Travel** – A vehicle or portable structure equipped, but not regularly used for sleeping which may or may not have sanitary facilities. A recreational vehicle.

**Transportation Terminal/Hub** – A facility where people transfer from one (1) mode of vehicular transportation to another or between carriers within the same mode. Such carriers shall have regularly scheduled routes, and may include vans, trains, ships, tour buses or boats, or other types of transportation. Passenger terminals may include ticket counters, waiting areas, management offices, baggage handling facilities, and shops and restaurants. Street bus stops are not included in this definition.

**Tree, Shade** – Includes trees, such as maple, oak, sycamore, plane, fir, spruce, hemlock, birch ash, hackberry, tulip, maidenfern, linden, locust, alder, dogwood, magnolia, willow, chestnut, hawthorn trees, which are at least 10 feet in height, and at least two inches in diameter measured at a point six inches above the finished grade level.

**Use** - The specified purpose for which land, structure, or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

- **Accessory Use**- A use subordinate and related to the principal use of a lot, or of the principal building or structure on the same lot, and serving a purpose clearly incidental to the permitted principal use of the lot or of its principal building, including parking and swimming pools.
- **Non-conforming Use** – the use of a lot, building or structure on the date of passage of local law that does not now conform to the provisions of local law.
- **Non-residential Land Use** – All uses of land and buildings, except one-family dwellings, two-family dwellings and multiple family dwellings.
- **Permitted Use** – Any use specifically allowed in the district, excluding illegal uses and nonconforming uses.
- **Principal Use** – the primary or principal purpose, for which land, structure, or a building is designed, arranged or intended to be used, or for which it is, or may be, occupied or maintained. “Permitted use” does not include any non-conforming use.
- **Residential Use** – Includes one-family dwellings, two-family dwellings, multiple-family dwellings, professional residence-offices, and associated or other uses as permitted in R-1, R-2 and R-3 districts.

**Variance** – written authority approved by the Zoning Board of Appeals authorizing a deviation from the regulations of this Local Law. In specific:



- **Area Variance** – permits deviation from strict compliance with the dimensional requirements of the zoning regulations, as long as Zoning Local Law permits the intended use of the premises.
- **Use Variance** – permits a use of the land not permitted in the Zoning Local Law.

**Vehicle Body Shop** – Any building or portion thereof used for the repair or straightening of a motor vehicle body or frame or painting of motor vehicles. Maintenance, service, and engine repair may be performed as an ancillary function of the body work.

**Vehicle Repair Shop** – a building or portion of a building that is arranged, intended or designed to be used for making repairs to motor vehicles (cars, trucks, motorcycles, recreational vehicles, trailers, tractors, mobile homes and boats) for compensation.

**Vehicle Sales Area** – a building or outside area specifically used to display vehicles available for immediate sale (cars, trucks, motorcycles, recreational vehicles, trailers, tractors, mobile homes and boats).

**Warehouse** – a business whose principal activity is the storage of merchandise or materials for others, includes wholesale establishments, discount houses, bulk storage and bulk sales outlets.

**Watercourse** – any natural stream of water flowing in a definite course or channel and possessing a bed and banks. The flow of water may not be continuous throughout the year.

**Watercraft** – a boat or other vessel that travels on water.

**Watercraft Repair Shop** – a building or portion of a building that is arranged, intended or designed to be used for making repairs to watercraft for compensation.

**Watercraft Sales Area** – a building or outside area specifically used to display watercraft available for immediate sale.

**Water Recreation** – recreational activities that take place on or in the water.

**Wildlife Refuge** – Includes bird sanctuaries, zoos, forest reserves, game reserves, botanical gardens.

**Wind Energy Conversion System** – a device that converts wind energy to electrical energy in sufficient voltage and amperage to power home, farm or business machines or appliances.

- **Commercial Wind Energy Conversion System** – a wind energy conversion system that is the prime use on a parcel, providing electrical power for use off-site.
- **Non-commercial Wind Energy Conversion System** – a wind energy conversion system that is incidental and subordinate to another use on the same parcel, supplying electrical power to a business that is the parcel's principal use.

**Woodworking Shop** – a business whose principal activity is making items from wood and includes cabinet making (cabinetry and furniture), woodcarving, joinery, carpentry and

woodturning.

**Yard** – an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard to determine the width of a side yard, the depth of the front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

- **Front Yard** – the yard space extending across the entire width of the lot, between the front-lot line and the front line of the principal building. The depth of the front yard is measured between the front lot line of the building and the street line. Covered porches are considered as part of the principal building.
- **Rear Yard** – the yard between the rear-lot line and the rear of a building extended to the side-lot lines of the lot. The depth of the rear yard is measured between the rear-lot line and the rear line of the building.
- **Side Yard** – the yard between the principal building or accessory building and a side-lot line, extending from the front yard to the rear yard.

### Article III Zoning Districts; Map

#### § 170-4 Establishment of districts.

For the purpose of this chapter, the Village of Newark is hereby divided into the following zoning districts:

Residence District	R-1
Residence District	R-2
Residence District	R-3
<del>Neighborhood Business District</del> Medical Campus District	B-1
General Business District	B-2
Highway Business District	B-3
<del>Light Industrial District</del>	<del>I-1</del>
Heavy Industrial District	I-2
Planned Unit Development District	PUD

[Planned Unit Development – Business](#)

[PUD-B](#)

[Planned Unit Development - Residential](#)

[PUD-R](#)

[Planned Industrial Development](#)

[PID](#)

#### **§ 170-5 Zoning Map.**

The zoning districts are shown, defined and bounded on the map accompanying this chapter, entitled ~~Amended~~ Zoning Map, Village of Newark, certified by the Clerk, which with all explanatory matter thereon is hereby made a part of this chapter. The Zoning Map is on file in the office of the Clerk.

#### **§ 170-6 Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of the various zoning districts as shown on the Zoning Map, the following rules shall apply:

- A. Questions concerning the exact location of the district boundary lines shall be resolved by the ~~Planning Zoning~~ Board ~~of Appeals~~.
- B. Where district boundaries are indicated as approximately following the center lines of streets, highways or railroad lines, such center lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow the lot lines or street lines, such lot lines or street lines shall be construed to be the boundaries.
- D. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.
- E. Where the boundary of a district follows a stream, said boundary line shall be deemed to be at the center of the stream.

### **Article IV**

### **Zoning District Regulations**

#### **§ 170-7 Application of regulations.**

Except as hereinafter provided:

- A. No building or structure shall be erected, moved, altered or extended, and no land, building or structure, or part thereof, shall be occupied or used unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered: to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards or side yards than is specified herein for

the district in which such building is located.

- C. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

## § 170-8 Schedule of Permitted Land Uses

*Village of Newark*  
*Schedule of Permitted Land Uses*

Key

P = Permitted

SU = Special Use Permit

— = Not Permitted

*R-1* – Residential 1

R-2 – Residential 2R-3 – Residential 3

### B-1 – Medical Campus

## B-2 – General Business

### B-3 – Highway

## Business

## Business

### *I-2 – Heavy Industrial*

PUD-R – Planned Unit Development  
(Residential)

PUD-B – Planned Unit Development  
(Business)

PID – Planned Industrial Development

[illegible]

[illegible]

<u>General Land Use</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>I-2</u>	<u>PUD -R</u>	<u>PUD -B</u>	<u>PID</u>
<u>Kennel</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Library</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>SU</u>	<u>P</u>	<u>P</u>
<u>Lodging:</u>										
<u>Bed &amp; Breakfast</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>SU</u>	<u>P</u>	<u>==</u>
<u>Bed and Breakfast Inn</u>	<u>==</u>	<u>SU</u>	<u>SU</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>SU</u>	<u>P</u>	<u>==</u>
<u>Country Inn</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>
<u>Hotel/Motel</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>
<u>Lumberyard</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>SU</u>	<u>==</u>
<u>Machinery/Transportation Equip. Sales/Rental</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>SU</u>	<u>==</u>
<u>Mobile/Manufactured Home Sales</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>SU</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Museum</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>SU</u>	<u>P</u>	<u>P</u>
<u>Nursery/Greenhouse</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>SU</u>	<u>SU</u>
<u>Office:</u>										
<u>Business</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>P</u>	<u>P</u>
<u>Medical</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>
<u>Professional-Residence Office</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>
<u>Park</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Personal Services</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>P</u>	<u>==</u>
<u>Pharmacy</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>
<u>Place of Worship</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Printing Service</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>P</u>	<u>P</u>
<u>Public Utility</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>
<u>Rail Transportation</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>SU</u>
<u>Railroad yard, siding and repair</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Recycling Collection Center</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Restaurant</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>SU</u>	<u>P</u>	<u>P</u>
<u>Retail Establishment &lt;=/ 25,000 sq. ft.</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>
<u>Retail Establishment &gt; 25,000 sq. ft.</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>SU</u>	<u>==</u>
<u>Self-Storage Facility</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>
<u>Solar Energy System, Ground-Mounted</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Solar Energy System, Rooftop, Commercial</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>	<u>*</u>
<u>Storage, Outside:</u>										
<u>Outside Storage, Contractor's</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Outside Storage for Commercial Use (Bulk)</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>SU</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>
<u>Outside Storage for Commercial Use (Non- bulk)</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>==</u>

<u>General Land Use</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>I-2</u>	<u>PUD -R</u>	<u>PUD -B</u>	<u>PID</u>
<u>Telecommunications Antenna</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>P</u>	<u>=</u>	<u>SU</u>	<u>SU</u>
<u>Telecommunications Tower</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Theater</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>=</u>
<u>Theater – Drive In</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Transportation Terminal/Hub (Passenger)</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Vehicle Body Shop</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Vehicle Repairs</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Vehicle Sales</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>=</u>
<u>Warehouse</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>SU</u>	<u>P</u>
<u>Water Recreation/ Watercraft Sales, Rental and Repair/ Marina/ Boat Launch</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>P</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>P</u>
<u>Wind Energy System (Non-commercial)</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>SU</u>	<u>=</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>	<u>SU</u>
<u>Woodworking Shop</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>P</u>

\*Please Refer to Chapter 132 – Solar Energy Systems

## Article V Residence District R-1

§ 170-9 District Intent: The Residential 1 District is intended as a primarily single-family home district with supporting and ancillary uses, such as parks and schools. Although areas for large developments of new homes within the Village are limited, any new homes in any R-1 District should maintain the character of existing R-1 neighborhoods and housing.

§ 170-810 Permitted uses.  
[Amended 4-21-1998 by L.L. No. 1-1998; 5-2-2006 by L.L. No. 3-2006]

In Residence District R-1, the following uses are permitted:

A. One family dwelling.

B. Professional residence-office.

C. Religious institution.

D. School.

E. Public outdoor recreation.

F. Accessory uses.

A. Please refer to Chapter 170, Article IV, Section 170-8 (Schedule of Permitted Land Uses). The residential districts within the Village are hierarchical, that is, any use

permitted in R-1 is also permitted in R-2 and R-3 and any use in R-2 is permitted in R-3, but not R-1. R-3 uses are only permitted in R-3.

~~GB.~~ Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the R-1 Residence District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. upon the finding of the Planning Board that such use is of the same general character as those permitted or which will not be detrimental to the other uses within the district or to the adjoining land uses. NOTE: In an R-1 Residence District ~~R-1~~, adult entertainment shall not be a permitted use.

**§ 170-~~9-11~~ Area, yard, coverage, height and supplementary regulations.**  
[Amended 4-21-1998 by L.L. No. 1-1998]

Area, yard, coverage, height and supplementary regulations shall be as follows:

Use	One-Family	Other-Permitted Uses
<del>Minimum residential gross square footage, excluding garages and cellars:</del>		
1-story	1,000-square feet	
1-1/2-story	1,250-square feet	
2-story	1,500-square feet	
<del>Lot area:</del>		
Minimum	10,000-square feet	40,000-square feet
<del>Lot frontage:</del>		
Minimum	80 feet	200 feet
<del>Lot depth:</del>		
Minimum	125 feet	200 feet
<del>Front yard:</del>		
Minimum	35 feet	50 feet



~~Rear yard:~~

<del>Minimum</del>	<del>30 feet</del>	<del>50 feet</del>
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~~Side yard:~~

<del>Minimum</del>	<del>35 feet total without garage</del>	<del>50 feet each side</del>
	<del>10 feet minimum each side with a garage</del>	

~~Coverage:~~

<del>Maximum</del>	<del>25%</del>	<del>30%</del>
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~~Building height:~~

<del>Maximum</del>	<del>3 stories or 35 feet, whichever is less</del>
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<del>Supplementary regulations</del>	<del>As set forth in Article XIV hereof</del>
--------------------------------------	-----------------------------------------------

	<u>R- 1</u>	
	<u>One Family</u>	<u>Other Permitted Uses</u>
<u>Minimum Gross Square Footage Excluding Garages and Cellars:</u>	-	-
<u>1 Story Building</u>	<u>1,000 sq. ft.</u>	<u>No Restrictions</u>
<u>1 1/2 Story Building</u>	<u>1,250 sq. ft.</u>	<u>No Restrictions</u>
<u>2 Story Building</u>	<u>1,500 sq. ft.</u>	<u>No Restrictions</u>
<u>Lot Area Minimum</u>	<u>10,000 sq. ft.</u>	<u>40,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>80 ft.</u>	<u>200 ft.</u>
<u>Lot Depth Minimum</u>	<u>125 ft.</u>	<u>200 ft.</u>
<u>Front Yard Minimum</u>	<u>35 ft.</u>	<u>50 ft.</u>
<u>Rear Yard Minimum</u>	<u>30 ft.</u>	<u>50 ft.</u>
<u>Side Yard Minimum</u>	<u>10 ft. Each Side</u>	<u>50 ft. Each Side</u>
<u>Coverage Maximum</u>	<u>30%</u>	<u>30%</u>
<u>Building Height Maximum</u>	-	-
<u>whichever is less:</u>	<u>3 stories or 35 ft.</u>	<u>3 stories or 35 ft.</u>

<a href="#">Supplemental Regulations</a>	<a href="#">Yes</a>	<a href="#">Yes</a>
<a href="#">As set forth in Article XIV</a>		

**§ 170-~~10-12~~ Private garages and other accessory buildings for residential uses.**

- A. No detached garage or other accessory building shall be placed closer to the rear or side property line than four feet. [NOTE: Front setback must be met.](#)
- B. No detached garage or other detached accessory building shall exceed 12 feet in height [to the eave.](#)
- C. All new driveways shall be a minimum width of nine feet and shall be a hard surface or compacted crusher run stone.
- D. Grassed areas around a residence and between the curb and sidewalk shall be maintained by the property owner.

**§ 170-~~11-13~~ Building entrances.**

- A. Each dwelling shall have a hip or gable roof extending over the porch or landing (minimum size 48 inches by 48 inches) of each main (front) entrance or entrances, the stairs leading to the landing shall have risers, treads and be closed on any exposed side below the treads; likewise any porch or landing shall have all exposed sides enclosed from the landing down with lattice, cement blocks or other similar type materials; if railings are required they will be decorative as well as functional.
- B. The aforesaid requirements of this section may be waived by the Village Code Enforcement Officer for good cause shown.

**[§ 170-14 Dwellings on lots.](#)**

[In an R-1 Residential Zoning District, there shall be only one dwelling on a lot.](#)

**~~§ 170-12 Additions to single-family dwellings.~~**

~~For additions to single-family dwellings existing prior to 1968, one side yard minimum of 10 feet may be reduced to five feet, provided that the front yard minimum is increased to 1.5 times the minimum front yard required or 1.5 times the average front yard on the street involved.~~

**Article VI**

**Residence District R-2**

**[§ 170-15 District Intent:](#)** [R-2 is intended to support the allowance of other types of residential units, mainly the inclusion of two and multi-family units \(apartments\) and to allow for a mix of residential options within the Village. The district will also permit condominium and townhouse units.](#)

**§ 170-~~13~~16 Permitted uses.**

**[Amended 5-2-2006 by L.L. No. 3-2006]**

~~A. A. In Residence District R-2, the following uses are permitted:~~

~~(1) One family dwelling, two family dwelling.~~

~~(2) Multifamily dwelling.~~

~~(3) Professional residence office.~~

~~(4) Boardinghouse, tourist home.~~

~~(5) Religious institution.~~

~~(6) School.~~

~~(7) Community center.~~

~~(8) Public outdoor recreation.~~

~~(9) Cemetery.~~

~~(10) Accessory uses.~~ A. Please refer to Chapter 170, Article IV, Section **170-8** (Schedule of Permitted Land Uses). The residential districts within the Village are hierarchical, that is, any use permitted in R-1 is also permitted in R-2 and R-3 and any use in R-2 is permitted in R-3, but not R-1. R-3 uses are only permitted in R-3.

~~(11) B. Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the R-2 Residence District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In an R-2 Residence District, adult entertainment shall not be a permitted use.~~

~~Other uses upon the finding of the Planning Board that such use is of the same general character as those permitted or which will not be detrimental to the other uses within the district or the adjoining land uses and after issuance of a special permit by the Zoning Board of Appeals. NOTE: In a Residence District R-2, adult entertainment shall not be a permitted use.~~

B.C. Conversions to a multifamily use upon the issuance of a special permit by the Zoning Board of Appeals and provisions for adequate off-street parking on a driveway and/or parking area: Front lawn and landscape areas shall not be reduced for parking and, on a corner lot, lawns and landscape areas shall not be reduced along the street sides. Requirements set forth in §170.87 also apply.

**§ 170-14.17 Area, yard, coverage, height and supplementary regulations.**

The area, yard, coverage, height and supplementary regulations shall be as follows:

A. Residential.

Uses	Residential			
	One-Family	Two-Family	Three-Family	Multi-Family
Residential minimum gross square footage, excluding garages and cellars:				
1-story	1,000	850/unit	850/unit	850/unit
2-story	1,300			
Lot area:				
Minimum	9,375 square feet	12,500 square feet	15,000 square feet	4,000 square feet per unit
Lot frontage:				
Minimum	75 feet	100 feet	100 feet	120 feet
Lot depth:				
Minimum	125 feet	125 feet	150 feet	150 feet
Front yard:				
Minimum	25 feet	25 feet	30 feet	30 feet
Rear yard				
Minimum	30 feet	30 feet	30 feet	30 feet
Side yards:				
Minimum	10 feet	15 feet	15 feet	25 feet each
Coverage maximum	30%	30%	30%	25%
Building height:				
Maximum	3 stories or 35 feet, whichever			

	Residential			
	One—	Two—	Three—	Multi—
Uses	Family—	Family—	Family—	Family—
	is less			
Supplementary regulations	As set forth in Article <del>XIV</del> hereof			

**B. —Permitted nonresidential building uses.**

Dimension	Requirement
Lot area minimum	40,000 square feet
Lot frontage minimum	150 feet
Lot depth minimum	200 feet
Front yard minimum	50 feet
Rear yard minimum	50 feet
Side yards minimum	30 feet each
Coverage maximum	25%
Building height maximum	35 feet
Supplementary regulations	As set forth in Article <del>XIV</del> hereof

	<u>R-2</u>				
			<u>Multi-</u>	<u>Family</u>	<u>Permitted</u>
					<u>Non-</u>
					<u>Residential</u>
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Four Family</u>	<u>Uses</u>
				<u>or More</u>	
<u>Minimum</u>					
<u>Gross Square</u>					
<u>Footage</u>					
<u>Excluding</u>					
<u>Garages and</u>					
<u>Cellars:</u>					
<u>1 Story</u>		<u>850 sq. ft.</u>	<u>850 sq. ft.</u>	<u>850 sq. ft.</u>	<u>No</u>
<u>Building</u>	<u>1,000 sq. ft</u>	<u>per unit</u>	<u>per unit</u>	<u>per unit</u>	<u>Restrictions</u>

<u>1 1/2 Story Building</u>	<u>1,250 sq. ft.</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>
<u>2 Story Building</u>	<u>1,500 sq. ft.</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>
<u>Lot Area Minimum</u>	<u>10,000 sq. ft.</u>	<u>12,500 sq. ft.</u>	<u>15,000 sq. ft.</u>	<u>4,000 sq. ft./unit</u>	<u>40,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>80 ft.</u>	<u>100 ft.</u>	<u>100 ft.</u>	<u>120 ft.</u>	<u>150 ft.</u>
<u>Lot Depth Minimum</u>	<u>125 ft.</u>	<u>125 ft.</u>	<u>150 ft.</u>	<u>150 ft.</u>	<u>200 ft.</u>
<u>Front Yard Minimum</u>	<u>35 ft.</u>	<u>25 ft.</u>	<u>30 ft.</u>	<u>30 ft.</u>	<u>50 ft.</u>
<u>Rear Yard Minimum</u>	<u>30 ft.</u>	<u>30 ft.</u>	<u>30 ft.</u>	<u>30 ft.</u>	<u>30 ft.</u>
<u>Side Yard Minimum</u>	<u>10 ft.</u>	<u>15 ft.</u>	<u>15 ft.</u>	<u>25 ft. each</u>	<u>30 ft. each</u>
<u>Coverage Maximum</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>	<u>25%</u>	<u>25%</u>
<u>Building Height Maximum</u>					
<u>whichever is less:</u>	<u>3 stories or 35 ft.</u>	<u>3 stories or 35 ft.</u>	<u>3 stories or 35 ft.</u>	<u>3 stories or 35 ft.</u>	<u>35 ft.</u>
<u>Supplemental Regulations as set forth in Article XIV</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>

**§ 170-~~15-18~~ Building entrances.**

- A. Each dwelling shall have a hip or gable roof extending over the porch or landing (minimum size 48 inches by 48 inches) of each main (front) entrance or entrances; the stairs leading to the landing shall have risers and treads and be closed on any exposed side below the treads; likewise any porch or landing shall have all exposed sides enclosed from the landing down with lattice, cement blocks or other similar type materials; if railings are required they will be decorative as well as functional.
- B. The aforesaid requirements of this section may be waived by the Village Code Enforcement Officer for good cause shown.

**§ 170-~~16-19~~ Private garages and other accessory buildings for residential uses.**

- A. No detached garage or other accessory building shall be placed closer to the rear or side property line than four feet. NOTE: Front setback must be met.
- B. No detached garage or other detached accessory building shall exceed 12 feet in height to the eave.

- C. All new driveways shall be a minimum width of nine feet and shall be a hard surface or compacted crusher run stone.
- D. Grassed areas around a residence and between the curb and sidewalk shall be maintained by the property owner.

## Article VII Residence District R-3

§ 170-20 District Intent: The R-3 district currently, and in the future, exists to support the inclusion of mobile home uses within the Village as a means of providing affordable home choices.

**§ 170-~~1721~~ Permitted uses.**  
[Amended 5-2-2006 by L.L. No. 3-2006]

~~A. In Residence District R-3, the following uses are permitted:~~

- ~~(1) Any use permitted in Residence District R-2, in § 170-13, subject to all the same restrictions.~~
- ~~(2) Mobile home parks. As set forth in § 170-49.~~

~~B. NOTE: In a Residence District R-3, adult entertainment shall not be a permitted use.~~

A. Please refer to Chapter 170, Article IV, Section **170-8** (Schedule of Permitted Land Uses). The residential districts within the Village are hierarchical, that is, any use permitted in R-1 is also permitted in R-2 and R-3 and any use in R-2 is permitted in R-3, but not R-1. R-3 uses are only permitted in R-3.

B. Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the R-3 Residence District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In an R-3 Residence District, adult entertainment shall not be a permitted use.

**§ 170-22 Area, yard, coverage, height and supplementary regulations:**

	<b><u>R- 3</u></b>	
	<u>Existing</u> <u>Mobile/Manufactured</u> <u>Home Parks</u>	<u>New</u> <u>Mobile/Manufactured</u> <u>Home Parks</u>
<u>Home Units Minimum Separation:</u>		
<u>Side</u>	<u>20 ft.</u>	<u>25 ft.</u>

	<b><u>R- 3</u></b>	
	<u>Existing</u> <u>Mobile/Manufactured</u> <u>Home Parks</u>	<u>New</u> <u>Mobile/Manufactured</u> <u>Home Parks</u>
<u>Rear</u>	<u>10 ft.</u>	<u>25 ft.</u>
<u>Minimum Setback from:</u>		
<u>Pavement Edge of Private Park Street</u>	<u>No Restrictions</u>	<u>30 ft.</u>
<u>Right of Way of Public Street</u> <u>within the Park</u>	<u>No Restrictions</u>	<u>30 ft.</u>
<u>Right of Way of Public Street</u> <u>outside the Park</u>	<u>No Restrictions</u>	<u>80 ft.</u>
<u>Property Line</u>	<u>No Restrictions</u>	<u>50 ft.</u>
<u>Additional Setback Requirements for</u> <u>Park Additions:</u>		
<u>Setback from</u> <u>Residential District Line</u>	<u>250 ft.</u>	<u>250 ft.</u>
<u>Average Density</u>	<u>No Restrictions</u>	<u>Shall not exceed 7.5</u> <u>units per acre</u>
<u>Lot Area Minimum</u>	<u>No Restrictions</u>	<u>5000 sq. ft.</u>
<u>Average Width Minimum</u>	<u>No Restrictions</u>	<u>50 ft.</u>
<u>Supplemental Regulations</u> <u>as set forth in Article XIV</u>	<u>Yes</u>	<u>Yes</u>

**§ 170-23 Private garages and other accessory buildings for residential uses.**

- A. No detached garage or other accessory building shall be placed closer to the rear or side property line than four feet. NOTE: Front setback must be met.
- B. No detached garage or other detached accessory building shall exceed 12 feet in height to the eave.

**§ 170-49170-24 Mobile home parks.**

- A. Purpose. It is the purpose of this section to regulate mobile home parks, provide diversity in housing choice, as well as greater opportunities for obtaining moderate cost housing, and to encourage, stabilize and promote the development of well-planned mobile home parks. At the same time, the Village does not desire the large-scale development of such parks to the extent that such large areas of the Village become devoted to such use that single family residences would appear out of place. Accordingly, areas shall be zoned as an R-3 District only upon application for a specific proposal in accordance with the normal rezoning procedures. In reaching its decision, the Village Board shall consider the general criteria set forth in this article, the most current Comprehensive Plan for the Village and this statement of purpose. Areas proposed to be zoned R-3 shall be in an area served by water, gas, storm and sanitary



sewers. All mobile home parks commenced henceforth shall be in conformity with this article.

B. All mobile homes must abide by the NYS Residential Building Code, Appendix E.

C. Location. A mobile home will be permitted in the Village of Newark only if located in a duly authorized R-3 zoned Mobile Home Park, except where otherwise specifically authorized.

D. License for mobile home park. No person or persons, owning or occupying any land in the Village of Newark, shall use or permit the development and use of such land as a mobile home park without first obtaining a license therefore from the Village Code Enforcement Officer upon payment of a fee to be determined from time to time by resolution of the Village Board. Such licenses shall be renewable annually. Thereafter, each mobile home shall be assessed on the tax rolls of the Town of Arcadia against the mobile home park owners in accordance with § 102 of the New York State Real Property Tax Law.

E. License Application Requirements; new mobile home park.

(1) An application for an original license for the mobile home park shall be filed with the Village Code Enforcement Officer. No license for a new mobile home park shall be issued by the Village Code Enforcement Officer unless the Village Board has given written authorization in accordance with the provisions of this section.

(2) Application for mobile home park licenses shall include but not be limited to all materials as may be deemed necessary, such as:

(a) Name and address of each applicant, if an individual, or of each and every partner, if a partnership, or the name and address of the principal officers and shareholders, if a corporation.

(b) Name and address of the owner of the land upon which the mobile home park is to be located.

(c) A legal description of the property upon which the mobile home park is to be located.

(d) Site drawings of the proposed mobile home park, indicating how it is to be designed, such as to conform with the requirements of this section.

(e) The proposed method of connection to and identification of public water supply, public sewage and drainage systems to be used.

(f) Site plans and written descriptions of all buildings, streets, parking areas, recreation and open spaces and landscaping to be constructed or provided within the mobile home park.

(g) An indication of existing topography and drainage patterns, including wet or swampy areas.

- (h) A copy of all property park rules and regulations; a list of management and tenant responsibilities; a written statement of any fees to be used in connection with the use of any mobile home lot.
- (i) Such further information as the developer may feel is necessary to describe his or her intent and ability to comply with health, safety and environmental standards of this section.
- (j) An area of not less than 10 acres.
- (3) An application shall be filed with the Village Code Enforcement Officer, and such filing fee shall be consistent with adopted fee schedules.

F. Application requirements; annual license renewals.

- (1) An application for license renewal for a mobile home park shall be filed annually with the Village Code Enforcement Officer. Each mobile home shall be assessed on the tax rolls of the Town of Arcadia against the mobile home park owner(s) in accordance with § 102 of the New York State Real Property Tax Law.
- (2) Applications for mobile home park license renewals shall include the following:
  - (a) Name and address of each applicant, if an individual, or of each and every partner, if a partnership, or the name and address of the principal officers and shareholders, if a corporation.
  - (b) Name and address of the owner of the land upon which the mobile home park is located.
  - (c) A copy of all current park rules and regulations, and/or a list of current management and tenant responsibilities.
- (3) Every application for a license or renewal thereof shall be submitted along with payment of an application fee to be determined from time to time by resolution of the Village Board.

G. Regulations for temporary mobile home permits.

- (1) The Zoning Board of Appeals may issue a temporary permit for a mobile home not located in a mobile home park upon proof to such Board of special necessity. "Special necessity" shall consist of circumstance where a mobile home will serve as an interim dwelling in the event that a permanent residence has been damaged or destroyed beyond conditions of habitability.
- (2) No such interim permit shall be issued unless a showing has been made of the following:
  - (a) The mobile home shall be supplied with its own potable water from a public or private source approved by the New York State Health Department and Village of Newark.

(b) An adequate and safe sewage disposal system, approved by the New York State Health Department and the Village of Newark, shall be provided.

(c) The mobile home shall be provided with a mobile home stand or foundation capable of maintaining the mobile home in a stable position.

(d) All required setbacks shall be maintained.

(3) Any mobile home located pursuant to this section shall be removed within six months from the date of issuance of the temporary permit. A temporary permit approved pursuant to this section shall be issued by the Village Code Enforcement Officer at a fee as required by resolution from time to time by the Village Board. Extensions of three months each may be granted by the Zoning Board of Appeals.

(4) An application for a temporary permit shall be filed with the Village Clerk, and such filing fee shall be consistent with approved fees.

H. Procedures for establishing R-3 Mobile Home Park Districts. The procedure for creating an R-3 Mobile Home Park District shall be the same as the procedure for an application for rezoning under state laws and Village ordinance, except that:

(1) Prior to entertaining an application to rezone an R-3 Mobile Home Park, the Village Board shall require the applicant to obtain preliminary site plan approval from the Planning Board. For such preliminary site plan approval, the requirements of Chapter 134, Site Plan Review, of this Code shall apply.

(2) The creation of an R-3 Mobile Home Park District by the Village Board shall be conditional upon the applicant obtaining final site plan approval from the Planning Board within 180 days of the rezoning to an R-3 Mobile Home Park District.

I. Additions to mobile home parks.

(1) Rezoning required. Where rezoning of contiguous land is required to add an addition to an existing mobile home park, the procedure shall be that set forth in Subsection H of this section.

(2) No rezoning required. Additions to mobile home parks which involve adding units through increased density, or extensions of parks in districts zoned mobile home park, shall be treated as an application for subdivision approval, and applications therefor shall be made to the Village Board.

J. Site Requirements: New mobile home parks or expansion of existing mobile home parks.

(1) Natural features.

(a) Topography, groundwater level, surface drainage and soil conditions shall not be such as to create hazards to the property or to the health and safety of the occupants of the area.

(b) Soils should have sufficient bearing and stability properties to provide adequate support for mobile home installations and should be of sufficient depth to sustain lawns, trees and other vegetation.

(c) Mobile home park plans shall show existing tree masses or trees over six inches in diameter at a four-foot height, hedgerows and other notable existing natural features, such as streams or rock formations. Such natural features shall be retained as much as possible in the site plan.

(2) Layout and unit placement.

(a) Mobile home units within a park must be separated by a distance of at least 25 feet from each other.

(b) Setback. No mobile home shall be located less than 30 feet from the pavement edge of a private park street or 30 feet from the right-of-way of any public street within a mobile home park.

(c) Density. Average density in a mobile home park shall not exceed 7.5 units per acre.

(d) Minimum lot size. No lot in a mobile home park shall be less than 5,000 square feet. All lots therein shall have an average width of not less than 50 feet.

(e) No addition to any mobile home park shall be constructed within 250 feet of the line of any Residential District. A fifty-foot strip immediately adjoining said Residential District shall be maintained as a landscaped buffer area pursuant to § 170-47C. No mobile home lot, office or service building shall be closer to a public street right-of-way line than 80 feet nor closer to a property line than 50 feet.

(3) Roadways and parking.

(a) Road construction. All private mobile home park roads shall be at least 25 feet in width with paved or concrete surface and capable of providing safe passage for emergency vehicles.

(b) All dedicated park roadways shall be constructed to the Village's roadway requirements. The maximum speed limit on all park roads shall be 15 miles per hour.

(c) Parking. Two off-street parking spaces shall be provided for each mobile home site. Such spaces may be located on the individual lot or grouped in a nearby location to serve several mobile home sites.

(d) Auxiliary vehicle storage. A temporary parking or storage area for travel trailers, campers, snowmobiles and similar auxiliary vehicles shall be provided for the use of the park residents and guests. The park operator shall encourage residents and park visitors to utilize the storage areas and shall establish rules governing the parking of auxiliary vehicles.

(e) Park entrance and exit. There shall be no less than two park entrances and exits for use in ingress and egress from the mobile home park. All entrances and exits shall be kept free of snow, ice and debris at all times and maintained so as to permit unhampered use of the same by park residents and visitors.

(4) Facilities and open space.

(a) If community facilities and activities are to be included in the proposed mobile home park, the plan shall include details of these facilities.

(b) All community facilities shall be landscaped with trees, shrubs and grass and shall provide adequate parking space.

(c) Community facilities and activities shall be located and designed in a manner that will be a visual asset. The mobile home park community facilities shall be constructed of material that will be compatible with the residential character of the park.

(d) Open spaces. All mobile home parks established after the adoption of this section shall set aside not less than 5% of the gross land area for recreational use, including playgrounds for young children and/or separate areas for more passive enjoyment by adults. Such spaces shall be approved by the Planning Board as being usable for such purposes and shall be accessible to all lots in the park area.

(5) Mobile home installations.

(a) Support of the mobile home unit. Each mobile home site shall be provided with adequate support per NYS Residential Code.

(b) Patios. Each mobile home shall be provided with a patio not less than eight feet in width and 200 square feet in area. The patio shall be constructed with sufficient base material to ensure stability and surfaced with paving stones, reinforced concrete or similar material.

(c) Accessory building. One detached accessory storage building up to 144 square feet in area may be placed on an individual mobile home lot. Accessory buildings shall not be within 20 feet of the pavement edge or within four feet of any lot line within the mobile home park and shall be a minimum of 10 feet from any home or other structure.

(d) Sidewalks. Concrete sidewalks shall be constructed to each mobile home stand from a street, roadway or parking space connected to a street. Common walks shall be provided in areas where pedestrian traffic is concentrated or special hazards exist, such as at the entrance to the park, along major roads, to the office and other important facilities.

(e) Lighting. All mobile home park roads and lots and facilities shall be furnished with outside lighting to ensure the safe movement of vehicles and pedestrians at night. Such lighting shall be placed to minimize glare and approved as to type and location by the Planning Board. Electric service to such lights shall be

installed underground.

- (f) Mobile home installation. At the time of installation of the mobile home, the tires and wheels, and the hitch, if practical, shall be removed and the unit shall be securely blocked, leveled, tied down and connected to the required utility systems and support services.
- (g) Skirting. The mobile home shall be completely skirted prior to issuance of -a Certificate of Occupancy. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the mobile home.
- (h) Expansions and extensions. Expandable rooms and other extensions to a mobile home unit shall be constructed in accordance with NYS Residential Code. A building permit shall be required for all expansions and extensions. Skirting shall be required among the base of all such expansions or extensions.
- (i) Entrance steps. Entrance steps shall be installed at all doors leading to the inside of the mobile home. Such steps shall be constructed of materials intended for permanence, weather resistance and attractiveness and shall be equipped with handrails which will provide adequate support for users.

(6) Water supply, sewage and solid waste disposal.

- (a) Connection to a public water supply shall be made in accordance with required specifications.
- (b) Each mobile home park shall have a connection to a public sewage disposal system.
- (c) Plans of all sewage disposal systems shall be subject to the review and approval of all agencies having jurisdiction.
- (d) Each mobile home park shall have sufficient covered containers for refuse so as to properly take care of all garbage and rubbish, and the same shall be emptied and the contents properly disposed of by the owner or operator of the park. If group solid waste storage areas are provided for park occupants, they shall be enclosed or otherwise screened from public view and shall be rodent- and animal-proof. Such group solid waste storage areas shall not be located more than 500 feet from any mobile home site which they are to serve, nor within 100 feet of any exterior park property line.

(7) Utilities, services and fuel systems.

- (a) In any mobile home park constructed after the date of the adoption of this section, all electrical distribution service, telephone and cable television lines shall be installed underground.
- (b) Every mobile home park occupant shall provide for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with the

applicable codes and regulations governing such systems.

- (c) Every mobile home park occupant shall provide their own natural gas installation and fuel oil systems designed, constructed, inspected and maintained in a safe and proper manner and in compliance with all rules and regulations governing the same.

(8) Fire protection.

- (a) The mobile home park plan shall meet all requirements of the fire district wherein said park is located, and it shall comply with such rules and regulations.
- (b) Common areas of mobile home parks shall be kept free of litter, rubbish and other flammable materials by the park operator. Each lot shall be kept free of litter, rubbish and other flammable materials by the lot occupant.
- (c) Each park operator shall include, as a requirement of the rules and regulations of his or her park, a requirement that all mobile homes thereon shall be equipped with the proper number of smoke detection devices and carbon monoxide detectors as per NYS Fire Code.

K. Existing mobile home park site requirements.

- (1) Applicability. This section shall apply only to mobile home parks to which a license has been issued prior to the date of the adoption of this article, and provided that said license is in effect on said date.

(2) Layout and unit placement.

- (a) Setback requirements. Mobile home units within a park must be separated by a distance of not less than 20 feet from each other on both sides, and not less than 10 feet from each other on the rear side. There shall be a ten-foot front setback requirement pertaining to said mobile home units. No new or used mobile homes shall be moved onto any lot in any mobile home park after the adoption of this section, unless it shall comply with the aforesaid setback requirements. Said requirements shall not, however, impair or effect present and existing setbacks on mobile home units presently on any lot in any mobile home park as of the date of the adoption hereof.
- (b) No addition to any mobile home park shall be constructed within 250 feet of the line of any other Residential District, which area, a fifty-foot strip immediately adjoining said Residential District, shall be maintained as a landscaped buffer.

(3) Roadways.

- (a) Road construction. All newly constructed park roads shall be hard-surfaced roads not less than 25 feet in width.
- (b) All park roadways shall be graded, leveled and surfaced as to permit the safe passage of emergency and other vehicles. The maximum speed limit on said

roads shall be posted for 15 miles per hour.

- (c) Maintenance of roadways. All private roadways within mobile home parks, and all entrances and exits within said parks, shall be kept free of snow, ice and debris and maintained so as to permit unhampered use of the same by park residents, visitors and emergency vehicles.

(4) Mobile home installation.

- (a) Support of the mobile home unit. Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home. Such stand shall have a dimension approximating the width and length of the home and any extensions or expansions thereto.
- (b) Accessory buildings. No accessory building may be erected on any lot unless such structure conforms in all particulars with the requirements of this chapter and other appropriate codes, as they may be amended from time to time. No more than one utility building shall be allowed on any one lot, and such building shall not exceed a total of 144 square feet of ground area. An accessory building shall not be within 20 feet of the pavement edge, or within four feet of any lot line, and a minimum of 10 feet from any other home or structure in the mobile home park.
- (c) Lighting. All mobile home park roads and facilities shall be furnished with outside lighting to ensure the safe movement of vehicles and pedestrians at night. The minimum requirements for such shall be a streetlight at the end of any street or private roadway, and at the intersection of each street or roadway, which shall be lighted from a period 30 minutes after sunset to 30 minutes before sunrise each day.
- (d) Mobile home installation. At the time of the installation of the mobile home, the unit shall be securely blocked and leveled and connected with existing utility systems and support services.
- (e) Skirting. The mobile home shall be completely skirted prior to issuance of Certificate of Occupancy.
- (f) Expansions and extensions. Expandable rooms and other extensions to a mobile home unit shall comply with applicable federal and state codes relating thereto.
- (g) Entrance steps. All mobile home units shall have at least one approved set of steps including a platform and handrail. Residents at the time of adoption of this section shall have one year from the time of adoption to comply with this requirement.

(5) Water supply, sewage and solid waste disposal.

- (a) Each new unit moved onto any lot in a mobile home park shall be hooked up to the existing sanitary sewer system and the public water supply, and such hookup shall be inspected by the Code Enforcement Officer, and the appropriate fee paid



for said inspections, as may be established from time to time by the Village Board.

- (b) All refuse, garbage and solid waste shall be stored in covered refuse containers. Said containers shall be emptied and the contents properly disposed of by the owner or operator of the mobile home park.
- (c) Each mobile home unit shall have a water connection to a public water supply system.
- (6) Fuel systems. Every mobile home park occupant shall provide for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.
- (7) Fire protection.
  - (a) Common areas of mobile home parks shall be kept free of litter, rubbish and other flammable materials by the park operator. Each lot shall be kept free of litter, rubbish and other flammable materials by the lot occupant.
  - (b) Each mobile home unit shall be equipped with the proper number of smoke detection devices and carbon monoxide detectors as per NYS Fire Code.

L. Park operation and maintenance.

- (1) Responsibilities of park operator.
  - (a) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this section and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.
  - (b) The park operator shall post a copy of this section at the manager's office and provide each park occupant with a copy of the same upon request.
  - (c) The park operator shall inspect the placement of each mobile home on its mobile home stand.
  - (d) The park operator shall maintain a register containing the names of all occupants and the make, year, seal and serial number, if any, of each mobile home. Such register shall be available to any person designated under Subsection M of this section.
  - (e) The park operator shall notify the Code Enforcement Officer at least five days prior to when a mobile home is removed, placed or relocated in a mobile home park and a building/demolition permit must be obtained.
  - (f) The holder of every license pursuant to the provisions of this section shall file with the Village's Assessor and Code Enforcement Officer, as required, a duly verified record of all mobile homes located within said park on such date as

established by the Assessor for the tentative tax date, together with the date such vehicle/mobile home first was permitted to park therein and with the make, model, year and size of each of said vehicles/mobile homes.

(2) Responsibilities of park occupants.

- (a) The park occupant shall be responsible for the maintenance of his or her mobile home, and any appurtenances thereto, and shall keep all yard space on his or her site in a neat and sanitary condition.
- (b) It shall be the responsibility of each mobile home occupant to keep his or her site free of litter, rubbish, unused and unlicensed vehicles and equipment or parts thereof.
- (c) Depending on the rules of the individual park, the park operator may provide all required maintenance, including common areas as well as individual mobile homes and mobile home sites.

M. Enforcement; right of entry.

- (1) This section shall be enforced by the Code Enforcement Officer of the Village of Newark, as may from time to time be necessary to ensure conformance with the provisions of this section.
- (2) Said official shall be authorized and have the right in the performance of his or her duties hereunder to enter any mobile home park and make such inspections as are necessary to determine compliance with this section. Such entrance and inspection shall be accomplished at reasonable times after prior notice to the park operator and, in emergencies, whenever necessary to protect the public health, safety and welfare. Owners, agents or operators of a mobile home park shall be responsible for providing access to all parts of the premises within their control to the Code Enforcement Officer or to his or her inspectors acting in accordance with the provisions of this section.

N. Duties of the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to make necessary inspections and to investigate all complaints made under this section and to request the Village Attorney to take appropriate legal action of all violations of this section.

O. Preexisting nonconforming uses. Nothing in this section shall impair or effect the lawful use of property in any mobile home park which existed as of the date of adoption of this section or make illegal such use provided that such use was in existence as of the date of the adoption hereof and further provided that such use is uninterrupted and continuous hereafter.

Article VIII  
**Neighborhood Business District B-1**

**§ 170-25 District Intent:** The intent of this new district will be to provide a large area of contiguous land to support the continued operation of the hospital and to provide for areas of growth and expansion of the hospital and other associated medical and health related uses.

**§ 170-~~18~~26 Permitted uses.**

**[Amended 5-2-2006 by L.L. No. 3-2006]**

~~A. In Neighborhood Business District B-1, the following uses are permitted:~~

- ~~(1) Business office.~~
- ~~(2) Religious institution.~~
- ~~(3) Community center.~~
- ~~(4) Public outdoor recreation.~~
- ~~(5) Private club.~~
- ~~(6) Grocery and food store.~~
- ~~(7) Drugstore, soda fountain.~~
- ~~(8) Barbershop, beauty parlor.~~
- ~~(9) Laundry, dry cleaner, shoe repair.~~
- ~~(10) Hardware store.~~
- ~~(11) Liquor store.~~
- ~~(12) Commercially operated schools.~~
- ~~(13) Accessory uses.~~
- ~~(14) Commercial parking lot.~~

~~Note: In a Neighborhood Business District B-1, adult entertainment shall not be a permitted use.~~

~~B. The following uses are permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:~~

- ~~(1) Other neighborhood retail business uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses, except that no drive-in business shall be permitted.~~

A. Please refer to Chapter 170, Article IV, Section **170-8** (Schedule of Permitted Land Uses).

B. Other uses not specifically listed in § **170-8** Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the B-1 Medical Campus District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In a B-1 Medical Campus District, adult entertainment shall not be a permitted use.

**§ 170-19-27 Area, yard, coverage, height and supplementary regulations.**  
Area, yard, coverage, height and supplementary regulations shall be as follows:

Dimension	Requirement
Lot area minimum	20,000 square feet
Lot frontage minimum	100 feet
Lot depth minimum	150 feet
Front yard minimum	30 feet
Rear yard minimum	20 feet, or 50 feet if abutting zoning districts R-1, R-2, R-3
Side yards minimum	20 feet, or 30 feet if abutting zoning districts R-1, R-2, R-3
Coverage maximum	40%
Building height maximum	35 feet
Supplementary regulations	As set forth in Article <b>XIV</b> hereof

	<b><u>B-1</u></b>
<u>Lot Area Minimum</u>	<u>20,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>100 ft.</u>
<u>Lot Depth Minimum</u>	<u>150 ft.</u>
<u>Front Yard Minimum</u>	<u>30 ft.</u>
<u>Rear Yard Minimum</u>	<u>-</u>
<u>If abutting R-1,R-2,R-3:</u>	<u>50 ft.</u>
<u>Otherwise:</u>	<u>20 ft.</u>

	-
<u>Side Yard Minimum</u>	-
<u>If abutting R-1,R-2,R-3:</u>	<u>30 ft.</u>
<u>Otherwise:</u>	<u>20 ft.</u>
	-
<u>Coverage Maximum</u>	<u>40%</u>
	-
<u>Building Height Maximum</u>	
<u>whichever is less:</u>	<u>No restriction</u>
	-
<u>Location of Driveways:</u>	<u>Minimum 100 ft. from intersection</u>
	-
<u>Supplementary Regulations</u>	
<u>as set forth in Article XIV</u>	<u>Yes</u>

## Article IX

### General Business District B-2

§ 170-28 District Intent: The purpose of this district is to support existing businesses and commercial uses at various locations throughout the Village. The significant number of uses is intended to be comprehensive and signal flexibility for development and redevelopment projects.

**§ 170-~~2920~~ Permitted uses.**

**[Amended 5-2-2006 by L.L. No. 3-2006]**

~~A. In General Business District B-2, the following uses are permitted:~~

~~(1) Community center.~~

~~(2) Private club, except that this use does not include adult uses or adult business.~~

~~(3) Bank.~~

- ~~(4) Business office, except that this use does not include adult uses or adult business.~~
- ~~(5) Indoor places of public assembly, entertainment and recreation, except that these do not include adult uses or adult business.~~
- ~~(6) Hotel, except that this use does not include adult uses or adult business.~~
- ~~(7) Any retail business concerned primarily with the sale of new produce, products, goods and equipment, except a gasoline service station. These uses do not include adult uses or adult business.~~
- ~~(8) Any retail service, except that this does not include adult uses or adult business.~~
- ~~(9) Any personal service, except that this does not include adult uses or adult business.~~
- ~~(10) Mortuary.~~
- ~~(11) Commercially operated schools.~~
- ~~(12) Commercial parking lot.~~
- ~~(13) Accessory uses incidental to the permitted uses, except that this does not include adult uses or adult business.~~
- ~~(14) Restaurants, bars and food stands, except that these do not include adult uses or adult businesses.~~
- ~~B. The following uses are permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:~~
  - ~~(1) Other general business uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.~~

A. Please refer to Chapter 170, Article IV, Section **170-8** (Schedule of Permitted Land Uses).

B. Other uses not specifically listed in § **170-8** Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the B-2 General Business District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In a B-2 General Business District, adult entertainment shall not be a permitted use.

**§ 170-21-30 Yard, coverage and supplementary regulations.**

Yard, coverage and supplementary regulations shall be as follows:

**Dimension**

**Requirement**

<del>Rear yard minimum</del>	<del>30 feet, abutting a residential zoning district</del>
<del>Side yards minimum</del>	<del>20 feet, abutting a residential zoning district</del>
<del>Coverage maximum</del>	<del>75%</del>
<del>Supplementary regulations</del>	<del>As set forth in Article XIV hereof</del>

	<u>B-2</u>
	-
<u>Lot Area Minimum</u>	<u>No restrictions</u>
<u>Lot Frontage Minimum</u>	<u>No restrictions</u>
<u>Lot Depth Minimum</u>	<u>No restrictions</u>
<u>Front Yard Minimum</u>	<u>No restrictions</u>
-	-
<u>Rear Yard Minimum</u>	-
<u>If abutting R-1,R-2,R-3:</u>	<u>30 ft.</u>
<u>Otherwise:</u>	<u>No restrictions</u>
-	-
<u>Side Yard Minimum</u>	-
<u>If abutting R-1,R-2,R-3:</u>	<u>20 ft.</u>
<u>Otherwise:</u>	<u>No restrictions</u>
-	-
<u>Coverage Maximum</u>	<u>75%</u>
-	-
<u>Building Height Maximum</u>	-
<u>whichever is less:</u>	<u>No restrictions</u>
-	-
<u>Location of Driveways:</u>	<u>Minimum 100 ft. from intersection</u> <u>and minimum 100 ft. apart</u>
-	-
-	-
<u>Supplementary Regulations</u>	-
<u>as set forth in Article XIV</u>	<u>Yes</u>

~~§170-40.7~~**170-31 Procedure.**

Any new building proposed within the B-2 General Business District must file a site plan application with the Planning Department. Requirements for existing building renovations are outlined in the existing buildings section of this Code.

~~§ 170-40.8~~**170-32 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **CORNICE**

Any molded projection which finishes or crowns the part to which it is attached.

#### **CUT-OFF FIXTURES**

Units which have no direct up-light, help eliminate glare, and are more efficient by directing all lighting down to the intended area only.

#### **DECIDUOUS TREES**

Trees that lose their leaves seasonally.

#### **FALSE FRONT**

A front wall which extends upward beyond the sidewall to create a more imposing facade.

#### **LIGHT TRESPASS**

Troublesome light entering areas or premises outside the boundary of the premises to be illuminated.

#### **PILASTER**

A column projecting from a wall.

#### **PLANTING AREA**

The strip of land adjacent to any parking area that contains landscaping, natural vegetation, or a combination thereof for the purpose of screening and beautifying the parking area.

#### **SIDEWALK**

A pedestrian pathway within the public right-of-way.

#### **SIGHT TRIANGLE**

The area of visibility required on a corner to allow for the safe operation of vehicles, pedestrians and cyclists in the proximity of intersection streets, sidewalks and bicycle paths.

#### **WALKWAY**

A pedestrian pathway that is on private property.

#### **§ 170-49170-33 B-2 design principles.**

- A. Mixed-use buildings should be encouraged.
- B. Improve access to/visibility of the Erie Canal.
- C. Improve pedestrian access, scale, safety and streetscapes.



D. Focus on urban design, creating a uniformity of building design, signage, lighting and landscaping throughout the Village.

E. Parking should be encouraged to rear and side lots with landscaping as a buffer to soften edges. Curb cuts should be limited.

**§ 170-40.10170-34 Building design standards.**

A. Size and scale.

- (1) Avoid sharp contrasts in scale between adjacent buildings in terms of height, width and mass.
- (2) Structures are preferred at a minimum height of two stories. Other building heights can be approved by the Planning Board with consideration given to:
  - (a) Height of adjacent buildings.
  - (b) Vistas and views.
- (3) On buildings that front both the Erie Canal and West/East Union, it is encouraged that an historic canal-style building be designed. This type of building would allow for a minimum of two stories fronting along West/East Union.
- (4) New storefronts should respect the typical width of a Village storefront of 25 feet to 35 feet wide. Where a new storefront is intended to be wider than this, it should incorporate vertical architectural elements such as bays, columns, pilasters, piers, etc. to break up the mass.

B. Facade.

- (1) All building facades are encouraged to use at least two of the following techniques that create horizontal and vertical breaks, such as, but not limited to:
  - (a) A vertical architectural element (column, pilaster, etc.).
  - (b) Building recesses, offsets or projections.
  - (c) Texture and/or material changes.
  - (d) Architectural banding.
  - (e) Variation in roof line.
  - (f) Contrasting window frame or shutters.
  - (g) Awnings.
  - (h) Canopies.

- (i) Display windows.
- (j) Other architectural details such as tile work and molding.
- (2) Architectural detail should be incorporated into the ground floor in order to create an easily identifiable entrance.
- (3) The front facade shall face a street, small park, plaza, or landscaped walkway that is visible and directly accessible from the street.
- (4) When a building shares frontage on the Erie Canal and East Union/West Union Street, it must provide an entrance at both locations, where practical. The East Union/West Union facade shall be considered the primary facade and the Erie Canal facade as the secondary facade in terms of level of architectural detailing.
- (5) For all buildings above two stories, the ground floor shall be architecturally distinguished from the upper facade with a cornice, canopy, balcony, architectural banding, or some other architectural element.

#### C. Windows/Transparency

- (1) The front façade at ground level and any façade facing a public street or the Erie Canal shall be transparent, meaning a person must be able to see 5 ft. into the building. At the discretion of the Planning Board, other types of glazing such as stained glass windows may be approved. Dark or reflective glass at the storefront is to be avoided.

#### D. Roofs.

- (1) For multi-story buildings it is acceptable to use a false front roof or architectural parapet, particularly to provide screening for mechanical units, or to create variation in the streetscape.
- (2) Roof design should be functional and in scale with the surrounding buildings.
- (3) Rooflines shall be consistent with the building style.
- (4) Flat roofs shall have an articulated cornice, which projects horizontally from the top of the building or a decorative false front.
- (5) Architectural embellishments that are consistent with the building style are encouraged, such as dormers, masonry chimneys, clock towers, cupolas, etc.
- (6) Roofs should not make up more than 25% of the visible facade area of the building.

#### E. Materials.

- (1) Natural materials such as brick, stone, wood and stucco are required as the primary facade material and all sides visible from the street or canal. The Planning Board may approve other materials if they maintain the goals of the district. Engineered

products such as T-111, oriented strand board (OSB), plywood and similar products are not permitted.

- (2) Exterior materials should be durable and of high quality. On facades that are easily visible from the street(s) or the Erie Canal, synthetic materials that mimic natural materials (such as vinyl siding, dryvit or concrete block) are not appropriate.

F. Utilities/loading areas.

- (1) Mechanical equipment should be located at the rear of buildings or on the roof and be properly screened (e.g., with a parapet).
- (2) On a building that fronts on both the Erie Canal and West/East Union it is preferred (where practical) that dumpsters be located, if possible, between the buildings. These facilities should be properly screened using landscaping or fencing. The final location of loading areas and dumpsters will be decided by the Planning Board.

G. Residential Units on Mixed Use Property within the B-2 General Business District:

A. For a one (1)- bedroom or a studio apartment: Dwelling units must be at least 600 sq. ft., however, one apartment or up to 5 % of the total number of apartments may be under 600 sq. ft. but not less than 400 sq. ft. Any uneven percentage calculation should be rounded up to the nearest whole number above.

B. For a two (2) bedroom: Dwelling units must be at least 750 sq. ft.

## Article X Highway Business District B-3

§ 170-35 District Intent: The B-3 District is intended to support the development of larger-scale businesses and commercial uses, typically those that are auto-dependent. These uses typically need larger parcels of land to accommodate larger building footprints and parking areas.

**§ 170-~~22~~36 Permitted uses.**

**[Amended 5-2-2006 by L.L. No. 3-2006]**

~~A. In Highway Business District B-3, the following uses are permitted:~~

- ~~(1) Community center.~~
- ~~(2) Private club, except that this use does not include adult uses or adult business.~~
- ~~(3) Bank.~~
- ~~(4) Business offices, except that these uses do not include adult uses or adult business.~~

**Commented [1]:** Editor's Note: Former Article IX(A), General Business District B-2(A), which immediately preceded this article, was deleted 4-21-1998 by L.L. No. 1-1998.

~~(5) Places of public assembly, entertainment and recreation, except that drive-in theaters are permitted only by special permit and except that these uses do not include adult uses or adult business.~~

~~(6) Hotel, except that these uses do not include adult uses or adult business.~~

~~(7) Motel, except that these uses do not include adult uses or adult business.~~

~~(8) Any business concerned primarily with the sale of new produce, products, goods and equipment, except that these uses do not include adult uses or adult business.~~

~~(9) Any retail or wholesale distribution service, except that these uses do not include adult uses or adult business.~~

~~(10) Any personal service, except that this use does not include adult uses or adult business.~~

~~(11) Mortuary.~~

~~(12) Animal hospital, veterinary clinic, provided that any structures for the housing of animals shall be at least 200 feet from any Zoning District R-1, R-2, R-3.~~

~~(13) Automobile, mobile home, trailer, farm implement and contractor's equipment sales, service, repair, rental.~~

~~(14) Freight or trucking terminals.~~

~~(15) Commercial parking lot.~~

~~(16) Enclosed accessory uses incidental to the permitted uses, except that these uses do not include adult uses or adult business.~~

~~(17) Restaurants, bars and food stands, except that these uses do not include adult uses or business.~~

~~B. The following uses are permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:~~

~~(1) Car wash.~~

~~(2) Gasoline service station.~~

~~(3) Drive-in theater, except that these uses do not include adult uses or adult business.~~

~~(4) Other highway business uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.~~

A. Please refer to Chapter 170, Article IV, Section 170-8 (Schedule of Permitted Land Uses).

B. Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the B-3 Highway Business District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In a B-3 Highway Business District, adult entertainment shall not be a permitted use.

**§ 170-~~23-37~~ Area, yard, coverage, height and supplementary regulations.**

<b><u>Dimension</u></b>	<b><u>Requirement</u></b>
<u>Lot area minimum</u>	<u>50,000 square feet</u>
<u>Lot frontage minimum</u>	<u>200 feet</u>
<u>Lot depth minimum</u>	<u>250 feet</u>
<u>Front yard minimum</u>	<u>80 feet</u>
<u>Side yards minimum</u>	<u>20 feet each</u>
<u>Coverage maximum</u>	<u>30%</u>
<u>Building height limit</u>	<u>35 feet</u>
<u>Supplementary regulations</u>	<u>As set forth in Article <del>XIV</del> hereof</u>

	<b><u>B-3</u></b>
<u>Lot Area Minimum</u>	<u>50,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>200 ft.</u>
<u>Lot Depth Minimum</u>	<u>250 ft.</u>
<u>Front Yard Minimum</u>	<u>80 ft.</u>
<u>Rear Yard Minimum</u>	<u>-</u>
<u>If abutting R-1,R-2,R-3:</u>	<u>40 ft.</u>
<u>Otherwise:</u>	<u>30 ft.</u>
<u>Side Yard Minimum</u>	<u>-</u>
<u>If abutting R-1,R-2,R-3:</u>	<u>30 ft.</u>
<u>Otherwise:</u>	<u>20 ft.</u>
<u>Coverage Maximum</u>	<u>30%</u>

	<b><u>B-3</u></b>
<u>Building Height Maximum</u>	-
<u>whichever is less:</u>	<u>3 stories or 35 ft.</u>
-	-
<u>Supplementary Regulations</u>	-
<u>as set forth in Article XIV</u>	<u>Yes</u>

**§ 170-24-38 Entrances and exits onto public highways.**

- A. -There shall not be more than one entrance and one exit per establishment upon any public highway, and the distance between the entrance and exit, if separated, shall not be less than 100 feet.
- B. No entrance or exit shall be closer than 150 feet to an intersection of two public highways.

**Article XI**  
**Light Industrial I-1**

**§ 170-25 Permitted uses-**

**[Amended 5-2-2006 by L.L. No. 3-2006]**

**A. In Light Industrial District I-1, the following uses are permitted:-**

- (1) Enclosed manufacturing industries-**
- (2) Enclosed warehouse-**
- (3) Public utility-**
- (4) Gasoline station-**
- (5) Enclosed service and repair-**
- (6) Machinery and transportation equipment sales and service-**
- (7) Enclosed industrial process and service-**
- (8) Freight or trucking terminal-**
- (9) Business office-**
- (10) Public garage-**
- (11) Parking-**
- (12) Enclosed accessory building uses. NOTE: In a Light Industrial District I-1, adult-**

~~entertainment shall not be a permitted use.~~

~~B. The following use is permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:~~

~~(1) Other light industrial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.~~

~~§ 170-26 Area, yard, coverage, height and supplementary regulations.~~

~~Area, yard, coverage, height and supplementary regulations shall be as follows:~~

<del>Dimension</del>	<del>Requirement</del>
<del>District area minimum</del>	<del>100 acres</del>
<del>Lot area minimum</del>	<del>15,000 square feet</del>
<del>Lot frontage minimum</del>	<del>100 feet</del>
<del>Lot depth minimum</del>	<del>150 feet</del>
<del>Front yard minimum</del>	<del>40 feet</del>
<del>Rear yard minimum</del>	<del>25 feet, or 100 feet abutting residential uses or districts</del>
<del>Side yard minimum</del>	<del>25 feet, or 100 feet abutting residential uses or districts</del>
<del>Coverage maximum</del>	<del>40%</del>
<del>Building height maximum</del>	<del>2 stories or 50 feet, whichever is less</del>
<del>Location of driveways</del>	<del>At least 100 feet from street intersection, at least 100 feet apart</del>
<del>Supplementary regulations</del>	<del>As set forth in Article XIV hereof</del>

Article XI

**Heavy Industrial I-2**

§ 170-39 District Intent: The Heavy Industrial District is intended to permit the most intensive uses within the Village and in the case of the Village of Newark, allow for the continued uses of existing intense uses such as manufacturing.

**§ 170-~~27~~40 Permitted uses.**

**[Amended 9-29-1998 by L.L. No. 7-1998; 5-2-2006 by L.L. No. 3-2006]**

~~A. In Heavy Industrial District I-2, the following uses are permitted:~~

~~(1) Any use permitted in Light Industrial Districts under § 170-25.~~

~~(2) Manufacturing industries.~~

~~(3) Contractor's yard.~~

~~(4) Railroad yard, siding and repair.~~

~~(5) Warehouse.~~

~~(6) Wholesale use.~~

~~(7) Automobile service and repair.~~

~~(8) Machinery and transportation sales, service and repair.~~

~~(9) Accessory uses.~~

~~(10) Adult entertainment.~~

~~B. The following uses are permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:~~

~~(1) Other industrial uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses.~~

A. Please refer to Chapter 170, Article IV, Section 170-8 (Schedule of Permitted Land Uses).

B. Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the I-2 Heavy Industrial District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved.

**§ 170-~~28~~41 Area, yard, coverage, height and supplementary regulations.**

Area, yard, coverage, height and supplementary regulations shall be as follows:

**Dimension**

**Requirement**



Dimension	Requirement
District area minimum	100 acres
Lot area minimum	20,000 square feet
Lot frontage minimum	100 feet
Lot depth minimum	200 feet
Front yard minimum	40 feet
Rear yard minimum	25 feet, or 100 feet abutting residential uses or districts
Side yard minimum	25 feet, or 100 feet abutting residential uses or districts
Coverage maximum	40%
Building height maximum	2 stories or 50 feet, whichever is less
Location of driveways	At least 100 feet from street intersection, at least 100 feet apart
Supplementary regulations	As set forth in Article <del>XIV</del> hereof

	<u>I-2</u>
<u>Lot Area Minimum</u>	<u>50,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>200 ft.</u>
<u>Lot Depth Minimum</u>	<u>250 ft.</u>
<u>Front Yard Minimum</u>	<u>80 ft.</u>
-	-
<u>Rear Yard Minimum</u>	-
<u>If abutting R-1,R-2,R-3:</u>	<u>100 ft.</u>
<u>Otherwise:</u>	<u>25 ft.</u>
-	-
<u>Side Yard Minimum</u>	-
<u>If abutting R-1,R-2,R-3:</u>	<u>100 ft.</u>
<u>Otherwise:</u>	<u>25 ft.</u>
-	-
<u>Coverage Maximum</u>	<u>40%</u>
-	-

	<u>I-2</u>
<u>Building Height Maximum</u>	-
<u>whichever is less:</u>	<u>2 stories or 50 ft.</u>
<u>Location of Driveways:</u>	-
<u>Minimum 100 ft. from</u>	-
<u>intersection</u>	<u>Yes</u>
<u>and minimum 100 ft. apart</u>	<u>Yes</u>
<u>Supplementary Regulations</u>	-
<u>as set forth in Article XIV</u>	<u>Yes</u>

## Article XII

### Planned Unit Development District

#### **§ 170-29 Purpose**~~42 District Intent.~~

Provisions ~~is~~ are included for Planned Unit Development Districts to permit establishment of areas in which diverse uses may be brought together as a compatible and unified plan of development, which shall be in the interest of the general welfare of the public. In order to offer flexibility within the PUD district, properties within this district can be developed as PUD-Residential (PUD-R) or PUD-Business (PUD-B). The intent is that in the event the properties in the PUD district are sold in the future, the development potential is flexible and offers redevelopment and reuse potential. Development approvals for either PUD-R or PUD-B will be based on a consideration of adjacent land uses and the appropriateness of the proposed use within the context of surrounding uses. In Planned Unit Development Districts, land and structures may be used for any lawful purpose in accordance with the provisions set forth herein.

#### **§ 170-30-43 Procedure for changing district or undertaking development.**

The procedure for obtaining a change in zoning district or undertaking development within a Planned Unit Development District shall be as follows:

A. Application Fee. The filing of a Planning Board or Zoning Board of Appeals application shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.

B. Number of copies. For each submission, Conceptual, Preliminary, and Final, 14 copies of the application package shall be presented to the Code Enforcement Officer by the predetermined application deadline, approximately one month before the Village Planning Board meeting. If the application also includes variances, then an additional 6 copies are required. Electronic versions of the site plans shall also be submitted (PDF, GIS Shapefile and Auto CAD).

C. ~~470-100~~Performance bond. In the case of a change in zoning district petition filed with

respect to a Planned Unit Development District, such change in zoning district shall not become effective until the petitioner has filed a performance bond. In an amount set by the Village Board and under such conditions as the Planning Board may deem to be in the best interests of the public, the petitioner shall file with the Village Clerk either a certified check or performance bond cost so as to ensure that the proposed development of the area to be rezoned will be built in full compliance with the provisions of the accepted development plan. Any such bond shall be satisfactory to the Village Board, the Village Attorney and the Department of Public Works Superintendent as to form, sufficiency, manner of execution and surety. A period determined appropriate by the Village Board shall be set forth in the bond within which required improvements must be completed.

~~A. The owner of the land shall apply in writing and shall submit two copies of a preliminary development plan and any other supplementary material as described in § 170-30.~~

DB. —Conceptual Development Plan: If desired, the applicant may submit a conceptual plan before a preliminary development plan.

(1) The Planning Board shall discuss the proposed application and shall review the preliminary-conceptual development plan with the owner at a meeting of the Planning Board. The Planning Board shall prepare general recommendations with regard to the preliminary-conceptual development plan and, if applicable, the proposed change in district.

(C2)- The Planning Board shall send a copy of its recommendations to the owner. The applicant will receive the Planning Board minutes indicating its-the Planning Board's approval in principle, or its disapproval. If the preliminary-conceptual development plan is approved in principle, the Planning Board shall state any specific changes it will require and authorize the owner to submit a formal application and development plan.

~~**D. The owner shall submit three copies of an application for a change in district and three copies of a development plan, and any other supplementary material as described in § 170-31. E. Preliminary Development Plan.**~~

The owner shall submit a preliminary development plan to the Planning Board for review, which shall include the following information:

- (1) Proposed site plan, showing building locations and land-use areas.
- (2) Proposed traffic circulation, parking areas and pedestrian walks.
- (3) Proposed landscaping layout.
- (4) Proposed construction sequence for buildings, parking spaces and landscaped areas.
- (5) The Planning Board shall discuss the development plan with the owner at a public meeting.

~~E. The Planning Board shall discuss the development plan with the owner at a public meeting. The Planning Board will submit its findings as required by § 170-32.~~

**F. Final Development Plan.**

- (1) The owner shall submit a development plan to the Planning Board for review, including the request for a change of district classification. The development plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner and shall include the following information presented in drawn form and which may be accompanied by a written text:
  - (a) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights-of-way and land use.
  - (b) Site plan showing proposed building locations and land-use areas.
  - (c) Traffic circulation, parking areas and pedestrian walks.
  - (d) Landscaping plans, including site grading and landscape design.
  - (e) Preliminary drawings for buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.
  - (f) Preliminary engineering plans, including street improvements, drainage system and public utility extensions.
  - (g) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development as required by the Planning Board.
  - (h) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
- (2) This development plan shall be in general conformance with the approved preliminary development plan. Planned development approval shall be secured by the owner for each phase of the development.

**G. Planned Unit Development Zoning Classification**

- ~~(1)F.~~ After receipt of the Planning Board's recommendations, public notice shall be given and a public hearing held by the Village Board on the proposed change of district, as provided by law in the case of an amendment to the Zoning chapter.
- ~~(G2)-~~ After the public hearing ~~the~~ this chapter may be amended so as to define the boundaries of the Planned Unit Development District, but such action shall have the effect only of granting permission for development of the specific proposal, in accordance with this chapter within the area so designated, with the development plan submitted. If the change of the district and development plan is approved, an appropriate notation to that effect will be made on the face of the three copies of the development plan. One copy will be retained by the Clerk, one copy will be ~~given~~

placed into the Planning Board files and one copy will be returned to the owner.

(3) Prior to commencement of construction, final site plan approval is also required.

~~H. When the owner desires to proceed with the next phase of the development plan, approval shall be obtained as described in § 170-31.~~

~~§ 170-31 First submission of preliminary development plan.~~

~~The owner shall submit a preliminary development plan to the Planning Board for review, which shall include the following information presented in drawn form and which may be accompanied by a written text:~~

~~A. Proposed site plan, showing building locations and land-use areas.~~

~~B. Proposed traffic circulation, parking areas and pedestrian walks.~~

~~C. Proposed landscaping layout.~~

~~D. Proposed construction sequence for buildings, parking spaces and landscaped areas.~~

~~§ 170-32 Second submission of development plan.~~

~~A. The owner shall submit a development plan to the Planning Board for review, together with the application for a change of district classification. The development plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner and shall include the following information presented in drawn form and which may be accompanied by a written text:~~

~~(1) Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, rights-of-way and land use.~~

~~(2) Site plan showing proposed building locations and land-use areas.~~

~~(3) Traffic circulation, parking areas and pedestrian walks.~~

~~(4) Landscaping plans, including site grading and landscape design.~~

~~(5) Preliminary drawings for buildings to be constructed in the current phase, including floor plans, exterior elevations and sections.~~

~~(6) Preliminary engineering plans, including street improvements, drainage system and public utility extensions.~~

~~(7) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development as required by the Planning Board.~~

~~(8) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.~~

~~B. This development plan shall be in general conformance with the approved preliminary development plan. Planned development approval shall be secured by the owner for each phase of the development. Such approval shall be valid for two years, at which time, unless the proposed development has been completed, the development plan approval shall be considered denied.~~

**§ 170-33-44 Findings required.**

The Planning Board, after determining that all the requirements of this chapter dealing with Planned Unit Development Districts have been met, shall recommend the approval, approval with modifications or disapproval of the development plan. The Planning Board shall enter its reasons for such action in its records. The Planning Board may recommend the establishment of a Planned Unit Development District, provided that they find the facts submitted with the development plan established that:

- A. The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under any other district.
- B. Any exception from the requirements of this chapter is warranted by the design and amenities incorporated in the development plan.
- C. Land surrounding the proposed development can be planned in coordination with the proposed development and that it can be compatible in use.
- D. The proposed change to a Planned Unit Development District is in conformance with the general intent of the Comprehensive Plan.
- E. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
- F. Existing and proposed utility services are adequate for the proposed development.
- G. Each phase of the proposed development, as it is proposed to be completed, must contain the required parking spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
- H. The proposed Planned Unit Development District and all proposed buildings, parking spaces and landscape and utility areas can be completely developed within five years of the establishment of the district.

**§ 170-34-45 Planned Unit Development standards.**

- A. ~~The purpose of Planned Unit Development standards are to provide for the rezoning of land to residential, office, business, and commercial and industrial development zones. This rezoning shall be~~ in conformance with provisions and standards, which ensure compatibility among all the land uses, foster innovation in site planning and development and encourage sound development in the interest of safety and general welfare of the public.
- B. ~~The standards and guidelines for Planned Unit Development Districts are to provide the Planning Board with a means to evaluate applications for these districts consistent with the provisions and general intent of this chapter and the Comprehensive Plan.~~

C. ~~The following standards are intended to strengthen public control over development, while providing the necessary latitude for the developer to make creative and efficient use of his or her property.~~

**§ 170-~~35-46~~ Planned Unit Development, Residential PUD-R standards.**  
**[Amended 5-2-2006 by L.L. No. 3-2006]**

A. ~~Please refer to Chapter 170, Article IV, Section 170-8 (Schedule of Permitted Land Uses).~~

B. ~~Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the PUD-R Planned Unit Development, Residential District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In a PUD-R Planned Unit Development, Residential District, adult entertainment shall not be a permitted use.~~

~~In Planned Unit Development, Residential Districts PD-R, the following uses may be permitted:~~

A. ~~One family dwelling, two family dwelling.~~

B. ~~Multiple family dwelling.~~

C. ~~Housing for the elderly.~~

D. ~~Professional residence office.~~

E. ~~Religious institution.~~

F. ~~School.~~

G. ~~Community center.~~

H. ~~Membership clubhouse.~~

I. ~~Public outdoor recreation.~~

J. ~~Accessory uses.~~

K. ~~Parking.~~

L. ~~Other uses approved by the Planning Board. NOTE: In a Planned Unit Development, Residential District PD-R, adult entertainment shall not be a permitted use.~~

**§ 170-~~36-47~~ Area, yard, coverage and supplementary regulations.**

Area, yard, coverage and supplementary regulations shall be as follows:

Dimension	Requirement
District area minimum	2 acres
Width minimum	200 feet
Depth minimum	200 feet
Lot area minimum	One family dwelling 9,000 square feet; two family dwelling 12,500 square feet; multiple family dwelling average at least 4,000 square feet per dwelling unit. Nonresidential permitted uses lot area at least 2 acres
Yards required	Permitted residential uses: Front yards, rear yards and side yards for residential uses shall be designed so that no building is closer than 20 feet to any other building, and no building is closer than 30 feet to any boundary line of the district or public street. Other permitted uses: Front, side, rear yards to be at least 40 feet
Coverage maximum	20%
Supplementary regulations	As set forth in Article XIV hereof

	PUD-R				
	One Family	Two Family	Multi-Three Family	Family Four Family or More	Permitted Non-Residential Uses
District Area Minimum	2 acres	2 acres	2 acres	2 acres	2 acres
Width Minimum	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.
Depth Minimum	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.
Lot Area Minimum	9,000 sq. ft.	12,500 sq. ft.	15,000 sq. ft.	*	2 acres
Lot Frontage Minimum	No Restrictions	No Restrictions	No Restrictions	No Restrictions	No Restrictions
Lot Depth Minimum	No Restrictions	No Restrictions	No Restrictions	No Restrictions	No Restrictions
Front Yard Minimum	**	**	**	**	40 ft.
Rear Yard Minimum	**	**	**	**	40 ft.



	<b>PUD-R</b>				
	<u>One Family</u>	<u>Two Family</u>	<u>Multi- Three Family</u>	<u>Family Four Family or More</u>	<u>Permitted Non- Residential Uses</u>
<u>If abutting R-1,R-2,R-3:</u>					
<u>Otherwise:</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>
<u>Side Yard Minimum</u>	<u>**</u>	<u>**</u>	<u>**</u>	<u>**</u>	<u>40 ft.</u>
<u>If abutting R-1,R-2,R-3:</u>					
<u>Otherwise:</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>
<u>Coverage Maximum</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>	<u>30%</u>
<u>Building Height Maximum</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>	<u>No Restrictions</u>
<u>Whichever is less</u>					
<u>Location of Driveways:</u>	<u>***</u>	<u>***</u>	<u>***</u>	<u>***</u>	<u>***</u>
<u>Supplementary Regulations</u>					
<u>as set forth in Article XIV</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>

\* dwelling average minimum of 4000 sq. ft. per dwelling unit

\*\* front, rear and side yards shall be designed so that no building is closer than 20 ft. to any other building and no closer than 30 ft. to any boundary line of the district or public street

\*\*\* Minimum 100 ft. from intersection and minimum 100 ft. apart

**§ 170-~~37~~48 Planned Unit Development, Business and Commercial PUD-B standards.**  
[Amended 5-2-2006 by L.L. No. 3-2006]

In Planned Unit Development, Business Districts PUD-B, the following uses may be permitted:

A. Please refer to Chapter 170, Article IV, Section **170-8** (Schedule of Permitted Land Uses).

B. Other uses not specifically listed in § **170-8** Village of Newark Schedule of Permitted

Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the PUD-B Planned Unit Development, Business District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved. NOTE: In a PUD-B Planned Unit Development, Business District, adult entertainment shall not be a permitted use.

~~A. Retail stores.~~

~~B. Business offices.~~

~~C. Hotels, motels.~~

~~D. Religious institutions.~~

~~E. Community centers.~~

~~F. Indoor recreation.~~

~~G. Personal services.~~

~~H. Enclosed accessory uses.~~

~~I. Parking.~~

~~J. Other uses approved by the Planning Board. NOTE: In a Planned Unit Development, Business District PD-B, adult entertainment shall not be a permitted use.~~

**§ 170-~~38~~-49 Area, yard, coverage and supplementary regulations.**

Area, yard, coverage and supplementary regulations shall be as follows:

<b>Dimension</b>	<b>Requirement</b>
<del>District area minimum</del>	<del>2 acres</del>
<del>Width minimum</del>	<del>200 feet</del>
<del>Depth minimum</del>	<del>200 feet</del>
<del>Front yard minimum</del>	<del>40 feet</del>
<del>Rear yard minimum</del>	<del>25 feet or 50 feet abutting residential uses or districts</del>
<del>Side yard minimum</del>	<del>25 feet or 50 feet abutting residential uses or districts</del>

~~Coverage maximum~~

~~20%~~

~~Supplementary regulations~~

~~As set forth in Article XIV hereof~~

	<u>PUD-B</u>
<del>-</del>	<del>-</del>
<del>District Area Minimum</del>	<del>2 acres</del>
<del>Width Minimum</del>	<del>200 ft.</del>
<del>Depth Minimum</del>	<del>200 ft.</del>
<del>Lot Area Minimum</del>	<del>35,000 sq. ft.</del>
<del>Lot Frontage Minimum</del>	<del>100 ft.</del>
<del>Lot Depth Minimum</del>	<del>150 ft.</del>
<del>Front Yard Minimum</del>	<del>40 ft.</del>
<del>-</del>	<del>-</del>
<del>Rear Yard Minimum</del>	<del>-</del>
<del>If abutting R-1,R-2,R-3:</del>	<del>50 ft.</del>
<del>Otherwise:</del>	<del>25 ft.</del>
<del>-</del>	<del>-</del>
<del>Side Yard Minimum</del>	<del>-</del>
<del>If abutting R-1,R-2,R-3:</del>	<del>50 ft.</del>
<del>Otherwise:</del>	<del>25 ft.</del>
<del>-</del>	<del>-</del>
<del>Coverage Maximum</del>	<del>40%</del>
<del>-</del>	<del>-</del>
<del>Building Height Maximum</del>	<del>-</del>
<del>whichever is less:</del>	<del>3 stories or 35 ft.</del>
<del>-</del>	<del>-</del>
<del>Location of Driveways:</del>	<del>-</del>
<del>Minimum 100 ft. from</del>	<del>-</del>
<del>intersection</del>	<del>-</del>
<del>and minimum 100 ft. apart</del>	<del>-</del>
<del>-</del>	<del>-</del>
<del>Supplementary Regulations</del>	<del>-</del>
<del>as set forth in Article XIV</del>	<del>Yes</del>

~~§ 170-39 Planned Unit Development, Industrial PD-I standards.~~  
~~[Amended 5-2-2006 by L.L. No. 3-2006]~~

~~In Planned Unit Development, Industrial Districts PD-I, the following uses may be permitted:~~

~~A. Enclosed manufacturing industries.~~

~~B. Machinery and equipment sales.~~

~~C.—Enclosed warehouse.—~~

~~D.—Enclosed wholesale uses.—~~

~~E.—Public utilities.—~~

~~F.—Gasoline station.—~~

~~G.—Enclosed service and repair.—~~

~~H.—Trucking and freight terminal.—~~

~~I.—Enclosed industrial processes and services.—~~

~~J.—Garage.—~~

~~K.—Enclosed accessory uses.—~~

~~L.—Parking.—~~

~~M.—Other uses approved by the Planning Board. NOTE: In a Planned Unit Development, Industrial District PD-I, adult entertainment shall not be a permitted use.—~~

~~§ 170-40 Area, yard, coverage and supplementary regulations.—~~

~~Area, yard, coverage and supplementary regulations shall be as follows:~~

<b>Dimension</b>	<b>Requirement</b>
District area minimum	50 acres
Lot area minimum	20,000 square feet
Lot width minimum	100 feet
Lot depth minimum	200 feet
Front yard minimum	50 feet
Rear yard minimum	25 feet or 100 feet abutting residential uses or districts
Side yard minimum	25 feet or 100 feet abutting residential uses or districts
Coverage maximum	30%
Supplementary regulations	As set forth in Article <del>XIV</del> hereof

Article XIII  
**Planned Industrial Development District**

[Added 5-2-2000 by L.L. No. 4-2000]

§ 170-50 District Intent: The Planned Industrial District is intended to support the ongoing operation of businesses and industries within the Village that provide employment opportunities to Village residents and offer important tax revenue and support to the Village. One of the significant differences between industrial and business uses is that in general, industrial uses do not generate customers, but rather are involved in the manufacturing of a product or are the location of a business office with employees. In some cases, uses do generate customers; however, the intensity of customers is less than uses in a business district use such as a grocery store.

**§ 170-40.151 Permitted uses.**

In Planned Industrial Development District PID, the following uses are permitted when contained within an enclosed building:

- A. Please refer to Chapter 170, Article IV, Section 170-8 (Schedule of Permitted Land Uses).
- B. Other uses not specifically listed in § 170-8 Village of Newark Schedule of Permitted Land Uses, but deemed by the Zoning Board of Appeals to be similar in nature and compatible with the purposes of the PID Planned Industrial Development District. Once a use has been deemed similar in nature and compatible with the purposes of the district, special permit criteria shall be reviewed and a special permit issued, if approved.  
NOTE: In a PID Planned Industrial Development District, adult entertainment shall not be a permitted use.

- A. ~~Business office.~~
- B. ~~Laundry, dry cleaner.~~
- C. ~~Commercially operated schools.~~
- D. ~~Indoor places of public assembly, entertainment and recreation.~~
- E. ~~Hotel/motel.~~
- F. ~~Retail or wholesale distribution.~~
- G. ~~Animal hospital, veterinary clinic with enclosed kennels only.~~
- H. ~~Automobile, mobile home, trailer, farm implement and contractor's equipment sales, service, repair and rent.~~
- I. ~~Light manufacturing industries.~~
- J. ~~Warehouse.~~
- K. ~~Public utility.~~
- L. ~~Service and repair.~~
- M. ~~Machinery and transportation equipment sales and service.~~
- N. ~~Light industrial process and service.~~
- O. ~~Freight or trucking terminal.~~
- P. ~~Contractor's facility.~~
- Q. ~~Research laboratory.~~
- R. ~~Printing and publishing.~~

S. ~~Day-care facility.~~

NOTE: In a Planned Industrial Development District, adult entertainment shall not be a permitted use.

**§ 170-40.252 Area, yard, coverage, height and supplementary regulations.**

Area, yard, coverage, height and supplementary regulations shall be as follows:

Dimension	Requirement
Lot area minimum	45,000 square feet
Lot frontage minimum	150 feet
Lot depth minimum	250 feet
Front yard minimum	40 feet
Rear yard minimum	25 feet, or 100 feet abutting residential uses or districts
Side yard minimum	25 feet, or 100 feet abutting residential uses or districts
Coverage maximum	40%
Building height maximum	2 stories or 50 feet, whichever is less

	<u>PID</u>
<u>District Area Minimum</u>	<u>No Restrictions</u>
<u>Width Minimum</u>	<u>No Restrictions</u>
<u>Depth Minimum</u>	<u>No Restrictions</u>
<u>Lot Area Minimum</u>	<u>45,000 sq. ft.</u>
<u>Lot Frontage Minimum</u>	<u>150 ft.</u>
<u>Lot Depth Minimum</u>	<u>250 ft.</u>
<u>Front Yard Minimum</u>	<u>40 ft.</u>
<u>Rear Yard Minimum</u>	<u>-</u>
<u>If abutting R-1,R-2,R-3:</u>	<u>100 ft.</u>
<u>Otherwise:</u>	<u>25 ft.</u>
<u>Side Yard Minimum</u>	<u>-</u>
<u>If abutting R-1,R-2,R-3:</u>	<u>100 ft.</u>
<u>Otherwise:</u>	<u>25 ft.</u>
<u>Coverage Maximum</u>	<u>40%</u>

Dimension	Requirement
Lot area minimum	45,000 square feet
Lot frontage minimum	150 feet
Lot depth minimum	250 feet
Front yard minimum	40 feet
Rear yard minimum	25 feet, or 100 feet abutting residential uses or districts
Side yard minimum	25 feet, or 100 feet abutting residential uses or districts
Coverage maximum	40%
Building height maximum	2 stories or 50 feet, whichever is less

	<u>PID</u>
<u>Building Height Maximum</u>	-
<u>whichever is less:</u>	<u>2 stories or 50 ft.</u>
<u>Location of Driveways:</u>	-
<u>Minimum 100 ft. from intersection</u>	<u>Yes</u>
<u>and minimum 100 ft. apart</u>	<u>Yes</u>
<u>Supplementary Regulations</u>	-
<u>as set forth in Article XIV</u>	<u>Yes</u>

#### ~~§ 170-40.3 Special permit uses.~~

The following uses are permitted upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals:

A. ~~Other uses upon the finding by the Planning Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district that will be created.~~

B. ~~Any fencing or other outside uses.~~

#### ~~§ 170-40.4 Parking.~~

A. ~~For a PID District, the required number of the parking spaces per § 170-43 shall be provided for on the final site plan; however only the necessary parking spaces as determined by the Planning Board for the operation of the facility shall be required at~~

~~the time of the application.~~

~~B. Twenty percent of all parking spots may be allotted for compact cars.~~

~~C. A suitable parking surface shall be provided for all employees.~~

#### ~~Article XIIB~~

#### ~~Village Center Overlay District (VCOD)~~

~~[Added 6-2-2009 by L.L. No. 1-2009]~~

##### ~~§ 170-40.5 Purpose; conflicting provisions.~~

~~A. The intent of this article is to promote and protect the public health, welfare and safety of the Village of Newark; create a uniform set of architectural and site design standards that promote pedestrian-oriented, mixed-use development; create usable public and private spaces; and promote traditional urban design principles within the core business district of the Village of Newark.~~

~~B. The requirements of this article are in addition to the requirements of the underlying zoning ordinance of each parcel, as per Chapter 170 of the Code of the Village of Newark (Zoning Code), and apply to all nonresidential zoned properties located within the VCOD boundary. Where the regulations of the VCOD differ from or conflict with the underlying Zoning Code regulations, the VCOD will take precedence.~~

##### ~~§ 170-40.6 Boundary.~~

~~The VCOD shall be in effect for the nonresidential parcels within the boundary as shown on the attached zoning map. As stated above, the VCOD requirements are in addition to each parcel's underlying zoning as identified on the official Village Zoning Map (attached).~~

**Commented [2]:** Editor's Note: The Zoning Map is on file in the Village offices.

##### ~~§ 170-40.7 Procedure.~~

~~A. Any new building proposed within the VCOD must file a site plan application with the Planning Department. Requirements for existing building renovations are outlined in the existing buildings section of this Code.~~

~~B. Applicants are encouraged to meet with the Village Code Enforcement Officer prior to submitting a site plan application to discuss building and site design requirements of the VCOD and the applicable underlying Zoning Code. Although the requirements of this Code are enforceable by law, the possibility exists that issues can arise on specific sites that enforcement of the VCOD would severely limit the use of a site. In such cases, the applicant is encouraged to meet with the Village Code Enforcement Officer and Planning Board to discuss potential solutions. The Planning Board shall have discretion to waive requirements of the VCOD in cases where the requirements present an obvious hardship or render a site undevelopable.~~

##### ~~§ 170-40.8 Definitions.~~

~~As used in this article, the following terms shall have the meanings indicated:~~

##### ~~CORNICE~~

~~Any molded projection which finishes or crowns the part to which it is attached.~~



#### **~~CUT-OFF FIXTURES~~**

~~Units which have no direct up light, help eliminate glare, and are more efficient by directing all lighting down to the intended area only.~~

#### **~~DECIDUOUS TREES~~**

~~Trees that lose their leaves seasonally.~~

#### **~~FALSE FRONT~~**

~~A front wall which extends beyond the sidewall to create a more imposing facade.~~

#### **~~LIGHT TRESPASS~~**

~~Troublesome light entering areas or premises outside the boundary of the premises to be illuminated.~~

#### **~~PILASTER~~**

~~A column projecting from a wall.~~

#### **~~PLANTING AREA~~**

~~The strip of land adjacent to any parking area that contains landscaping, natural vegetation, or a combination thereof for the purpose of screening and beautifying the parking area.~~

#### **~~SIDEWALK~~**

~~A pedestrian pathway within the public right-of-way.~~

#### **~~SIGHT TRIANGLE~~**

~~The area of visibility required on a corner to allow for the safe operation of vehicles, pedestrians and cyclists in the proximity of intersection streets, sidewalks and bicycle paths.~~

#### **~~WALKWAY~~**

~~A pedestrian pathway that is on private property.~~

#### **~~§ 170-40.9 VCOD design principles.~~**

- ~~A. Mixed use buildings should be encouraged where desirable.~~
- ~~B. Improve access to/visibility of the Erie Canal.~~
- ~~C. Improve pedestrian access, scale, safety and streetscapes.~~
- ~~D. Focus on urban design, creating a uniformity of building design, signage, lighting and landscaping throughout the Village.~~
- ~~E. Parking should be restricted to rear and side lots with landscaping as a buffer to soften edges. Curb cuts should be limited.~~

~~§ 170-40.10 Building design standards.~~

~~A. Size and scale.~~

- ~~(1) Avoid sharp contrasts in scale between adjacent buildings in terms of height, width and mass.~~
- ~~(2) Structures are preferred at a minimum height of two stories. Other building heights can be approved by the Planning Board with consideration given to:~~
  - ~~(a) Height of adjacent buildings.~~
  - ~~(b) Enclosure created by the building in relation to street width (building face to building face.)~~
  - ~~(c) Vistas and views.~~
- ~~(3) On buildings that front the Erie Canal and West/East Union, it is encouraged that an historic canal style building be designed. This type of building would allow for a minimum of two stories fronting along West/East Union. Entrances must be provided along both East Union and the Erie Canal between East Avenue and Main Street.~~
- ~~(4) New storefronts should respect the typical width of a Village storefront of 25 feet to 35 feet wide. Where a new storefront is intended to be wider than this, it should incorporate vertical architectural elements such as bays, columns, pilasters, piers, etc. to break up the mass.~~

~~B. Setbacks.~~

- ~~(1) Buildings should be built to the front lot line, with a setback no greater than five feet from the lot line.~~
- ~~(2) Under no circumstances is parking allowed within the front setback of a building.~~
- ~~(3) New buildings constructed on corner lots should be placed on the lot in such a way that they hold the corner by building to the front and side street lot lines. However, the DOT must be consulted in order to review sight lines and the sight triangle.~~
- ~~(4) A building that fronts on both the Erie Canal and East Union between East Avenue and Main Street should build both facades to the lot line, where practical.~~

~~C. Facade.~~

- ~~(1) All building facades must be accommodating to human scale. This can be achieved by using at least two of the following techniques that create horizontal and vertical breaks, such as, but not limited to:~~
  - ~~(a) A vertical architectural element (column, pilaster, etc.).~~
  - ~~(b) Building recesses, offsets or projections.~~

~~(c) Texture and/or material changes.~~

~~(d) Architectural banding.~~

~~(e) Variation in roof line.~~

~~(f) Contrasting window frame or shutters.~~

~~(g) Awnings.~~

~~(h) Canopies.~~

~~(i) Display windows.~~

~~(j) Other architectural details such as tile work and molding.~~

~~(2) Architectural detail should be incorporated into the ground floor in order to create an easily identifiable entrance.~~

~~(3) The front facade shall face a street, small park, plaza, or landscaped walkway that is visible and directly accessible from the street. Under no circumstances should a building's primary entry be located through a parking lot.~~

~~(4) When a building shares frontage on the Erie Canal and East Union Street, between Main Street and East Avenue, it must provide an entrance at both locations, where practical. The East Union facade shall be considered the primary facade and the Erie Canal facade as the secondary facade in terms of level of architectural detailing.~~

~~(5) For all buildings above two stories, the ground floor shall be architecturally distinguished from the upper facade with a cornice, canopy, balcony, architectural banding, or some other element to form a visual base, and maintain the desired human scale.~~

#### ~~D. Windows/transparency.~~

~~(1) Windows shall be vertically proportioned and horizontally aligned wherever possible. Windows on upper stories shall be vertically aligned with those on lower stories.~~

~~(2) Windows shall be transparent, meaning a person must be able to see five feet clear into the building. At the discretion of the Planning Board, other types of glazing such as stained glass windows may be approved. Dark or reflective glass at the storefront is to be avoided.~~

~~(3) The front facade at ground level and any facade facing a public, private or internal street must be 70% transparent between two feet and eight feet above walkway grade.~~

~~(4) No more than two sides of a building shall be subject to the transparency requirement.~~

~~(5) Any Erie Canal fronting building that also has frontage along a public street will be permitted to consider the public frontage facade to be the primary facade, and will be~~

~~held to the transparency requirements on only two sides of the building. The Planning Board has discretion to choose which sides will be subject to the transparency requirements.~~

- ~~(6) Product display windows may be used to meet the transparency requirements on no more than one building facade.~~
- ~~(7) Second floor facades facing a public, private or an internal street must have windows on a minimum of 30% of the horizontal facade length.~~

#### ~~E. —Roofs.~~

- ~~(1) For multistory buildings it is acceptable to use a false front roof or architectural parapet, particularly to provide screening for mechanical units, or to create variation in the streetscape.~~
- ~~(2) Roof design should be functional and in scale with the surrounding buildings.~~
- ~~(3) Rooflines shall be consistent with the building style.~~
- ~~(4) Flat roofs shall have an articulated cornice which projects horizontally from the top of the building.~~
- ~~(5) Architectural embellishments that are consistent with the building style are encouraged, such as dormers, masonry chimneys, clock towers, cupolas, etc.~~
- ~~(6) Roofs should not make up more than 25% of the visible facade area of the building except where the portion of the roof on the facade is considered usable space as with a mansard style roof.~~

#### ~~F. —Materials.~~

- ~~(1) Natural materials such as brick, stone, wood and stucco are required as the primary facade material and all sides visible from the street or canal. The Planning Board may approve other materials if they maintain the goals of the VCOD. Engineered products such as T-111, oriented strand board (OSB), plywood and similar products are not permitted.~~
- ~~(2) Exterior materials should be durable and of high quality. On facades that are easily visible from the street(s), synthetic materials that mimic natural materials (such as vinyl siding, dryvit or concrete block) are not appropriate.~~
- ~~(3) Two wall materials may be combined horizontally on one facade, though the heavier material must be placed below.~~

- ~~(4) Shutters, whether decorative or functional, shall be proportional in size to the windows.~~

#### ~~G. —Utilities/loading areas.~~

- ~~(1) Mechanical equipment should be located at the rear of buildings or on the roof and be~~

~~properly screened (e.g., with a parapet).~~

- ~~(2) On a building that fronts on both the Erie Canal and West/East Union it is preferred (where practical) that dumpsters be located, if possible, between the buildings. These facilities should be properly screened using landscaping or fencing. The final location of loading areas and dumpsters will be decided by the Planning Board.~~

~~§ 170-40.11 **Parking.**~~

~~A. Parking requirements.~~

- ~~(1) The following minimum off-street parking requirements for the VCOD shall apply and supersede the underlying requirements in the Zoning Code, § 170-43:~~

<del>Uses*</del>	<del>Required Number of Parking Spaces</del>
<del>Bank</del>	<del>One per 200 square feet</del>
<del>Bowling Alley</del>	<del>Three per lane</del>
<del>Church</del>	<del>One per three persons of permitted occupancy per fire code</del>
<del>Funeral Home</del>	<del>20 per parlor</del>
<del>Hotel</del>	<del>One per room</del>
<del>Medical office</del>	<del>One per 200 square feet</del>
<del>Office</del>	<del>One per 250 square feet</del>
<del>Residential</del>	<del>Two per unit</del>
<del>Restaurant</del>	<del>1 per 100 square feet</del>
<del>Retail</del>	<del>One per 250 square feet</del>
<del>Theater</del>	<del>One per five seats</del>

~~\*NOTE: For any use not listed, please defer to the Zoning Code, § 170-43.~~

- ~~(2) On-street parking located in front of the site shall count towards fulfilling the parking requirements of that site.~~

~~B. Parking lot location.~~

- ~~(1) All on-site parking areas are to be located at the side or rear of the building.~~

- ~~(2) Any parking area located in the side yard shall be screened as described in the landscaping section.~~

**Commented [3]:** Editor's Note: See § 170-40.12.

~~C. Shared parking areas.~~

- ~~(1) Shared parking between uses may be approved by the Planning Board if the following conditions are met:~~
- ~~(a) One use has different peak hours of operation than the other use that is sharing the lot.~~
- ~~(b) The shared parking areas shall be located within 500 feet of the uses served.~~
- ~~(c) Parking areas serving more than one use shall be designed to accommodate a minimum of one space per 250 square feet of floor area unless a lower parking ratio can be supported by a parking analysis demonstrating that peak parking needs for each use do not occur during the same hours of the day.~~
- ~~(d) A written agreement between the owners of record on the shared parking arrangement shall be submitted to the Planning Board.~~
- ~~(2) Shared entrances for parking areas are encouraged to reduce curb cuts and minimize traffic across sidewalks.~~

~~D. Pedestrian walkways.~~

- ~~(1) All site plans shall provide a connection, through walkways, between the existing sidewalk and the interior of the site to accommodate the safety of pedestrians and provide pedestrian access to the entrance to the building.~~
- ~~(2) Walkways shall be constructed of materials that may include concrete, stamped concrete, brick, or pavers or any other material accepted by the Planning Board. Asphalt walkways shall not be permitted.~~
- ~~(3) Walkways located in parking areas or between parking areas and buildings shall be provided for pedestrian safety. Walkways in parking areas must be distinguished from the paved surface.~~

~~§ 170-40.12 Landscaping.~~

~~A landscape plan is required for all site plan applications.~~

~~A. Parking lot screening.~~

- ~~(1) All parking areas adjacent to a public street or private roadway shall be screened, where practical, by a plant, fence or masonry wall material which conceals the view of parked cars from the street.~~
- ~~(2) Screening between the street and the parking area shall be provided by one of these two options:~~
- ~~(a) A fence or decorative masonry wall with a minimum height of three feet and a~~

~~maximum height of four feet. Plant material should be used to soften and add visual interest to the fence or wall.~~

- ~~(b) A continuous row of shrubs, planted at a maximum of three feet on center. Plant material should have a minimum opaqueness of 75% at all times and should not exceed a height of four feet at maturity.~~
- ~~(3) Parking areas, where practical, shall have additional perimeter screening by a planting area that is a minimum of 10 feet wide and located immediately adjacent to the parking area.~~
- ~~(4) Planting areas shall contain at least one deciduous tree every 30 linear feet.~~
- ~~(5) All perimeter screening vegetation shall be planted a minimum of three feet from the edge of the parking area pavement to protect the vegetation from vehicle bumpers.~~
- ~~(6) Parking areas for nonresidential uses adjacent to residentially used or zoned land shall be additionally screened by a six-foot-high, wooden, opaque fence.~~
- ~~(7) It is not necessary to screen between nonresidential parking areas.~~

~~B. Interior parking landscaped area. Any parking area containing more than 5,000 square feet of area or 15 or more parking spaces shall provide the following interior landscaping in addition to the required perimeter screening:~~

- ~~(1) An area equal to 5% of the total size in square feet of parking areas smaller than 15,000 square feet shall be landscaped. For parking areas between 15,001 and 35,000 square feet, the landscaped area shall equal 7.5%. For parking areas larger than 30,000 square feet, the minimum landscaped area shall be 10%.~~
- ~~(2) All parking rows shall end in a landscaped island (see Subsection B(4) below for exceptions).~~
- ~~(3) Minimum island size shall be 128 square feet, with a minimum width of eight feet inside the curb and a minimum length of 16 feet for a single row and 32 feet for a double row.~~
- ~~(4) The Planning Board, as part of the site plan review process, may vary the requirements for the minimum size, interval and location of parking islands if situations including, but not limited to, the following exist: the need to accommodate snow plowing, the need to relocate required landscaping on the perimeter of a parking area in the case of a small or unusually shaped lot or where additional screening is desired.~~
- ~~(5) One deciduous tree shall be required for each landscaped island. One additional deciduous tree shall be required within landscaped islands for each 100 square feet in excess of 128 square feet.~~
- ~~(6) The Planning Board may permit the substitution of smaller ornamental trees within landscaped islands upon the petitioner's request.~~
- ~~(7) Where vehicle site distances or maneuvering conflicts exist, trees shall have a clear~~

~~trunk of at least five feet above the ground, and the remaining required landscape areas shall be planted with shrubs or ground cover not to exceed two feet in height.~~

~~(8) All interior landscaped areas shall have a minimum planting soil depth of three feet and be free from all forms of construction debris and foreign material.~~

~~(9) In addition to trees, all landscaped islands shall be landscaped with grass, ground cover, shrubs or other landscape material acceptable to the Planning Board.~~

~~C. Planting recommendations:~~

~~(1) All proposed deciduous trees shall have a minimum caliper of 2 1/2 inches, measured six inches above the ground when planted.~~

~~(2) Where possible, existing vegetation shall be preserved and incorporated into the planting areas and landscaping.~~

~~D. Lot and building landscaping:~~

~~(1) To visually soften and enhance the appearance of buildings, landscaping shall be required within the lot and around the building foundation.~~

~~(2) Plantings shall be required around the building foundation and shall be placed within five feet of the foundation if feasible. If the Planning Board determines that, because of site design constraints such as the location of sidewalks or service areas, this is not feasible, landscaping may be located elsewhere on the site to improve the overall visual appeal.~~

~~(3) Plantings shall be required along any building wall that does not have doors or windows.~~

~~(4) Any existing plant materials may be counted as contributing to the landscaping as required by this section.~~

~~E. Screening of service areas:~~

~~(1) All service, loading and unloading areas shall be screened so as to not be visible from a public road.~~

~~(2) Areas shall be screened with an opaque material, which may include fences, walls, plantings or a combination thereof not to exceed eight feet in height.~~

~~(3) Natural vegetation shall form an opaque screen and attain six feet in height within two years of planting.~~

~~F. Screening of refuse collection areas:~~

~~(1) All refuse containers or receptacles shall be screened or enclosed on all sides.~~

~~(2) Refuse containers or receptacles shall be located to the side or rear of buildings and shall meet the setbacks of the applicable zoning district.~~



~~(3) Areas shall be screened with an opaque material, which may include fences, walls, plantings or a combination thereof not to exceed eight feet in height.~~

~~(4) Natural vegetation shall form an opaque screen and attain six feet in height within two years of planting.~~

~~G. Landscaping near driveway and street intersections.~~

~~(1) Within sight triangles located at driveway and street intersections, no planting materials, except shrubs or grasses, are to exceed two feet in height.~~

~~(2) Trees shall be permitted within sight triangles, as long as only the trunk is visible between the ground and eight feet above the ground, or otherwise does not present a traffic visibility hazard.~~

~~H. Maintenance.~~

~~(1) The maintenance of all on-site landscaping shall be the responsibility of the owner.~~

~~(2) All planted areas shall be maintained and kept free of trash, litter, weeds and other debris.~~

~~(3) All plant material shall be in a healthy condition and controlled by trimming, pruning, or other suitable methods so that landscaping does not create a traffic hazard. If any plant material dies or becomes unhealthy within the first three years after installation, it must be replaced.~~

~~I. Procedure.~~

~~(1) The Planning Board may require that landscape plans be prepared and stamped by a professional New York State registered landscape architect, certified nursery and landscape professional or landscape designer, pending the size of the project site.~~

~~(2) A landscape plan shall be filed by any person seeking a site plan approval.~~

~~(3) A landscape plan shall be drawn to scale and include the following:~~

~~(a) The location, number, and description of all landscaping materials proposed.~~

~~(b) The location and size of any structures, parking areas, and drives proposed.~~

~~(4) The Planning Board shall review and approve any landscape plans as part of its review of any site plan, subdivision plat, or zoning amendment.~~

~~(5) After a period of three years, it is expected that the landscaping be maintained according to VCOD standards.~~

~~§ 170-40.13 Lighting.~~

~~A. A site lighting plan shall be required during review of any nonresidential or multifamily site which contains uses that are proposed to operate during hours of darkness. The~~

purpose of lighting standards are to:

- ~~(1) Require and set minimum standards for outdoor lighting for buildings and projects to provide safe and efficient lighting for pedestrians and vehicles.~~
- ~~(2) Protect neighbors from direct light or glare from adjacent properties.~~
- ~~(3) Protect pedestrians and drivers from the glare of nonvehicular light sources.~~

~~B. Fixture.~~

- ~~(1) The light bulb/source shall be concealed and shall not be visible from any street right of way or adjacent properties.~~
- ~~(2) All lighting fixtures should minimize the amount of light trespass upon adjacent properties.~~
- ~~(3) Lighting fixtures shall be of a type and design that will complement the architectural style of the building and design of the site, as well as be in keeping with the historical style(s) within the adjacent street right of way.~~

~~C. Fixture height.~~

- ~~(1) Parking area. Freestanding light fixtures shall be a maximum of 20 feet above grade for parking areas. For the illumination of greater than 100 contiguous parking spaces, the Planning Board may permit the use of light fixtures not to exceed 25 feet when illumination levels do not exceed those set in this section.~~
- ~~(2) Pedestrian area. Freestanding light fixtures shall be a maximum of 15 feet above grade in nonvehicular pedestrian areas.~~

~~D. Illumination levels.~~

- ~~(1) Illumination levels shall be measured in footcandles.~~
- ~~(2) All site lighting shall be designed to meet the average footcandles below. The average level shall be calculated using only the area of the site intended to receive illumination.~~
  - ~~(a) Parking areas: average of two footcandles.~~
  - ~~(b) Parking area entrances/exits: average of five footcandles.~~
  - ~~(c) Walkways: average of one footcandle.~~
  - ~~(d) Building entrances/exits: average of four footcandles.~~
  - ~~(e) Architectural/accent: average of one footcandle.~~
  - ~~(f) At commercial property lines: maximum of one footcandle.~~

~~(g) At residential property lines: maximum of two tenths footcandles.~~

~~(3) A banking institution shall be permitted to have illumination levels in excess of the limit in this section, but only to comply with the requirements of the ATM Safety Act (New York State Banking Law Article II-AA).~~

~~(4) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may interfere with the vision of drivers or pedestrians.~~

~~§ 170-40.14 Signs.~~

- ~~A. A sign permit is required for all site plan applications and for all new signs on existing buildings. Sign permits for new site plans and building plans will be approved and granted via the Planning Board approval or via a building permit. New sign permits for existing buildings will be approved by the Code Enforcement Officer. Any permit fee will only apply for new signs on existing buildings.~~
- ~~B. All signs must be made of complimentary materials and architectural form to the building on which it is going to be attached and/or representing.~~
- ~~C. Internally lit, LCD and other electronic display signs and message boards are prohibited. LED signs may be permitted inside store windows and must be parallel to the right of way and must not exceed 2% of the window area.~~
- ~~D. Wall signs.~~
- ~~(1) A wall sign is any sign on a surface or panel that may be affixed to the wall of a building or structure; includes individual letters, characters or devices.~~
- ~~(2) A wall sign may not be painted directly on a building. However, the Planning Board may approve artistic murals at its discretion.~~
- ~~(3) A wall sign shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the first floor level of the building.~~
- ~~(4) A wall sign shall not extend more than six inches from the face of the building to which it is attached.~~
- ~~(5) One wall sign is permitted per business, per each wall that is facing a public street.~~
- ~~(6) Maximum sign area. The aggregate area of a wall sign should not exceed 100 square feet, except buildings with front wall area of 1,000 square feet or less, the aggregate sign area should not exceed approximately 10% of the front wall area.~~
- ~~E. Projecting sign.~~
- ~~(1) A projecting sign is any sign which is attached to a building or other structure and which extends beyond the surface of the building. This sign is not parallel to the building.~~
- ~~(2) One projecting wall sign in lieu of each permitted primary wall sign.~~
- ~~(3) Maximum sign area is 15 square feet.~~
- ~~(4) Maximum sign projection is five feet; bottom of sign must be at least 10 feet above finished grade.~~
- ~~(5) Signs within New York State Department of Transportation right of way must have New York State Department of Transportation approval.~~
- ~~F. Awning sign.~~
- ~~(1) One awning sign is permitted in place of a wall sign.~~
- ~~(2) It is preferred that the lettering for the sign is placed on the valance of the awning.~~
- ~~(3) Internally illuminated awnings are prohibited.~~
- ~~(4) Maximum sign area is 50% of awning area, and no greater than 15% of facade area.~~
- ~~(5) Refer to section on awnings for awning regulations.~~
- ~~G. A frame sidewalk sign.~~
- ~~(1) One per business.~~
- ~~(2) Said signs must be no more than four feet from the building and can only be used during business hours.~~
- ~~(3) Maximum sign area is eight square feet per side.~~
- ~~(4) Maximum sign height is three feet.~~
- ~~H. Interior/window signs.~~
- ~~(1) No permit is needed for temporary window signs, such as those advertising a sale.~~
- ~~(2) A permit is needed for a permanent window sign.~~
- ~~(3) Sign area shall be no more than 20% of the glass window area.~~
- ~~I. Freestanding signs.~~

- ~~(1) Freestanding signs shall fit in with the architectural character of the building and the VCOD.~~
- ~~(2) Freestanding signs will not be internally lit.~~
- ~~(3) A freestanding sign can either sit on the ground or be placed on a post.~~
- ~~(4) Maximum sign area is 20 square feet.~~
- ~~(5) Maximum sign height is 10 feet to the bottom of the sign.~~
- ~~J. Flags. Decorative flags not conveying a commercial message may be displayed without a permit. Flags conveying commercial messages are considered permanent signs and require permits.~~
- ~~K. Banners. Banners conveying commercial messages are prohibited except for one "special event" event for a period of time not to exceed two weeks. Banners not conveying a commercial message may be displayed on public or private property as temporary signs in order to promote events of general civic interest, or as decorative or artistic devices.~~

~~§ 170-40.15 Awnings.~~

- ~~A. Awnings shall not extend the length of the building facade.~~
- ~~B. Awnings are permitted at building entrances and windows.~~
- ~~C. Awnings that include glossy fabrics or finishes, plastic lightweight fiberglass, aluminum or stock metal awnings are not permitted. Coverings should be of flexible-woven, natural or synthetic materials.~~
- ~~D. Backlit awnings are not permitted, and awnings shall be lit by exterior building lights only.~~
- ~~E. Awnings should extend between four and seven feet from the building facade.~~
- ~~F. Awnings should not be lower than seven feet in height from the base elevation of the sidewalk and should not impede the flow of pedestrian traffic.~~
- ~~G. The valance or front face of an awning shall not exceed 16 inches in height.~~
- ~~H. Colors shall complement the storefront, signage and the building colors.~~
- ~~I. Awnings shall be maintained in good repair and display a clean and attractive condition while installed on the building.~~
- ~~J. Awnings shall be fully retractable and no lighting or heating fixtures, windcreens or signs should be attached.~~

~~§ 170-40.16 Existing buildings.~~

- ~~A. Demolition. Demolition of structures in the VCOD for reasons other than to preserve public health and safety are not encouraged. Any proposed demolition of private nonresidential property must have a demolition plan reviewed and approved by the Planning Board prior to demolition.~~
- ~~B. Renovation.~~
  - ~~(1) Where possible, existing architectural details should be maintained and restored to their original appearance. Expansions or additions must meet the regulations within~~

~~this article.~~

- ~~(2) If an addition is at least 60% of the size of the existing building, then the existing exterior facade must be brought up to the design standards within these regulations.~~
- ~~(3) Existing windows, transom or sidelights are important scale and character elements and should not be covered up or changed in size unless in an effort to restore the original appearance of the building. Transparent glazing should be retained and not replaced with translucent glass or any opaque material.~~
- ~~(4) If an addition at least 60% of the size of an existing building is proposed; or the project impacts the parking area; or there is a change in use of a building, a site plan application must be filed (unless waived by the Planning Board) with the Code Enforcement Officer.~~

#### Article XIV Supplementary Regulations

##### ~~§ 170-41-53~~ Supplementary regulations.

The provisions of this chapter shall be subject to such additions, modifications or exceptions as herein provided by the following supplementary regulations.

##### ~~§ 170-42-54~~ Off-street parking and loading spaces. [Amended 3-16-1999 by L.L. No. 1-1999]

A. Permanent off-street parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building which, after the date when this article becomes effective, is erected, enlarged, altered or changed for use for any purpose.

B. Such parking space shall be required open space associated with the permitted use and shall not be reduced or encroached upon in any ~~manner.~~ manner.

C. Location of parking space.

- (1) Except as set forth herein, all parking spaces shall be on the same lot as the building, except ~~that with the approval of the Planning Board, and upon issuance of a special permit by the Board of Appeals, parking spaces may be provided by the applicant on other property other than Village-owned parking lots or areas, provided that such land lies within 400 feet of an entrance to the principal building. Such space shall not thereafter be reduced or encroached upon in any matter.~~

- (2) On-street parking located in front of the site shall count towards fulfilling the parking requirements of that site.

- ~~(23)~~ The Board of Trustees may, from time to time, on a case-by-case basis, by resolution, allow parking spaces located in Village-owned parking lots or areas to

be credited toward the off-street parking space requirements as set forth in § 170-55. Said parking spaces shall be located within 400-500 feet of the facility or property to be served. In determining whether to grant such permission, the Board of Trustees shall consider the parking needs of the public and existing facilities and the demonstrated inability of the property or facility owner to meet the requirements of § 170-55. If such permission is granted, the Board of Trustees shall determine the conditions of such permission, including the number of spaces so credited and the duration of such permission. The granting of permission under this section does not confer on the facility or property owner any entitlement or other property interest.

D.— Shared parking areas.

(1) Shared parking between uses may be approved by the Planning Board if the following conditions are met:

(a) One use has different peak hours of operation than the other use that is sharing the lot.

(b) The shared parking areas shall be located within 500 feet of the uses served.

(c) Parking areas serving more than one use shall be designed to accommodate a minimum of one space per 250 square feet of floor area unless a lower parking ratio can be supported by a parking analysis demonstrating that peak parking needs for each use do not occur during the same hours of the day.

(d) A written agreement between the owners of record on the shared parking arrangement shall be submitted to the Planning Board.

(2) Shared entrances for parking areas are encouraged to reduce curb cuts and minimize traffic across sidewalks.

~~Parking space and loading space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this article shall be continued and may not be counted as serving a new building, structure, addition or land use.~~

E. Parking space and loading space maintained in connection with an existing and continuing principal building, structure or land use on the effective date of this article shall be continued and may not be counted as serving a new building, structure, addition or land use.

~~Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assigned to one use may not be assigned to another at the same time, except for churches, theaters or assembly halls.~~

F. A parking space shall be nine feet wide by 19 feet long. A single access lane shall be a minimum 20 feet in width and a double access lane shall be a minimum of 24 feet in width. Required fire lanes shall be a minimum of 50 feet of clear area. All fire lanes are to be striped for no parking and appropriate signage shall be installed.

- G. Where a nonresidential district or use abuts a residential district or use, the parking must be no closer than 15 feet to the property line. NOTE: This does not apply to the B-2, General Business District.
- H. Permanent off-street vehicle or other type of equipment storage, parking or standing space shall be provided at the time of the erection of any building or structure, at the time any building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area or before conversion from one zoning use or occupancy to another. Such space shall be deemed to be required open space associated with the permitted use and shall not be thereafter reduced or encroached in any manner. Except in a driveway, no required yard or portion of it on any lot shall be used to provide parking spaces in this article.
- I. Each lot in a residential zone, or being used for residential purposes, shall be entitled to a single curb cut onto the Village right-of-way.
- J. No off-street vehicle or other equipment parking or storage space shall be used or designed, arranged or constructed to be used in a manner that will obstruct or interfere with the free use of any street, alley or adjoining property.

K. In Business Districts B-1, B-2, and B-3, parking surfaces shall be asphalt or concrete. In a PID district, parking surfaces shall be asphalt, concrete or crushed stone.

**§ 170-43-55 Off-street parking space requirements.**

For every building hereafter erected, altered, extended or changed in use, there shall be provided parking spaces at least as set forth below:

- A. Residential uses.
- (1) One-family and two-family dwelling units: two parking spaces for every dwelling unit.
  - (2) Multiple-family dwelling units: three parking spaces for every two dwelling units.
  - (3) Housing for the elderly or State-Licensed dwelling: one parking space for every two dwelling units.
  - (4) Professional residence-office: two parking spaces, plus one additional parking space for every 200 square feet of office space.
- B. Hotel, motel, ~~tourist home~~, boardinghouse: one parking space for every guest room.
- C. Dormitory, fraternity, sorority, ~~nurses' home~~, hospital: one parking space for every two beds.
- D. Places of public assembly: every structure used as a theater, amusement facility, auditorium, community center, club, school auditorium, stadium, library, museum, church, lodge halls or other place of public or private assembly which provides facilities for seating people: one parking space for every five seats. Where there are no seats provided in the place of assembly, one parking space shall be provided for every 100



~~square feet of floor area per five persons of permitted occupancy per NYS Fire Code.~~

E. Business office, professional office ~~and medical offices~~: ~~two~~ one parking spaces for every ~~200-250~~ square feet of office space.

F. Medical office: one parking spaces for every 200 square feet of office space.

FG. Commercial and retail, ~~business and unspecified uses~~: one parking space for every motor vehicle used directly in the business, plus one parking space for every ~~160-250~~ square feet of gross floor area.

GH. Restaurant, eating and drinking establishments: one parking space for every 100 square feet of gross floor space.

HI. Industrial, wholesale, warehouse, storage, freight and trucking uses: one parking space per 300 square feet of gross floor area or one space for every 1.5 employees during a maximum shift. Selection of appropriate parking shall occur at the time of site plan review by the Planning Board.

**§ 170-44.56 Off-street loading space requirements.-**

On the same premises with every building or structure or part thereof hereafter erected, enlarged and occupied for the purpose of business, trade or industry there shall be provided and maintained adequate space for loading and unloading of vehicles off the street or public alley. Such space shall have direct access to a public street or alley. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property.

~~Off-street loading and unloading space shall be provided as set forth below:~~

~~A. — Freight and trucking terminals: one off-street loading and unloading space at least 12 feet by 55 feet for every 5,000 square feet of total floor area.~~

~~B. — Commercial business and service establishments: one off-street loading and unloading space at least 12 feet by 35 feet for every 10,000 square feet of floor area.~~

~~C. — Wholesale, warehouses and storage uses: one off-street loading and unloading space at least 12 feet by 55 feet for every 7,500 square feet or less of total floor area.~~

~~D. — Industrial uses: one off-street loading and unloading space at least 12 feet by 55 feet for every 10,000 square feet of total floor area.~~

**§ 170-45-57 Special parking and loading space requirements.-**

The Planning Board may require additional off-street parking and loading spaces for any use if they find that for any particular use the above-required minimum spaces are not sufficient for the safety and general welfare of the public. The Planning Board may also grant relief from parking requirements if a lower parking ratio can be supported by a parking analysis demonstrating peak parking needs

~~§ 170-46 Signs.-~~

~~[Amended 6-15-1999 by L.L. No. 2-1999]~~

~~————— No signs or billboards shall be permitted in any district except as specifically permitted herein as follows:~~

~~A. Signs in residential districts. The following signs are permitted when located on the immediate property.~~

~~(1) Professional and home occupation signs: one unlighted identification sign, not more than two square feet in area and attached to the wall of the building and not to protrude more than six inches from the wall face.~~

~~(2) "For Rent" and "For Sale" signs, not exceeding 30 inches by 18 inches.~~

~~(3) Signs necessary for the identification, operation or protection of a public utility installation.~~

~~(4) Signs incident to a legal process or necessary to the public welfare.~~

~~(5) One attached sign of an appropriate nature identifying any nonresidential building or use permitted in residential districts, not exceeding 20 square feet in area.~~

~~B. Signs in business districts. The following signs are permitted:~~

~~(1) All signs permitted under Subsection A of this section.~~

~~(2) One attached identifying sign not larger than two square feet for each one lineal foot of frontage occupied by the establishment, advertising a business or activity conducted in the structure thereto.~~

~~(3) An attached entry directory sign (not exceeding 10 square feet in area), provided that it announces only services offered within the building.~~

~~(4) Temporary/portable nonilluminated signs not in excess of 32 square feet may be permitted for a period not to exceed three months in any calendar year.~~

~~C. Signs in industrial district. The following signs are permitted:~~

~~(1) All signs permitted under Subsection B of this section.~~

~~(2) One identifying sign not larger than three square feet for each one lineal foot of frontage occupied by the establishment, advertising a business or activity conducted in the structure thereto.~~

~~D. Signs in planned unit development districts. The following signs are permitted:~~

~~(1) All signs permitted under Subsection B of this section.~~

~~(2) On commercial uses, one attached identifying sign not larger than two square feet for each one lineal foot of frontage occupied by the establishment, advertising a business or activity conducted in the structure thereto.~~

~~(3) On industrial uses, one attached identifying sign not larger than two square feet for each one lineal foot of frontage occupied by the establishment, advertising a business or activity conducted in the structure thereto.~~

~~(4) One freestanding directory sign identifying the businesses contained within a planned unit development district, not exceeding 200 square feet in area.~~

~~(5) On residential uses, one attached entrance identification sign not exceeding six square feet.~~

~~E. Other provisions regulating signs. All signs shall conform to the following requirements:~~

~~(1) No attached sign shall extend more than one foot beyond a street line or over a sidewalk.~~

- ~~(2) Back to back signs may be counted as one sign.~~
- ~~(3) No attached sign shall extend above the facade of the building.~~
- ~~(4) No freestanding sign shall exceed 25 feet in height from finish grade.~~
- ~~(5) Signs shall be located in such a manner so as not to restrict vision or impair safety.~~
- ~~(6) A building permit shall be required prior to the installation of any signs except those exempt from such requirement.~~
- ~~(7) All lighted signs shall be Underwriters Laboratories' (UL) approved and installation shall be certified by the York Board of Fire Underwriters.~~
- ~~(8) Extension cords are not an approved method for electrical service to any sign.~~
- ~~(9) All signs and supports.~~

**§ 170-58 Dwelling in recreational vehicle prohibited.**

At no time shall a camper or travel trailer (recreational vehicle) or boat be occupied as a dwelling or used for living or housekeeping purposes. An approved PUD-B campground is excepted but is subject to the restrictions imposed at the time of the PUD-B zoning approval.

~~shall be maintained in good repair and all display surfaces shall be kept neatly painted at all time.~~

**~~F. Illuminated and flashing signs. All signs shall conform to the following requirements:~~**

- ~~(1) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights except to show time and temperature.~~
- ~~(2) All permitted lighting shall be so situated that it will not illuminate or reflect onto other properties.~~
- ~~(3) Lighted signs shall be inspected by designated inspectors.~~
- ~~(4) Lighted signs shall bear the label of Underwriter's Laboratories, Inc.~~
- ~~(5) No sign shall impair or cause confusion of vehicular or pedestrian traffic, in its design, color or placement. No sign shall impair visibility for motorists at a street corner or intersection by placement and location pursuant to § 170-75 of this article.~~
- ~~(6) No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.~~

**G. Freestanding signs.**

- ~~(1) The Code Enforcement Officer may issue a freestanding sign permit for commercial and industrial zoned properties, provided that said permanent sign complies with the following requirements:~~
- ~~(a) Signs shall not exceed 32 square feet per face for a double faced sign.~~
- ~~(b) Any illumination shall not be obtrusive to adjoining properties or motorists.~~

~~(c) Design of the sign shall be aesthetically acceptable.~~

~~(d) There shall only be one freestanding sign allowed per property.~~

~~(e) Freestanding signs in excess of 32 square feet and any other signs may be erected after the issuance of a special permit by the Zoning Board of Appeals.~~

~~H. Freestanding signs for malls/plazas. The Code Enforcement Officer may issue a freestanding sign permit for malls/plazas, provided that said permanent sign complies with the following requirements:~~

~~(1) Any mall/plaza area of less than 10 acres is allowed one freestanding sign.~~

~~(2) Any mall/plaza area of 10 acres or more is allowed a total of two freestanding signs.~~

~~(3) The total size per sign shall not exceed 260 square feet.~~

~~(4) Any illumination shall not be obtrusive to adjoining properties or motorists.~~

~~(5) Design of the sign shall be aesthetically acceptable.~~

~~(6) Mall/plaza area shall be considered as the total continuous developed area. § 170-59 Awnings.~~

A. Awnings that include glossy fabrics or finishes, plastic lightweight fiberglass, aluminum or stock metal awnings are not permitted. Coverings should be of flexible woven, natural or synthetic materials.

B. Backlit awnings are not permitted, and awnings shall be lit by exterior building lights only.

C. Awnings should extend between four and seven feet from the building facade.

D. Awnings should not be lower than seven feet in height from the base elevation of the sidewalk and should not impede the flow of pedestrian traffic.

E. Colors shall complement the storefront, signage and the building colors.

F. Awnings shall be maintained in good repair and display a clean and attractive condition while installed on the building.

G. No lighting or heating fixtures, windscreens or removable signs should be attached to the awning.

#### **§ 170-60 Lighting.**

A. A site lighting plan shall be required during review of any nonresidential or multifamily site which contains uses that are proposed to operate during hours of darkness. The purpose of lighting standards are to:

(1) Require and set minimum standards for outdoor lighting for buildings and projects to provide safe and efficient lighting for pedestrians and vehicles.

- (2) Protect neighbors from direct light or glare from adjacent properties.
- (3) Protect pedestrians and drivers from the glare of nonvehicular light sources.

B. Fixture.

- (1) The light bulb/source shall be concealed and shall not be visible from any street right-of-way or adjacent properties.
- (2) All lighting fixtures should minimize the amount of light trespass upon adjacent properties.
- (3) Lighting fixtures shall be of a type and design that will complement the architectural style of the building and design of the site, as well as be in keeping with the historical style(s) within the adjacent street right-of-way.

C. Fixture height.

- (1) Parking area. Freestanding light fixtures shall be a maximum of 20 feet above grade for parking areas. For the illumination of greater than 100 contiguous parking spaces, the Planning Board may permit the use of light fixtures not to exceed 25 feet when illumination levels do not exceed those set in this section.
- (2) Pedestrian area. Freestanding light fixtures shall be a maximum of 15 feet above grade in nonvehicular pedestrian areas.

D. Illumination levels.

- (1) Illumination levels shall be measured in footcandles.
- (2) All site lighting shall be designed to meet the average footcandles below. The average level shall be calculated using only the area of the site intended to receive illumination.
  - (a) Parking areas: average of two footcandles.
  - (b) Parking area entrances/exits: average of five footcandles.
  - (c) Walkways: average of one footcandle.
  - (d) Building entrances/exits: average of four footcandles.
  - (e) Architectural/accent: average of one footcandle.
  - (f) At commercial property lines: maximum of one footcandle.
  - (g) At residential property lines: maximum of two-tenths footcandles.
- (3) A banking institution shall be permitted to have illumination levels in excess of the limit in this section, but only to comply with the requirements of the ATM Safety

Act (New York State Banking Law Article II-AA).

(4) Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may interfere with the vision of drivers or pedestrians.

(5) All exterior lighting must be dark-sky compliant.

**§ 170-47 Landscaping requirements.**

Following are the minimum landscaping requirements:

A. Where any land use in nonresidential districts abuts land in any residential district, a strip of land at least 25 feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these other districts.

B. Where any nonresidential land use in a residential district abuts any land use in a residential district, a strip of land at least 15 feet in width shall be maintained as a landscape and utility area in the front yard, side yards and rear yard which adjoin these uses.

C. Landscaping required under this section to be installed and maintained in front, side and rear yards shall take the form of shade trees, deciduous shrubs, evergreens, well kept grassed areas and ground cover. One shade tree at least eight feet in height and at least three inches in diameter measured at a point six inches above finished grade level shall be planted no nearer than five feet to any lot line for each 300 square feet of required landscaped area; and one deciduous shrub or evergreen shall be planted for each 200 square feet of required landscaped area. All such landscaping shall be maintained in a healthy growing condition, with ground cover or grassed areas.

**§ 170-48 Screened service area requirements.**

In any district all areas designated, used or intended to be used as service areas for any building or land use, other than one family and two family dwelling units, shall be screened from view with either a wall, a solid fence or a fence and evergreens to a height of at least five feet above grade level on all sides where the adjacent land is in a residential district or residential use.

**§ 170-61 Screened service area requirements.**

A. All refuse containers or receptacles shall be screened or enclosed on all sides.

B. Refuse containers or receptacles shall be located to the side or rear of buildings and shall meet the setbacks of the applicable zoning district.

C. Areas shall be screened with an opaque material, which may include fences, walls, plantings or a combination thereof not to exceed eight feet in height.

D. Natural vegetation shall form an opaque screen and attain six feet in height within two years of planting.

**§ 170-49 Mobile home parks.**

A. Purpose. It is the purpose of this section to regulate mobile home parks, provide

~~diversity in housing choice, as well as greater opportunities for obtaining moderate cost housing, and to encourage, stabilize and promote the development of well-planned mobile home parks. At the same time, the Village does not desire the large-scale development of such parks to the extent that such large areas of the Village become devoted to such use that single family residences would appear out of place. Accordingly, areas shall be zoned as an R-3 District only upon application for a specific proposal in accordance with the normal rezoning procedures. In reaching its decision, the Village Board shall consider the general criteria set forth in this article, the most current Comprehensive Plan for the Village and this statement of purpose. Areas proposed to be zoned R-3 shall be in an area served by water, gas, storm and sanitary sewers. All mobile home parks commenced henceforth shall be in conformity with this article.~~

~~B. Standards for mobile homes. No mobile home manufactured after January 15, 1974, shall be admitted to any park unless it bears the seal issued by the State of New York and required by the State Code for Construction and Installation of Mobile Homes and/or after June 15, 1976, a seal as issued by the United States Department of Housing and Urban Development certifying that the mobile home unit complies with the standards of the National Mobile Home Construction and Safety Standards (CFR, Title 24, Part 280).~~

~~C. Location. A mobile home will be permitted in the Village of Newark only if located in a duly authorized R-3 Mobile Home Park, except where otherwise specifically authorized.~~

~~D. License for mobile home park. No person or persons, owning or occupying any land in the Village of Newark, shall use or permit the development and use of such land as a mobile home park without first obtaining a license therefore from the Village Code Enforcement Officer upon payment of a fee to be determined from time to time by resolution of the Village Board. Such licenses shall be renewable annually. Thereafter, each mobile home shall be assessed on the tax rolls of the town against the mobile home park owners in accordance with § 102 of the New York State Real Property Tax Law.~~

~~E. Application requirements; new mobile home park license.~~

~~(1) An application for an original license for the mobile home park shall be filed in triplicate with the Village Code Enforcement Officer. No license for a mobile home park shall be issued by the Village Code Enforcement Officer unless the Village Board has given written authorization in accordance with the provisions of this section.~~

~~(2) Application for mobile home park licenses shall include but not be limited to all materials as may be deemed necessary, such as:~~

~~(a) Name and address of each applicant, if an individual, or of each and every partner, if a partnership, or the name and address of the principal officers and shareholders, if a corporation.~~

~~(b) Name and address of the owner of the land upon which the mobile home park is to~~

~~be located.~~

- ~~(c) A legal description of the property upon which the mobile home park is to be located.~~
- ~~(d) Site drawings of the proposed mobile home park, indicating how it is to be designed, such as to conform with the requirements of this section.~~
- ~~(e) The proposed method of connection to and identification of public sewage and drainage systems to be used.~~
- ~~(f) Site plans and written descriptions of all buildings, streets, parking areas, recreation and open spaces and landscaping to be constructed or provided within the mobile home park.~~
- ~~(g) An indication of existing topography and drainage patterns, including wet or swampy areas.~~
- ~~(h) A copy of all property park rules and regulations; a list of management and tenant responsibilities; a written statement of any fees to be used in connection with the use of any mobile home lot.~~
- ~~(i) The proposed method of obtaining a public water supply.~~
- ~~(j) Such further information as the developer may feel is necessary to describe his or her intent and ability to comply with health, safety and environmental standards of this section.~~
- ~~(k) An area of not less than 10 acres.~~
- ~~(3) An application shall be filed with the Village Code Enforcement Officer, and such filing fee shall be consistent with adopted fee schedules.~~

**F. ~~Application requirements; annual license renewals.~~**

- ~~(1) An application for license renewal for a mobile home park shall be filed annually with the Village Code Enforcement Officer. No license for a mobile home park shall be issued by the Village Code Enforcement officer unless the Village Board has given written authorization in accordance with the provisions of this section. Thereafter, each mobile home shall be assessed on the tax rolls of the town against the mobile home park owner(s) in accordance with § 102 of the New York State Real Property Tax Law.~~
- ~~(2) Applications for mobile home park license renewals shall include the following:~~
  - ~~(a) Name and address of each applicant, if an individual, or of each and every partner, if a partnership, or the name and address of the principal officers and shareholders, if a corporation.~~
  - ~~(b) Name and address of the owner of the land upon which the mobile home park is~~



located.

- ~~(c) A copy of all current park rules and regulations, and/or a list of current management and tenant responsibilities.~~
- ~~(3) Every application for a license or renewal thereof shall be submitted along with a \$100 application fee.~~

~~G. Regulations for temporary mobile home permits.~~

- ~~(1) The Zoning Board of Appeals may issue a temporary permit for a mobile home not located in a mobile home park upon proof to such Board of special necessity. "Special necessity" shall consist of circumstance where a mobile home will serve as an interim dwelling in the event that a permanent residence has been damaged or destroyed beyond conditions of habitability.~~
- ~~(2) No such interim permit shall be issued unless a showing has been made of the following:~~
  - ~~(a) The mobile home shall be supplied with its own potable water from a public or private source approved by the New York State Health Department and Village of Newark.~~
  - ~~(b) An adequate and safe sewage disposal system, approved by the New York State Health Department and the Village of Newark, shall be provided.~~
  - ~~(c) The mobile home shall be provided with a mobile home stand or foundation capable of maintaining the mobile home in a stable position.~~
  - ~~(d) All required setbacks shall be maintained.~~
- ~~(3) Any mobile home located pursuant to this section shall be removed within six months from the date of issuance of the temporary permit. A temporary permit approved pursuant to this section shall be issued by the Village Code Enforcement Officer at a fee as required by resolution from time to time by the Village Board. Extensions of three months each may be granted by the Zoning Board of Appeals.~~
- ~~(4) An application for a temporary permit shall be filed with the Village Clerk, and such filing fee shall be consistent with approved fees.~~

~~H. Procedures for establishing R-3 Mobile Home Park Districts. The procedure for creating an R-3 Mobile Home Park District shall be the same as the procedure for an application for rezoning under state laws and Village ordinance, except that:~~

- ~~(1) Prior to entertaining an application to rezone an R-3 Mobile Home Park, the Village Board shall require the applicant to obtain preliminary site plan approval from the Planning Board. For such preliminary site plan approval, the requirements of Chapter 134, Site Plan Review, of this Code shall apply.~~
- ~~(2) The creation of an R-3 Mobile Home Park District by the Village Board shall be~~

~~conditional upon the applicant obtaining final site plan approval from the Planning Board within 180 days of the rezoning to an R-3 Mobile Home Park District.~~

~~I.—Additions to mobile home parks.~~

- ~~(1) Rezoning required. Where rezoning of contiguous land is required to add an addition to an existing mobile home park, the procedure shall be that set forth in Subsection H of this section.~~
- ~~(2) No rezoning required. Additions to mobile home parks which involve adding units through increased density, or extensions of parks in districts zoned mobile home park, shall be treated as an application for subdivision approval, and applications therefor shall be made to the Village Board.~~

~~J.—New mobile home park site requirements.~~

~~(1) Natural features.~~

- ~~(a) Topography, groundwater level, surface drainage and soil conditions shall not be such as to create hazards to the property or to the health and safety of the occupants of the area.~~
- ~~(b) Soils should have sufficient bearing and stability properties to provide adequate support for mobile home installations and should be of sufficient depth to sustain lawns, trees and other vegetation.~~
- ~~(c) Mobile home park plans shall show existing tree masses or trees over six inches in diameter at a four-foot height, hedgerows and other notable existing natural features, such as streams or rock formations. Such natural features shall be retained as much as possible in the site plan.~~

~~(2) Layout and unit placement.~~

- ~~(a) Mobile home units within a park must be separated by a distance of at least 25 feet from each other.~~
- ~~(b) Setback. No mobile home shall be located less than 30 feet from the pavement edge of a private park street or 30 feet from the right-of-way of any public street within a mobile home park.~~
- ~~(c) Density. Average density in a mobile home park shall not exceed 7.5 units per acre.~~
- ~~(d) Minimum lot size. No lot in a mobile home park shall be less than 5,000 square feet, and all lots in such mobile home park shall average not less than 5,000 square feet. All lots therein shall have an average width of not less than 50 feet.~~
- ~~(e) No addition to any mobile home park shall be constructed within 250 feet of the line of any Residential District. A fifty-foot strip immediately adjoining said Residential District shall be maintained as a landscaped buffer area pursuant to § 170-47C. No mobile home lot, office or service building shall be closer to a public~~

~~street right-of-way line than 80 feet nor closer to a property line than 50 feet.~~

~~(3) Roadways and parking.~~

- ~~(a) Road construction. All private mobile home park roads shall be at least 30 feet in width with hard surfaced roads not less than 20 feet in width and capable of providing safe passage for emergency vehicles.~~
- ~~(b) All dedicated park roadways shall be constructed to the Village's roadway requirements. The maximum speed limit on all park roads shall be 15 miles per hour.~~
- ~~(c) Parking. Two off-street parking spaces shall be provided for each mobile home site. Such spaces may be located on the individual lot or grouped in a nearby location to serve several mobile home sites.~~
- ~~(d) Auxiliary vehicle storage. A temporary parking or storage area for travel trailers, campers, snowmobiles and similar auxiliary vehicles shall be provided for the use of the park residents and guests. The park operator shall encourage residents and park visitors to utilize the storage areas and shall establish rules governing the parking of auxiliary vehicles.~~
- ~~(e) Park entrance and exit. There shall be no less than two park entrances and exits for use in ingress and egress from the mobile home park. All entrances and exits shall be kept free of snow, ice and debris at all times and maintained so as to permit unhampered use of the same by park residents and visitors.~~

~~(4) Facilities and open space.~~

- ~~(a) If community facilities and activities are to be included in the proposed mobile home park, the plan shall include details of these facilities.~~
- ~~(b) All community facilities shall be landscaped with trees, shrubs and grass and shall provide adequate parking space.~~
- ~~(c) Community facilities and activities shall be located and designed in a manner that will be a visual asset. The mobile home park community facilities shall be constructed of material that will be compatible with the residential character of the park.~~
- ~~(d) Open spaces. All mobile home parks established after the adoption of this section shall set aside not less than 5% of the gross land area for recreational use, including playgrounds for young children and/or separate areas for more passive enjoyment by adults. Such spaces shall be approved by the Planning Board as being usable for such purposes and shall be accessible to all lots in the park area.~~

~~(5) Mobile home installations.~~

- ~~(a) Support of the mobile home unit. Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home. Such~~

~~stand shall have a dimension approximately the width and length of the home and any extensions or expansions thereto. Well-anchored tie-downs shall be provided at least on each corner of the stand and as required by manufacturer's standards.~~

- ~~(b) Patios. Each mobile home shall be provided with a patio not less than eight feet in width and 200 square feet in area. The patio shall be constructed with sufficient base material to ensure stability and surfaced with paving stones, reinforced concrete or similar material.~~
- ~~(c) Accessory building. One detached accessory storage building up to 100 square feet in area may be placed on an individual mobile home lot. A building permit shall be required for such accessory buildings which shall be of a design and material compatible with the character of the home to which it is accessory. Accessory buildings shall not be within 20 feet of the pavement edge or within five feet of any lot line within the mobile home park and shall be a minimum of 10 feet from any home or other structure.~~
- ~~(d) Sidewalks. Concrete sidewalks shall be constructed to each mobile home stand from a street, roadway or parking space connected to a street. Common walks shall be provided in areas where pedestrian traffic is concentrated or special hazards exist, such as at the entrance to the park, along major roads, to the office and other important facilities.~~
- ~~(e) Lighting. All mobile home park roads and lots and facilities shall be furnished with outside lighting to ensure the safe movement of vehicles and pedestrians at night. Such lighting shall be placed to minimize glare and approved as to type and location by the Code Enforcement Officer. Electric service to such lights shall be installed underground.~~
- ~~(f) Mobile home installation. At the time of installation of the mobile home, the tires and wheels, and the hitch, if practical, shall be removed and the unit shall be securely blocked, leveled, tied down and connected to the required utility systems and support services.~~
- ~~(g) Skirting. The mobile home shall be completely skirted within 90 days of occupancy. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the mobile home.~~
- ~~(h) Expansions and extensions. Expandable rooms and other extensions to a mobile home unit shall be supported on a stand constructed in accordance with construction standards for the mobile home stand. A building permit shall be required for all expansions and extensions unless original factory equipment and part of the original home. Skirting shall be required among the base of all such expansions or extensions.~~
- ~~(i) Entrance steps. Entrance steps shall be installed at all doors leading to the inside of the mobile home. Such steps shall be constructed of materials intended for permanence, weather resistance and attractiveness and shall be equipped with handrails which will provide adequate support for users.~~

~~(6) Water supply, sewage and solid waste disposal.~~

~~(a) Connection to a public water supply shall be made in accordance with required specifications.~~

~~(b) Each mobile home park shall have a connection to a public sewage disposal system.~~

~~(c) Plans of all sewage disposal systems shall be subject to the review and approval of all agencies having jurisdiction.~~

~~(d) Each mobile home park shall have sufficient covered containers for refuse so as to properly take care of all garbage and rubbish, and the same shall be emptied and the contents properly disposed of by the owner or operator of the park. If group solid waste storage areas are provided for park occupants, they shall be enclosed or otherwise screened from public view and shall be rodent and animal proof. Such group solid waste storage areas shall not be located more than 500 feet from any mobile home site which they are to serve, nor within 100 feet of any exterior park property line.~~

~~(7) Utilities, services and fuel systems.~~

~~(a) In any mobile home park constructed after the date of the adoption of this section, all electrical distribution service, telephone and cable television lines shall be installed underground.~~

~~(b) Every mobile home park occupant shall provide for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.~~

~~(c) Every mobile home park occupant shall provide their own natural gas installation and fuel oil systems designed, constructed, inspected and maintained in a safe and proper manner and in compliance with all rules and regulations governing the same.~~

~~(8) Fire protection.~~

~~(a) The mobile home park plan shall meet all requirements of the fire district wherein said park is located, and it shall comply with such rules and regulations.~~

~~(b) Common areas of mobile home parks shall be kept free of litter, rubbish and other flammable materials by the park operator. Each lot shall be kept free of litter, rubbish and other flammable materials by the lot occupant.~~

~~(c) Each park operator shall include, as a requirement of the rules and regulations of his or her park, a requirement that all mobile homes thereon shall be equipped with at least one UL approved smoke detection device.~~

**K. Existing mobile home park site requirements.**

**(1) Applicability.** This section shall apply only to mobile home parks to which a license

~~has been issued prior to the date of the adoption of this article, and provided that said license is in effect on said date.~~

~~(2) Layout and unit placement.~~

~~(a) Setback requirements. Mobile home units within a park must be separated by a distance of not less than 20 feet from each other on both sides, and not less than 10 feet from each other on the rear side. There shall be a ten-foot front setback requirement pertaining to said mobile home units. No new or used mobile homes shall be moved onto any lot in any mobile home park after the adoption of this section, unless it shall comply with the aforesaid setback requirements. Said requirements shall not, however, impair or effect present and existing setbacks on mobile home units presently on any lot in any mobile home park as of the date of the adoption hereof.~~

~~(b) No addition to any mobile home park shall be constructed within 250 feet of the line of any other Residential District, which area, a fifty-foot strip immediately adjoining said Residential District, shall be maintained as a landscaped buffer pursuant to § 170-47C.~~

~~(3) Roadways.~~

~~(a) Road construction. All newly constructed park roads shall be hard surfaced roads not less than 20 feet in width.~~

~~(b) All park roadways shall be graded, leveled and surfaced as to permit the safe passage of emergency and other vehicles. The maximum speed limit on said roads shall be posted for 15 miles per hour.~~

~~(c) Maintenance of roadways. All private roadways within mobile home parks, and all entrances and exits within said parks, shall be kept free of snow, ice and debris and maintained so as to permit unhampered use of the same by park residents, visitors and emergency vehicles.~~

~~(4) Mobile home installation.~~

~~(a) Support of the mobile home unit. Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home. Such stand shall have a dimension approximating the width and length of the home and any extensions or expansions thereto.~~

~~(b) Accessory buildings. No accessory building may be erected on any lot unless a building permit therefor has been obtained from the Code Enforcement Officer and such structure conforms in all particulars with the requirements of this chapter and other appropriate codes, as they may be amended from time to time. Permits for such construction of structures are to be issued to the owner of the mobile home park, and only with his or her written approval. No more than one utility building shall be allowed on any one lot, and such building shall not exceed a total of 70 square feet of ground area. An accessory building shall not be within 20 feet of the pavement edge, or within five feet of any lot line, and a minimum of 10~~

~~feet from any other home or structure in the mobile home park.~~

- ~~(c) Lighting. All mobile home park roads and facilities shall be furnished with outside lighting to ensure the safe movement of vehicles and pedestrians at night. The minimum requirements for such shall be a streetlight at the end of any street or private roadway, and at the intersection of each street or roadway, which shall be lighted from a period 30 minutes after sunset to 30 minutes before sunrise each day.~~
- ~~(d) Mobile home installation. At the time of the installation of the mobile home, the unit shall be securely blocked and leveled and connected with existing utility systems and support services.~~
- ~~(e) Skirting. The mobile home shall be completely skirted within 90 days of occupancy, weather permitting.~~
- ~~(f) Expansions and extensions. Expandable rooms and other extensions to a mobile home unit shall comply with applicable federal and state codes relating thereto.~~
- ~~(g) Entrance steps. All mobile home units have at least one approved set of steps to include a platform and handrail. Residents at the time of adoption of this section shall have one year from the time of adoption to comply with this requirement.~~
- ~~(5) Water supply, sewage and solid waste disposal.~~
  - ~~(a) Each new unit moved onto any lot in a mobile home park shall be hooked up to the existing sanitary sewer system, and such hookup shall be inspected by the Code Enforcement Officer, and the appropriate fee paid for said inspections, as may be established from time to time by the Village Board.~~
  - ~~(b) All refuse, garbage and solid waste shall be stored in covered refuse containers. Said containers shall be emptied and the contents properly disposed of by the owner or operator of the mobile home park.~~
  - ~~(c) Each mobile home unit shall have a water connection to a public water supply system.~~
- ~~(6) Fuel systems. Every mobile home park occupant shall provide for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with the applicable codes and regulations governing such systems.~~
- ~~(7) Fire protection.~~
  - ~~(a) Common areas of mobile home parks shall be kept free of litter, rubbish and other flammable materials by the park operator. Each lot shall be kept free of litter, rubbish and other flammable materials by the lot occupant.~~
  - ~~(b) Each mobile home unit shall be equipped with at least one UL-approved smoke detection device. Park occupants shall have one year from the date of the adoption of this section to comply with this requirement.~~

- ~~(e) It shall be the responsibility of the licensee of any mobile home park to provide fire protection consisting of a hydrant or hydrants and fire extinguishers in common buildings so located that the same shall be immediately available. Such fire equipment shall be inspected by the Fire Inspector at regular six-month intervals and shall at all times meet with his or her approval.~~

~~L. — Park operation and maintenance.~~

~~(1) — Responsibilities of park operator.~~

- ~~(a) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this section and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.~~
- ~~(b) The park operator shall post a copy of this section at the manager's office and provide each park occupant with a copy of the same upon request.~~
- ~~(c) The park operator shall inspect the placement of each mobile home on its mobile home stand.~~
- ~~(d) The park operator shall maintain a register containing the names of all occupants and the make, year, seal and serial number, if any, of each mobile home. Such register shall be available to any person designated under Subsection M of this section.~~
- ~~(e) The park operator shall notify the Code Enforcement Officer at least two days prior to when a mobile home is removed, placed or relocated in a mobile home park.~~
- ~~(f) The holder of every license pursuant to the provisions of this section shall file with the Village's Assessor and Code Enforcement Officer, as required, a duly verified record of all mobile homes located within said park on such date as established by the Assessor for the tentative tax date, together with the date such vehicle/mobile home first was permitted to park therein and with the make, model, year and size of each of said vehicles/mobile homes.~~

~~(2) — Responsibilities of park occupants.~~

- ~~(a) The park occupant shall be responsible for the maintenance of his or her mobile home, and any appurtenances thereto, and shall keep all yard space on his or her site in a neat and sanitary condition.~~
- ~~(b) It shall be the responsibility of each mobile home occupant to keep his or her site free of litter, rubbish, unused and unlicensed vehicles and equipment or parts thereof.~~
- ~~(c) Depending on the rules of the individual park, the park operator may provide all required maintenance, including common areas as well as individual mobile homes and mobile home sites.~~



~~M. Enforcement; right of entry.~~

- ~~(1) This section shall be enforced by the Code Enforcement Officer of the Village of Newark, as may from time to time be necessary to ensure conformance with the provisions of this section.~~
- ~~(2) Said official shall be authorized and have the right in the performance of his or her duties hereunder to enter any mobile home park and make such inspections as are necessary to determine compliance with this section. Such entrance and inspection shall be accomplished at reasonable times after prior notice to the park operator and, in emergencies, whenever necessary to protect the public health, safety and welfare. Owners, agents or operators of a mobile home park shall be responsible for providing access to all parts of the premises within their control to the Code Enforcement Officer or to his or her inspectors acting in accordance with the provisions of this section.~~

~~N. Duties of the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to make necessary inspections and to investigate all complaints made under this section and to request the Village Attorney to take appropriate legal action of all violations of this section.~~

~~O. Preexisting nonconforming uses. Nothing in this section shall impair or effect the lawful use of property in any mobile home park which existed as of the date of adoption of this section or make illegal such use provided that such use was in existence as of the date of the adoption hereof and further provided that such use is uninterrupted and continuous hereafter.~~

**§ 170-50-62 Performance standards.**

In all districts the following performance standards must be met. The Planning Board shall decide whether proposed or existing uses meet the performance standards.

- A. In all districts the following uses are not permitted: junkyards, machinery-wrecking yards; bulk storage of butane, propane, gasoline; unenclosed manufacturing or processing of goods or materials, except in the Heavy Industrial District with the approval of the Planning Board and after issuance of a special permit by the Board of Appeals.
- B. In all districts the following uses are not permitted: smelters; blast furnaces; slaughterhouses; rendering plants; hide-tanning or curing plants; manufacture or processing of fertilizer, bone, rubber, asphalt, ammonia, chlorine; manufacture or refining of gasoline, gas, explosives; bulk storage of explosives; dumps.
- C. In all districts the following uses are not permitted: all uses which emit noise in excess of 70 decibels measured at the individual property line; all uses which emit any odor which is considered offensive measured at the individual property line; all uses which emit dust or dirt which is considered offensive, measured at the individual property line; all uses which emit any smoke, in excess of Ringelmann Chart No. 2, measured at the individual property line; all uses which emit any noxious gases which endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business or vegetation; all uses which cause, as a result of

normal operations, a vibration which creates displacement of 0.005 of one inch, measured at the individual property line; all uses, lighting or signs which create glare, which could impair the vision of a driver of any motor vehicle; all uses which cause a fire, explosion or safety hazard.

- D. In all districts any uses from which harmful wastes are discharged into the public sewer system, streams, rivers or other bodies of water are not permitted. Effluent disposal shall comply with local and state health standards.

**§ 170-~~51~~-63 Storage of flammable liquids.**

- A. The storage of any highly flammable liquid, in aboveground tanks with unit capacity greater than 550 gallons, shall be prohibited in all districts, unless such tanks up to and including ten-thousand-gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than ten-thousand-gallon capacity are placed not less than 200 feet from all property lines.
- B. All tanks having a capacity greater than 550 gallons shall be properly diked with dikes having a capacity not less than 1 1/2 times the capacity of the tank or tanks surrounded.

**§ 170-~~52~~-64 Extraction of natural products, soil, sand, gravel or stone.**

In any district the removal of soil, sand, gravel or quarried stone for sale, except when incidental to, or connected with, the construction of a building on the same premises, shall be permitted only upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals. In any district, the following provisions shall apply:

- A. No excavation, blasting or stock piling of materials shall be located within 200 feet of any public road or other property line.
- B. No power-activated sorting machinery or equipment shall be located within 600 feet of any public road or other property line, and all such machinery shall be equipped with satisfactory dust-elimination devices.
- C. All excavation slopes in excess of one to one shall be adequately fenced as to be determined by the Code Enforcement Officer.
- D. Extension of an existing nonconforming operation shall not be permitted.
- E. Stripping of topsoil for sale or for use on other premises, except as may be incidental to a construction project and confined to the construction area, shall be prohibited in all districts.
- F. Before approval of any new, or extension to a sand, gravel or stone-quarrying operation by the Planning Board, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned quarry will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The bond shall be sufficient to cover the cost of redevelopment of the quarry as a park, recreation area or other usable open space.

**§ 170-~~53~~-65 Landfill.**

In any district, the dumping of refuse and waste material for landfill is prohibited. Loam,

rock, stone, gravel, sand, cinders and soil may be used for landfill to grade. ~~A~~ after approval by the Planning Board and upon issuance of a special permit by the Board of Appeals, ~~loam, soil, rock, stone, gravel, sand and cinders may be used for landfill to grades established and approved by the Code Enforcement Officer.~~

~~§ 170-54 Lots in two zoning districts.~~

~~Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than 30 feet into the more restricted part, provided that the lot has frontage on a street in the less restricted district.~~

**§ 170-55-66 Service stations.**

All motor-vehicle service stations shall be so arranged and all gasoline pumps shall be so placed as to require all servicing on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property than 50 feet.

**§ 170-56-67 Private swimming pool.**

A private swimming pool as an accessory use shall be installed and maintained in a manner sufficient to meet the standards established by the provisions of the State Sanitary Code relating to swimming pools.

**§ 170-57-68 Open storage in residential districts.**

A. In any residential district, vans and trucks of more than one-ton carrying capacity, unlicensed motor vehicles and cars used for drag or stock-car racing must be stored in an enclosed garage and shall not be parked in the front, side or rear yards.

B. No more than two (2) commercial trucks/trailers shall be parked on a residentially-zoned property at any time.

**§ 170-58-69 Frontage on public street.**

No dwelling shall be erected on a lot which does not abut on at least one street for a distance of not less than 10 feet.

**§ 170-59-70 Location of driveways.**

Where possible, all driveways are to be located at least 100 feet from a street intersection for all uses except one- and two-family residential uses.

**§ 170-60-71 Public utility uses.**

Nothing in this article shall be construed to limit or interfere with the construction, maintenance or operation of water and gas mains, electric light and power lines, communication lines, sewers and similar public utility uses, together with necessary appurtenances thereto, including poles and transformers, in all districts herein mentioned. Public utility buildings shall be permitted in R-1, R-2, R-3, B-1, B-2, B-3 and PDall districts, where necessary to serve such districts, only upon approval by the Planning Board and after issuance of a special permit by the Village Board.

~~§ 170-61 Dwellings on lots.~~

~~There shall be only one dwelling on a lot unless otherwise approved under the Planned Unit Development District provisions.~~

**§ 170-~~62~~-72 Access of business, commercial or industrial use.**

No driveway or other means of access for vehicles, other than a public street, shall be maintained or used in any residence district for the servicing of a business, commercial or industrial use.

**§ 170-~~63~~-73 Drive-in establishments.**

- A. Plans for the erection or structural alteration of any drive-in facility or business shall be submitted to the Planning Board for approval.
- B. The Planning Board may require such changes or additions in relation to yards, driveways, driveway entrances and exits and landscaping, and the location and height of buildings and enclosures, to ensure safety, to minimize traffic or difficulties and to safeguard adjacent properties.

**§ 170-~~74~~ Temporary uses and structures.**

Temporary permits may be issued by the Code Enforcement Officer for a period not exceeding one year for nonconforming uses incident to construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials and a real estate office located on the tract being offered for sale, provided that such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application to the Code Enforcement Officer for an additional period not exceeding one year.

**§ 170-~~67~~5 Abandonment of structures.**

Within one year after work on an excavation for a building has begun, or within one year after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and said excavation or cellar hole thus remaining shall be covered over or filled to the normal grade by the owner.

**§ 170-~~76~~6 Existing residential lots.**

- A. Other provisions of this article notwithstanding, upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals, nothing shall prohibit a lot of less area or less frontage than that required for a single-family dwelling in the district in which the lot is located to be used for a single-family dwelling, provided that said lot cannot be practicably enlarged to conform with these requirements, and further provided that all other provisions of this article are complied with, when such lot, at the time of the passage of this article, was held under separate ownership from the adjoining lots.
- B. The side yard requirements for such lots may be reduced, in which case the total of these two side yards shall be at least 12 feet, and one side yard shall be at least five feet wide.

**§ 170-~~67~~7 Building coverage, open porches, carports and garages.**

In determining the percentage of building coverage of a lot or the size of yards for the purpose of this article, porches or carports open at the side but roofed and all attached garages shall be considered as a part of the principal building.

**§ 170-~~78~~68 Reduction of lot area.**

- A. No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of this article shall be smaller than herein prescribed for each district.

- B. The provision of this section shall not apply when a portion of a lot is taken for a public purpose.

~~§ 170-69 Required area or yards.~~

~~No space necessary under this article to satisfy the area, yard or other open space requirements in relation to any building or use, whether now or subsequently built or occupied, shall be counted as part of a required open space in relation to any other lot or building.~~

**§ 170-70-79 Front yard exceptions.**

Where front yards in any district have been established for more than 50% of the frontage in any block at a depth greater than the minimum required for the district, the depth of required front yards shall be increased to comply with such established ~~average~~ depth. In no case shall the depth of the required front yard be less than that specified for the district in which it is located.

**§ 170-71-80 Yards on corner lots.**

Any yard adjoining a street shall be considered a front yard for the purposes of this article and shall comply with all requirements for a front yard in the district in which located, except that only one front yard is required to comply with the minimum depth requirement; all other front yards shall either comply with the minimum depth requirement or be at least 25 feet in depth, whichever is the less.

**§ 170-72-81 Projection in yards.**

Every part of a required yard shall be open from its lowest part to the sky unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys, eaves, balconies and ornamental features, provided that no such projections may extend more than three feet into any required yard.

**§ 170-73-82 Private garages in residential districts.**

Where the topography is such that the slope of the land exceeds 15% and, therefore, access to a private garage built back of the front building line as required by this article is impracticable, it shall be permissible to place such garage, not exceeding ~~40-12~~ feet in height to the eaves, within the front yard space but not closer to any property line than 18 feet.

~~§ 170-74 Variation of yard requirements in residential districts.~~

~~Upon approval by the Planning Board and after issuance of a special permit by the Board of Appeals, the requirements concerning lot area, frontage, side and rear yards may be varied for a unified residential development of not less than two acres, provided that the maximum number of dwelling units of the overall development is not greater than that normally allowable in the district in which it is located, and provided that suitably landscaped open space at least 40 feet in width shall surround the development. Such land as may be made available under this section shall be devoted to common purposes for all residents, including a park, play area or gardens for use of residents.~~

**§ 170-75-83 Obstruction of vision.**

In all districts, on a corner lot, within the triangular area formed by two lines along the center lines of the streets and a third line joining them at points 75 feet away from the intersection of the center lines of the streets, there shall be no obstruction to vision between the height of three feet and the height of 10 feet above the average grade of each street on the center line

thereof.

**§ 170-~~76-84~~ Fences, walls and hedges.**

Except in residential districts, the provisions of this article shall not apply to fences, walls or hedges not over ~~five-six~~ feet high above the average natural grade, nor to terraces, steps, unroofed porches or other similar features not over three feet high above the level of the floor of the ground story.

**§ 170-~~77-85~~ Fences in residential districts.**

In any residential district any fence or wall built on or within five feet of any street line shall be of open construction, such as wire, picket or iron, and shall not exceed four feet in height.

**§ 170-~~78-86~~ Height exceptions by special permit.**

No radio or television tower, water or cooling tower, grain elevator, gas holder, elevator bulkhead, chimney or similar structures in excess of 50 feet above finished grade level may be erected unless approved by the Planning Board and after issuance of a special permit by the Board of Appeals.

**§ 170-~~79-87~~ Supplementary regulations governing conversions.**

Notwithstanding any other provisions of this chapter, the following restrictions shall apply in the conversion of existing buildings in residential districts R-1, R-2 and R-3 only to add additional dwelling units.

- A. Conversions shall be restricted to buildings currently used exclusively for dwelling purposes.
- B. No dwelling unit shall be created or reduced to less than 850 square feet of livable space.~~.-~~
- C. No exterior change in size or dimension shall be made to any existing building being converted.
- D. No more than 10% of buildings on any named street in ~~any-an R-1 Residentially-Zoned~~ district shall be converted: i.e. West Maple Avenue would be considered one street; East Maple Avenue would be considered one street. Once there are 10% two-family or multiple-family residences on any named street in any zoning district, then there shall be no more conversions allowed. In computing the ten-percent-limit, a building located on a corner lot, regardless of street address, shall be computed for each street the building faces.
- E. On any named street in ~~any-an R-1 Residentially-Zoned~~ district, preexisting or new two-family or multiple-family dwellings shall be computed as one-dwelling building and shall be counted in determining the percentage of permissible conversions.
- F. No conversions to dwelling units shall be permitted to nonresidential buildings.

Article XV

## Nonconforming Uses, Buildings and Structures

### **§ 170-~~80-88~~ Preexisting use.**

Except as provided in § 170-89, the lawful use of any building or land existing at the time of the enactment of this article may be continued although such use does not conform with the provisions of this article.

### **§ 170-~~81-89~~ Discontinuance.**

When a nonconforming use has been discontinued for a period of ~~one year~~ 12 consecutive months, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this article.

### **§ 170-~~82-90~~ Changes.**

No nonconforming use shall be changed to other than a conforming use for the district in which it is situated. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

### **§ 170-~~83-91~~ Unsafe structures.**

Any nonconforming structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

### **§ 170-~~84-92~~ Restoration.**

No nonconforming building damaged by fire or other causes to the extent of more than 75% of its latest market value prior to damage, as determined by the Code Enforcement Officer, shall be repaired or rebuilt except in conformity with the regulations of this article.

### **~~§ 170-85 Alterations.~~**

~~A. A nonconforming building may not be altered during its life to an extent exceeding in aggregate cost 25% of the latest market value of the building, as determined by the Code Enforcement Officer, unless said building is changed to a conforming use. This section does not apply to a residence.~~

~~B. Such alterations shall not increase the inherent nuisance, nor violate any provisions of this article regarding yards, lot area or lot coverage for the district in which it is situated, or to increase any existing violation of such provisions.~~

### **§ 170-~~86-93~~ Extension.**

A nonconforming use shall not be extended. The extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this article shall not be deemed the extension of such nonconforming use.

### **~~§ 170-87 Approved construction.~~**

~~Nothing herein contained shall require any change in plans, construction or designated use of a nonconforming building for which a building permit has been issued.~~

### **§ 170-~~88-94~~ District changes.**

When the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

Article XVI  
Board of Appeals

**§ 170-89-95 Creation, appointment and organization.**

**[Amended 4-21-1998 by L.L. No. 1-1998; 8-20-2002 by L.L. No. 6-2002]**

- A. Board established. Pursuant to Article 7 of the Village Law, § 7-718, the Village Board of the incorporated Village of Newark does hereby establish a Village Zoning Board, consisting of five members and up to three alternate members.
- B. Membership; terms of office.
- (1) A Board of Appeals is hereby created to consist of five members and a Chairperson thereof to be appointed by the Mayor, subject to the approval of the Board of Trustees. The Board of Appeals shall appoint a Secretary and shall prescribe rules for the conduct of its affairs. Terms of office of members shall be for five years. Terms of original members shall be staggered so that one member's term shall expire in each year for the first five years. Subsequent members shall be appointed for five-year terms and shall serve until the expiration of said term and the appointment of their successors in office.
  - (2) Position established for alternate members. The position of alternate member(s) of the Zoning Board of the Village of Newark is hereby established. The Village Board is authorized to appoint up to three alternate members.
  - (3) Terms. All alternate members of the Zoning Board of the Village of Newark shall be appointed for a one-year term and in the same manner as regularly appointed members of the Zoning Board.
  - (4) Duties.
    - (a) Alternate members shall serve in the absence, unavailability or inability of a regular member of the Zoning Board to serve. Copies of notices shall be sent to all members. When a meeting of the Zoning Board shall be duly noticed and called for discussion, if it shall become apparent that a regular member of the Zoning Board will be unable to hear and deliberate upon an application, then an alternate member of the Zoning Board, at the call of the Chairman of said Board, or if absent, then the present members of the Board, shall be duly authorized to hear the application, to deliberate and to vote with full force and effect as if duly appointed a regular member of the Board.
    - (b) All members and alternates shall complete yearly training subject to requirements put forth by the Village Board.

**§ 170-90-96 Procedure.**

The Board of Appeals shall have all the powers and duties prescribed by law and by this article, which are more particularly specified as follows:

- A. The Board of Appeals shall act in strict accordance with the procedure specified by law and by this article. All appeals and applications made to the Board shall be in writing, on



forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the article involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the ground on which it is claimed that the variance should be granted, as the case may be.

- B. At least ~~45~~10 days before the date of the hearing required by law on an application or appeal to the Board of Appeals, the Secretary of said Board shall transmit to the Planning Board a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.
- C. Meetings; minutes; records. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- D. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall ~~immediately~~ be filed in the office of the Village Clerk within five days and shall be a public record. ~~Minutes shall be provided to the Village Clerk and the Village Board within two weeks, and a copy thereof mailed to the applicant.~~
- E. Assistance to Board of Appeals. The Board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board.
- F. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of any local law adopted pursuant to this article. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance, ~~or~~ area variance, or special permit. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Village.
- G. Special permits. The Board shall have the authority to issue special permits for any of the uses for which this article requires the obtaining of such permits from the Board of Appeals.
- H. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such local law by filing with such administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall

forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Village of Newark prior to the hearing of such appeal.

- I. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- J. Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in a paper of general circulation in the Village of a notice of such hearing, at least five days prior to the date thereof.
- K. Time of decision. The Board of Appeals shall decide upon the appeal within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

~~L. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.~~

~~M.~~ Notice. At least five days before such hearing, the Board of Appeals shall mail notices thereof to the parties, to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the county or regional planning agency as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of § 239-m of the General Municipal Law.

~~N.~~ Compliance with state environmental quality review act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations, as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.

**§ 170-91-97 Permitted action by Board of Appeals.**

- A. Interpretations; requirements; decisions; determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.
- B. Use variances.

- (1) The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such article, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the article.
- (2) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:
  - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
  - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood
  - (d) The alleged hardship has not been self-created.
- (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such article, to grant area variances from the area or dimensional requirements of such article.
- (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
  - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (c) Whether the requested area variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(e) Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

(3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. The Board of Appeals shall have the power to grant special permits in accordance with the applicable provision of the Code of the Village of Newark.

**§ 170-92-98 Standards for special permits.**

In every case where a special permit by the Board of Appeals is required by the provisions of this article before a use may be permitted in any particular district, such special permit shall be given only after:

- A. Referral to the Planning Board for their recommendation and the receipt of their report; and
- B. A public hearing, conducted in the manner set forth for an amendment to the Zoning Chapter.

**§ 170-93-99 General provisions.**

The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this article. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

**§ 170-94-100 Required plan.**

An application for a special permit shall be accompanied by preliminary plans and other descriptive matter sufficient to clearly portray the intentions of the applicant, and such plans and other descriptive matter shall become part of the record. Such plans shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this article.

**§ 170-95-101 Expiration.**

A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than three months for any reason.

**§ 170-96-102 Existing violations.**

No special permit shall be issued for a special use for a property where there is an existing violation of ~~this article~~ the Code of the Village of Newark.

**§ 170-97-103 Standards applicable to all special permit uses.**

~~Such special permits may be issued only after the Board of Appeals has found that all the following standards and conditions have been satisfied:~~

~~A. The location and size of the use and structure, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it are such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.~~

~~B. The special use shall not conflict with any comprehensive plan, or part thereof, which has been adopted by the Planning Board.~~

~~C. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights than would be the operations of any permitted use. There are fifteen criteria that shall be used to review special permit applications, to the extent they are pertinent to each request. Additional factors may also be considered and additional standards imposed. In deliberating a proposal, the Planning Board and Zoning Board of Appeals may determine that some factors outweigh others.~~

A. The character of the neighborhood.

B. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

C. The suitability of the property for the uses to which it has been restricted under the current applicable zoning district regulations.

D. The length of time the property has remained vacant as zoned.

E. The extent to which approval of the application would detrimentally affect nearby properties.

F. The extent to which the proposed use would substantially harm the value of nearby properties.

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

H. The extent to which utilities and services, including but not limited to, sewers, water service, police and fire protection, and parks and recreation facilities, are available and adequate to serve the proposed use.

I. The extent to which the proposed use would create excessive stormwater runoff, air

pollution, water pollution, noise pollution or other environmental harm.

J. The extent to which there is a need for the use in the community.

K. The economic impact of the proposed use on the community.

L. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to the zoning district regulation.

M. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of the denial of the application.

N. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

O. The recommendation of professional staff.

~~§ 170-98 Additional standards.~~

~~The Planning Board may recommend in their report to the Board of Appeals that additional standards be imposed on the special use prior to issuance of a special permit. Such additional standards shall be to provide adequate safeguards to protect the health, safety, morals or the general welfare of the public and for the preservation of the general character of the neighborhood in which such proposed special use is to be placed and to minimize possible detrimental effects of the use on adjacent property.~~

## Article XVII Amendments

### ~~§ 170-99~~ **104 Procedure for amendments and variances.**

- A. The regulations, restrictions, districts and boundaries established by this ~~article~~ Chapter may, from time to time, be amended, supplemented, changed, modified or repealed after official notice has been given and a public hearing has been held as provided under law.
- B. A petition requesting a change in regulations, provisions or district boundaries, as set forth in this ~~article~~ Chapter, shall be typewritten and signed and acknowledged by the person presenting it, ~~in the same manner as required for the recording of a deed to real property, . It and~~ shall be filed with the Clerk ~~in triplicate~~.
- C. The Planning Board or Board of Appeals may require a plan of the proposed development and use of any area for which change of zoning district or variance is sought in order to assist them in their understanding of any proposed change.
- D. Every such proposed amendment or change shall be referred to the Planning Board for report thereon before the public hearing. Notice of the time and place of such public hearing shall be published and posted as required by law.

### ~~§ 170-100 Performance bond.~~

~~In the case of a change in zoning district petition filed with respect to a Planned Unit Development District, such change in zoning district shall not become effective until the~~

~~petitioner has filed a performance bond in such amount and under such conditions as the Planning Board may deem to be in the best interests of the public and so as to ensure that the proposed development of the area to be rezoned will be built in full compliance with the provisions of the accepted development plan.~~

## Article XVIII Administration and Enforcement

### **§ 170-~~101~~105 Interpretation.**

In interpreting and applying the provisions of this article, they shall be held to be the minimum requirements for the promotion of public health, safety, morals or general welfare.

### **§ 170-~~102~~106 Conflict with other laws.**

Whenever the requirements of this article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **§ 170-~~103~~107 Purpose.**

The purpose of this article is to promote the health, safety, morals and general welfare of the Village of Newark by furnishing the administration for the enforcement of building restrictions and regulations, the manner and method of issuing permits for buildings and for regulating the use of premises for building purposes and the construction of approaches thereto within highway limits and to establish penalties for the violation of such regulations.

### **§ 170-~~104~~8 Building Department. Department of Public Works**

~~There is hereby established in the Village of Newark a division of the~~ The Department of Public Works ~~to be~~ designated ~~as the Building Department~~ for the administration and enforcement of the provisions of all laws, ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, ~~use,~~ ~~occupancy,~~ removal and demolition of ~~Village of Newark-owned~~ buildings and structures and appurtenances ~~located in the Village of Newark~~ and the construction of approaches thereto within highway limits.

### **§ 170-~~105~~109 Code Enforcement Officer.**

The Code Enforcement Officer shall be in charge of the Building Department. A Code Enforcement Officer is to be appointed by the Village Board, at a compensation to be fixed by the Village Board.

### **§ 170-~~106~~110 Assistants to Code Enforcement Officer.**

The Village Board, as the need may appear, may appoint such Assistant Code Enforcement Officers or other employees of the Building Department ~~as it shall choose to serve at the pleasure of and for~~ with a compensation to be fixed by the Village Board.

### **§ 170-~~107~~111 Relief from personal responsibility.**

No official or employee of the Building Department shall, while acting pursuant to the provisions of this article, be personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his or her official duties, provided that such acts are performed in good faith and without gross negligence.

**§ 170-~~108~~-112 Duties and powers of Code Enforcement Officer.**

- A. Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Code Enforcement Officer under the direction of the Mayor shall administer and enforce all of the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures, and the installation and use of materials and equipment therein, and the location, use, occupancy and maintenance thereof.
- B. The Code Enforcement Officer shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of ensuring compliance with laws, ordinances and regulations governing building construction.
- C. The Code Enforcement Officer shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations. The Code Enforcement Officer shall make all inspections which are necessary or proper for carrying out his or her duties, except that he or she may accept written reports of inspection from Assistant Code Enforcement Officers or other employees of the Building Department or from a generally recognized ~~and~~ authoritative service and inspection bureaus, provided that the same are certified by a responsible official thereof.
- D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, the Code Enforcement Officer may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies, with expense to be paid by the applicant.

**§ 170-~~109~~-113 Department records and reports.**

The Code Enforcement Officer shall keep permanent official records of all transactions and activities of the Building Department, including all applications received, permits and certificates issued or denied, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection during business hours.

**§ 170-~~110~~-114 Cooperation of other departments.**

The Code Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of the Police, Fire and Health Departments and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

**§ 170-~~111~~-115 Penalties for offenses.**

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of this article or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

**Commented [4]:** Editor's Note: Former §§ 40-126, Application for building permit, 40-127, Issuance of building permits, 40-128, Performance of work under building permit, 40-130, Deposits for security, 40-131, Revocation of building permits, 40-132, Stop-work orders, 40-133, Certificate of occupancy, 40-134, Inspection prior to issuance of certificate, 40-135, Issuance of certificate of occupancy, 40-136, Temporary certificate of occupancy and 40-137, Tests, which immediately followed this section, were deleted 4-21-1998 by L.L. No. 1-1998. Former § 40-138, Unsafe Buildings, was also deleted 4-21-1998 by L.L. No. 1-1998. See now Ch. 67, Buildings, Unsafe.



- B. Any person who shall fail to comply with a written order of the Building Department within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this article, or any lawful order, notice, directive, permit or certificate of the Building Department made thereunder shall be punishable as follows: **[Amended 4-21-1998 by L.L. No. 1-1998]**
- (1) For a first offense, a fine not exceeding \$350 and/or imprisonment for not more than six months;
  - (2) For a second offense, both of which were committed within a period of five years, a fine of between \$350 and \$700 and/or imprisonment for not more than six months;
  - (3) For a third or subsequent offense, all of which were committed within a period of five years, a fine of between \$700 and \$1,000 and/or imprisonment for not more than six months.
- C. Except as provided otherwise by law, such violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.
- D. This section shall not apply to violations of the provisions of the New York State Uniform Fire Prevention and Building Code punishable under § 385 of the Executive Law of the State of New York; nor to violations of the provisions of the Multiple Residence Law punishable under § 304 of the Multiple Residence Law of the State of New York.

**§ 170-~~112~~-116 Abatement of violation.**

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises; and these remedies shall be in addition to the penalties prescribed in the preceding section.

**§ 170-~~113~~-117 Complaints of violations.**

Whenever a violation of this article occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall immediately investigate and report thereon to the Planning-Village Board.

**§ 170-~~114~~-118 Effective date.**

This article shall take effect at noon, May 1, 1967: upon filing with the Secretary of State.