

# City of Paterson

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## Municipal Code: Chapter 483 Zoning and Land Development

April 2016

This document contains Chapter 483 of the Municipal Code of the City of Paterson

Articles I, II, III, and IV of this Chapter within this book have been taken from the original drafting of the code in 2006. While efforts have been made to include all subsequent amendments to the ordinance, the content of this document in regards to Articles I, II, III, and IV have not been verified to be completely up to date. To verify the content of any of these sections, please review all relevant ordinances adopted by the City Council, as amendments to these chapters, in the Office of the City Clerk.

Article V (Zoning), as well as the zoning map, schedule of use regulations, and schedule of bulk standards, of this book is a true copy of the amendments to the City's Zoning Ordinance as adopted by the City Council at a regular meeting on February 9, 2016



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**Zoning Map**

**Street Functional Classification Map**



## **ARTICLE I GENERAL PROVISIONS**

### **§100-1 SHORT TITLE**

This ordinance shall be known and may be cited as the "Zoning and Land Development Ordinance of the City of Paterson, New Jersey."

### **§100-2 STATUTORY AUTHORITY; PURPOSE**

This Chapter is adopted pursuant to the Municipal Land Use Law (MLUL), (N.J.S.A. 40:55D-1 et seq.), in order to promote and protect the public health, safety, morals and general welfare. It is the purpose and intent of this ordinance to effectuate the purposes of that act as they apply to the City of Paterson. The purposes of this Chapter are as follows:

- A. To plan and guide the appropriate use or development of all land in a manner that will promote the public health, safety, morals and general welfare by means including the following:
  - 1. By regulating the location of buildings and establishing standards of development; establishing setback lines of buildings designed for residential, commercial, industrial, office or other uses and by fixing reasonable standards to which buildings or structures shall conform.
  - 2. By prohibiting incompatible uses; and prohibiting uses, buildings or structures that are incompatible with the character of development of the permitted uses within specified zoning districts and surrounding areas.
  - 3. By regulating alterations of existing buildings; and preventing such additions to and alterations or remodeling of existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
  - 4. By conserving the value of land and buildings throughout the City.
- B. To secure safety from fire, flood, panic and other natural and man-made disasters.
- C. To provide adequate light, air, and open space.
- D. To ensure that the development of the municipality does not conflict with the development and general welfare of neighboring municipalities, the county and state as a whole.
- E. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment.
- F. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development and land use policies.
- G. To provide sufficient space in appropriate locations for a variety of uses and open space, both public and private, according to their respective environmental requirements.

- H. To encourage the location and design of transportation routes that will promote the free flow of traffic while discouraging locations of such facilities and routes that result in congestion or blight.
- I. To promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- J. To promote the conservation of open space and valuable natural resources and to prevent the degradation of the environment through improper use of land.
- K. To encourage planned development that incorporates the best features of design and relates the type, design and layout of various types of development to particular sites.
- L. To encourage coordination of the various public and private procedures and activities shaping land development, with a view to lessening the cost of such development and to the more efficient use of land.
- M. To control flooding, soil erosion and sedimentation precipitated by development and caused by water runoff, soil disturbances, destruction or removal of ground cover or plant life, grading or filling.
- N. To provide, within the community's resources, for the future housing needs of the citizens of the City of Paterson.
- O. To encourage senior citizen community housing construction.
- P. To promote utilization of renewable energy sources.
- Q. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to compliment municipal recycling programs.

**§100-3 INTERPRETATION**

- A. The provisions of this Ordinance shall be considered as minimum provisions.
- B. Where the provisions of this Ordinance impose greater restrictions than those imposed by any other law, ordinance, regulation or resolution, the provisions of this Ordinance shall control. Where the provisions of any other law, ordinance, regulation or resolution impose a greater restriction than this Ordinance, the provisions of such other law, ordinance, regulation or resolution shall control.
- C. The provisions and definitions of the Municipal Land Use Law shall guide the interpretation, administration and enforcement of this ordinance. Matters not regulated herein shall be governed by applicable provisions of the MLUL. In the event of any conflict between the provisions of this ordinance and the MLUL, the MLUL shall control.
- D. The requirements of this Ordinance shall be held paramount to any less restrictive provisions or requirements established by deed restriction, private covenant or agreement. Without limiting

the foregoing, where this Ordinance imposes a greater restriction or limitation upon the use of buildings or premises or upon the height of buildings or lot coverage, or requires greater lot areas or larger yards, courts or other open spaces than are required by covenants or restrictions imposed by deed or private agreement, the provisions of this Ordinance shall control.

#### **§100-4 SEVERABILITY**

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

#### **§100-5 WORD USAGE**

For the purposes of this Ordinance:

- A. The term "shall" shall indicate a mandatory requirement, and the term "may" shall indicate a permissive action.
- B. Whenever a term is used in this ordinance that is defined in the Municipal Land Use Law (MLUL), (N.J.S.A. 40:55D-1 et seq.), as amended from time to time, such term shall have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this Chapter.
- C. Any term that is not defined shall be understood in the context of standard usage.
- D. Words used in the present tense shall include the future.
- E. Words used in the singular number shall include the plural number; and the plural, singular.
- F. The word "person" shall include a firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- G. The word "used" or "occupied" shall include the words "intended, designed, or arranged to be used or occupied".
- H. Whenever the term "structure" is used, it shall be construed to mean and include the term "building."
- I. The words "zone" and "district" are synonymous.

#### **§100-6. DEFINITION OF TERMS.**

The following words and terms shall have the meaning set forth, except where otherwise specifically indicated. Words and terms not defined shall have the meaning indicated by Webster's Third New

International Dictionary of the English Language, unabridged (or the latest edition). Terms defined herein are italicized in the text of the Ordinance.

**ABANDONMENT** : To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity.

**ACCESSORY BUILDING** : A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building. When an accessory building is attached in a substantial manner by a wall or roof to a principal building or structure, it shall be considered a part thereof.

**ACCESSORY USE** : A use of land or of a building or structure, or portion thereof, that is customarily incidental and subordinate to the principal use of the land or building conducted on a lot, and located on the same lot as the principal use.

**ADMINISTRATIVE OFFICER** : The City of Paterson Zoning Officer or such other individual designated by the City Council.

**ADULT MEDICAL DAY CARE**: A facility that provides medical services, meals, and/or supervision for the frail or elderly for a limited time during each day, but does not include 24-hour supervision. This may include provisions for recreational activities or transportation for the frail or elderly.

**ALLEY** : A public or private way to the rear or side of property, which normally affords a secondary means of access to abutting property. Frontage on any alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.

**ALTERATION** : As applied to a building or structure, an alteration is a change or rearrangement in the structural parts or in the means of egress; or an enlargement or reduction, whether by extending on a side or by increasing or decreasing in height; or the moving from one location or position to another.

**ANTENNA** : Any system of wires, poles, rods, reflecting discs or similar devices, including but not limited to satellite dish earth stations and TV/Radio antennas, used for the transmission or reception of television, radio, microwave, satellite, or similar signals.

**APPLICANT** : An individual or entity submitting an application for development; where the applicant is not the owner of the subject property, the developer and owner shall sign the application.

**APPROVING AGENCY** : The appropriate City agency given the authority under the New Jersey Municipal Land Use Law to review and approve or deny a proposed Land Use Development, and includes the Planning Board and the Zoning Board of Adjustment of the City of Paterson, New Jersey.

**ARTIST** : A person who is regularly engaged on a professional basis in the fine arts such as painting and sculpture, in the performing or creative arts including choreography and film making, or the composition of music.

**ASSISTED LIVING FACILITY** : Residence for the frail elderly that provides rooms, meals, personal care, and supervision of self-administered medication and which may provide other services such as recreational activities, financial services, and transportation.

**AUTOMOBILE BODY REPAIR FACILITY** : Any building or land area or portion thereof, used or intended to be used for the purposes of repairing, removing, or installing integral component parts of an engine, power train, chassis, or body of any automobile damaged as a result of a collision. The facility shall not dispense gasoline for retail or wholesale purposes, nor shall it include the sale of junked automotive equipment, parts or inoperable motor vehicles, nor shall it include or be part of an auto sales establishment or dealership.

**AUTOMOBILE DISMANTLING FACILITY** : Any establishment or place of business which is maintained, used, or operated for the primary purpose of storing, keeping, buying, or selling dismantled motor vehicles, motorparts, or both.

**AUTOMOBILE REPAIR SERVICES** : Any building, land area or other premises or portion thereof, used or intended to be used for the purposes of rendering specialized services associated with the operation of automobiles, including, but not limited to: muffler repair and replacement; brake repair and replacement; tune-ups; re-wiring; automobile lubrication and oil changes; transmission repair and replacement; gasoline sales; auto glass installation and replacement, alternator and starter repair and replacement; automobile detailing; and engine repair and replacement. Such uses shall not include those uses that would qualify as automobile body repair facilities, as defined herein, nor shall such uses dispense gasoline for retail or wholesale purposes

**AUTOMOBILE WRECKING YARD** : See Junkyard.

**BANK** : A business establishment in which money is kept for savings or commercial purposes or is invested, supplied for loans, or exchanged.

**BANK, DRIVE-THROUGH** : A business establishment in which money is kept for savings or commercial purposes or is invested, supplied for loans, or exchanged, and which provides for customers to be serviced through drive-through windows accessed via a vehicular circulation system on the property of the establishment.

**BAR** : Any premises wherein alcoholic beverages are sold at retail for consumption on the premises, exclusive of establishments otherwise defined herein.

**BASEMENT** : That portion of a building which is partly below and partly above grade, and having at least one-half (1/2) its height and more than 50% of its cubic volume above grade.

**BED AND BREAKFAST** : An owner-occupied single-family residence providing short-term lodging and meals for travelers during visits to the City of Paterson. Any home used for such a purpose shall be licensed by the City of Paterson and shall meet all local and state codes for health, safety, and zoning. Any such uses shall be subject to regular inspection as provided in the Code of the City of Paterson.

**BILLBOARD** : A sign, freestanding or attached to a building or structure, of any size that directs attention to a business, commodity, service, or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.

**BOARDING OR ROOMING HOUSE** : Any dwelling in which 2 or more rooms or more than 5 persons rent with or without meals exclusive of the family as defined herein.

**BODY PIERCING & SKIN ART STUDIO** : Any establishment where a body piercing artist conducts the business of piercing the skin or other parts of the body.

**BREW PUB** : an establishment licensed to brew any malt alcoholic beverages, operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, located immediately adjoining the premises licensed to brew malt alcoholic beverages as a restricted brewery.

**BUFFER STRIP** : Open spaces, landscaped area, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another so as to shield or block noise, lights or nuisances.

**BUILDING** : Any covered structure built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land. Such building includes decks, open porches, open breezeways, and other roofed areas.

**BUILDING AREA** : The total of areas taken on a horizontal plane at the main grade level of the principal building and all necessary buildings exclusive of steps. All dimensions shall be measured between the exterior faces of walls.

**BUILDING HEIGHT** : The vertical distance from the average natural grade of the top of the highest roof beams of a flat roof, or to the average level of the highest gable or slope of a hip roof. When a building faces on more than one (1) street, the height shall be measured from the average of the natural grades at the center of each street front.

**BUILDING, PRINCIPAL** : A building in which the principal use of a lot is conducted.

**BULK**: A term used to indicate, but not be limited to, the size, setbacks, and location of buildings

**BUSINESS SERVICES** : Businesses primarily engaged in rendering services to business establishments on a fee or contract basis such as: advertising and mailing; sign production; parking and crating services; moving services; building services such as floor cleaning, electrical, heating, ventilation and air conditioning, masonry, painting, plumbing and roofing; maintenance; printing, publishing or lithography; linen, towel, diaper and other personal supply service; employment services; management services; protective services; and commercial equipment rental and leasing.



**CAR WASHING ESTABLISHMENT** : An establishment where automobiles are washed as the principal use on a lot, whether manually or through automatic processes, and which includes the interior cleaning and treatments commonly referred to as "detailing".

**CELLAR** : That portion of a building which is partly or completely below grade, and having at least one-half (1/2) its height and more than 50% of its cubic volume below grade.

**CERTIFICATE OF OCCUPANCY** : A certificate issued by the Division of Community Improvements which permits the use of property in accordance with the approved plans and specifications, and all applicable governmental laws, ordinances and regulations.

**CHANNEL** : A water course with a definite bed and banks which confine or conduct continuously or intermittently flowing water. (If in a riverine situation, a watercourse should be altered or relocated, adjacent communities, appropriate state agencies, and the federal insurance administrator shall be notified. Assurance will be given that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained).

**CHARITABLE INSTITUTIONS** : An organization, association, corporation, or other entity formed or maintained for the purpose of performing or contributing to the performance of charitable, benevolent, philanthropic, or goodwill acts or a portion thereof for the benefit of the public in general and not for profit, gain or private advantage.

**CHILD CARE CENTER** : An establishment providing for the care, supervision, and protection of children that is licensed by the State of New Jersey pursuant to P.L. 1983, c. 492 (C. 30:5B-1 et seq.).

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

**CITY, THE** : City of Paterson, New Jersey.

**CITY PLANNING DIRECTOR** : The Director of the Division of Planning and Zoning.

**CLINIC, OUT-PATIENT** : A professional office where the licensed services of more than 1 medical practitioner can be obtained and where patients are examined or treated on an outpatient basis and where no overnight accommodations are provided; and which complies with all applicable federal, state and local laws, statutes and regulations.

**CLINIC, IN-PATIENT** : A facility where the licensed services of more than 1 medical practitioner can be obtained, including persons treated on an in-patient basis for drug and alcohol abuse; where overnight accommodations are provided; and which complies with all applicable federal, state, and local laws, statutes and regulations.

CLUB, PRIVATE : A non-profit association of persons who are bonafide members paying annual dues, which owns, hires, or leases a building or portion thereof; the use of such premises being restricted to members or their guests.

CLUB, RECREATIONAL : A non-profit association of persons, who are bonafide members paying annual dues, which owns, hires, or leases land or buildings or portions thereof, the use of such premises being restricted primarily to the principal use, which is a generally recognized sport or recreational activity serving primarily the neighborhood.

CO-LOCATION : The use of the same structure or telecommunications tower to carry two or more antennas for the provision of wireless services by two or more entities.

COMMISSION, THE : The Historic Preservation Commission of the City of Paterson, New Jersey established by City Ordinance.

COMMUNITY RESIDENCE FOR THE DEVELOPMENTALLY DISABLED OR MENTALLY ILL PERSONS : Any community residential facility licensed pursuant to P.L. 1977, C. 448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in a community, and shall include, but not limited to: group homes, half-way houses, immediate care facilities, supervised apartment living arrangements and hotels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" (P.L. 1971. C.136; C.26:2H-1 et seq.). In the case of community residences housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an application agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals in the Department of Human Services. "Developmentally Disabled Person" means a person who is developmentally disabled as defined in Section 2 of P.L. 1977,. C.448 (C.30:11B-2), and "Mentally Ill Person" means a person who is afflicted with a mental illness as defined in N.J.S.A. 30:4-23, but shall not include a person who has been committed after having been found guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

COMMUNITY RESIDENCE FOR PERSONS WITH HEAD INJURIES : A community residential facility licensed pursuant to P.L. 1977, c. 448 (C.30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," 1971, c. 136.

COMMUNITY RESIDENCE FOR THE TERMINALLY ILL : Any community residential facility operated as a hospice program providing food, shelter, personal guidance and health care services, under such supervision as required, for not more than 15 terminally ill persons.

**COMMUNITY SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE** : Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P.L. 1979, C.337 (C.30:40-1-14) providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of Domestic Violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

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

**CONSTRUCTION OFFICIAL** : The Officer of the Division of Community Improvements or his duly authorized representative charged with the administration and enforcement of the Uniform Construction Code Act and the regulations there under and Chapter 183 of the Code of the City of Paterson.

**CONSTRUCTION PERMIT** : An official document issued by the Division of Community Improvements authorizing the erection, alteration, repair, renovation, demolition or removal of any building or structure, including excavation, filling and grading.

**COUNTY, THE** : The County of Passaic, New Jersey.

**CUL-DE-SAC** : A street with only a single means of ingress and egress, not longer than six hundred (600) feet, and having a turnaround at the end.

**CURB LEVEL** : The level of the established curb in front of a building measured at the center of such front. Where no curb elevation has been established, the lot grade immediately adjacent to a building shall be considered the curb level.

**DELICATESSEN** : A shop that sells cooked or prepared foods ready for serving but not consumed on the premises.

**DENSITY** : The permitted number of dwelling units per gross area of land area to be developed.

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

**DEVELOPMENT** : The division of a parcel of land into two or more parcels, or the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, or of any excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land for which permission may be required pursuant to this ordinance.

**DISTRICT** : A zoning district established pursuant to the zoning provisions of this ordinance.

DIVISION OF COMMUNITY IMPROVEMENTS : The Division of Community Improvements, Department of Community Development of the City of Paterson, New Jersey.

DIVISION OF ENGINEERING : The Division of Engineering, Department of Public Works of the City of Paterson, New Jersey.

DIVISION OF PLANNING AND ZONING : The Division of Planning and Zoning, Department of Economic Development of the City of Paterson, New Jersey.

DRAINAGE RIGHT-OF-WAY : The lands required for the installation of sanitary and/or stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flooding or flood damage

DRY CLEANING ESTABLISHMENT : Any establishment where the mechanical cleaning of clothing, fabrics, or other such garments is conducted on the premises for retail customers. This shall not include self-serve washing and drying machines as would be found in a laundromat.

DWELLING, LOFT : A dwelling unit in a building designed, zoned and used for residential and commercial purposes.

DWELLING UNIT : A single unit providing complete, independent living facilities for 1 family including permanent provisions of living, sleeping, eating, cooking and sanitation, which comply with all relevant state and municipal laws, ordinances and regulations.

DWELLING : A structure or portion thereof that is used exclusively for human habitation. "Dwellings" may include but are not limited to the following types:

- A. DETACHED, ONE-FAMILY A building containing only 1 dwelling unit, intended and used by only one family and that is not attached to any other dwelling by any means.
- B. GARDEN APARTMENT - A multi-family dwelling building of not more than 3 stories in height on a parcel which provides common open space, and which contains at least 8 dwelling units.
- C. HIGH-RISE APARTMENT - A multi-family dwelling structure containing 10 or more dwelling units with direct access to common hallways, foyers, or corridors and which is greater in height than 7 stories and no more than 21 stories.
- D. LOW-RISE APARTMENT - A multiple-family dwelling structure containing three or more separate dwelling units per structure, being greater than 3 stories in height but no more than 7 stories in height.
- E. MULTI-FAMILY - A building or portion thereof containing 3 or more units, each of which units is intended and used by only one family, including units that are located one over another. Rooming houses, boarding houses, hostels, lodging houses, college fraternity houses, hotels, motels, and dormitories are specifically excluded by this definition as multi-family dwelling structures.
- F. TOWNHOUSE, ONE-FAMILY - A one-family dwelling in a row of at least two such attached dwellings in which each dwelling has its own front and rear access to the outside, no dwelling is

located over another dwelling and each dwelling is separated from all other attached dwellings by one or more vertical common fire-resistant walls.

- G. TOWNHOUSE, TWO-FAMILY - A two-family dwelling in a row of other attached dwellings. In a two family townhouse, one dwelling unit is located above one other dwelling unit, but is separated from all other dwellings by one or more vertical common fire-resistant walls.
- H. TWO-FAMILY -A building or portion thereof containing 2 dwelling units.

EROSION : The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

FAMILY : One or more persons occupying a dwelling unit as a single housekeeping unit according to law.

FAMILY CHILD DAY CARE HOME : Any private residence approved by the Division of Youth and Family Services or an organization with which the division contracts for family day care in which child care services are regularly provided to no less than 3 and no more than 5 children for no less than 15 hours per week. A child being cared for under the following circumstances is not included in the total number of children receiving child care services: (a) the child being cared for is legally related to the provider; or (b) the child is being cared for as part of a cooperative agreement between parents for the care of their children by 1 or more of the parents, where no payment for the care is being provided.

FENCE : Any structure of wood, stone or other material erected for the purpose of enclosing or screening a piece of land.

FILL : Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by any person or persons so as to form a level surface or an embankment or to raise the elevation of the land surface.

FILLING STATION, GASOLINE : Premises where the principal business conducted thereon is the sale, supply and dispensing of gasoline, oil, grease, batteries and tires. Automobile accessories may be supplied and dispensed at retail. Normal automobile maintenance and minor repairs may be performed, such as oil changes, brake repair, and tune-ups, exclusive of those permitted in an automobile repair services facility, an auto body repair facility or an auto laundry.

FINAL APPROVAL : The official action of the appropriate board taken on an application for development after all conditions, engineering plans and other requirements have been fulfilled, including the installation of required improvements or posting of guarantees for their installation.

FLOOD : A general or temporary condition of partial or complete inundation of normally dry land areas from overflow of river or stream, or unusual or rapid accumulation of surface water run-off.

FLOOD, BASE : The designated probability-of-occurrence flood which has a 1% chance of occurring in a given year. It is hereby designated as the 100 year flood as defined and delineated on the flood insurance rate map (firm) effective February 16, 1977 as prepared by the Federal Flood Insurance Administration, Department of Housing and Urban Development.

**FLOOD DAMAGE POTENTIAL** : The susceptibility of a specific land use at a particular site to be damaged by potential floods at that site, as well as increased off-site flooding or flood-related damage caused by such land use.

**FLOOD HAZARD AREA** : The flood way plus additional portions of the flood plain required for the flow of the designated base flood including the flood way and flood way fringe.

**FLOOD HAZARD PROFILE ELEVATION** : The water surface elevation that is reasonably expected from the designated base flood discharge flowing down the river (Channel plus flood plains). It is measured at a location along the river or stream in feet above mean sea level (MSL).

**FLOOD PLAIN** : The area adjoining the channel of the natural river or stream that has been or may be inundated by flood water. For the purpose of this ordinance, the phrases "flood plain" and "flood hazard area" are interchangeable.

**FLOOD PROTECTION ELEVATION** : A point at or above one foot above the flood hazard profile elevation expected at a location within the flood hazard area. It is the elevation which is measured in feet above mean sea level (MSL) to which all regulated uses are required to be elevated or, if permitted by use regulation, to be flood-proofed.

**FLOOD WAY (FW)** : The Channel of a river or stream, and the adjacent land area which are reasonably required to carry and discharge the base flood without accumulatively increasing the flood hazard profile elevation at any point within the FW more than 0.2 foot, and without producing hazardous and excessive velocities or conditions therein.

**FLOOD WAY FRINGE (FF)** : That portion of the flood hazard area not designated as the flood way which may be completely and fully encroached without increasing the flood hazard profile elevation of any point within the flood way more than 0.2 foot.

**FLOODPROOFING MEASURES** : A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of potential flood damages.

**FLOOR AREA** : The sum of the gross horizontal areas of all floors of any building or buildings on a lot, measured from the exterior walls or from the centerline of a common wall between two buildings. In particular, the floor area shall include:

- A. In dwellings, any basement space permitted to be used for residence purposes.
- B. In other than dwellings, any basement or cellar space used for any purpose other than storage of mechanical equipment or building services.
- C. In all buildings, interior balconies, mezzanines, roofed porches or terraces, and all spaces other than basement or cellar spaces with headroom of at least 7 feet 6 inches.

**FLOOR AREA RATIO** : The sum of the area of all floors of buildings or structures compared to the total area of the site.

**FOOTPRINT** : The ground floor area of the periphery of a building/buildings that cover the ground under the building.

**FUNERAL HOME** : See Mortuaries.

**GARAGE, PRIVATE RESIDENTIAL** : A structure, or portion thereof, that is accessory to the residential use of a building and that is used for the parking and storage of vehicles owned and operated by residents thereof and that is not a separate commercial enterprise available to the general public.

**GARBAGE DUMPSTER** : A receptacle which is used for temporary storage of garbage refuse or any type of waste material; which is emptied on the premises by means of a mechanical device that is part of the collection vehicle.

**GAS STATION** : See Filling Station, Gasoline.

**GO-GO BAR** : An establishment where live dancing is performed by individuals other than patrons or customers and which does not qualify as a sexually-oriented business as defined herein.

**GRADE LEVEL** : The mean elevation at the curb level opposite those walls of the building that are located within 5 feet of the street line; or where all walls of the building are more than 5 feet from the street line, the mean elevation of finished natural grade where such natural grade abuts the building.

**HAZARDOUS MATERIALS** : Any material which is listed or defined by the N.J.D.E.P. and which is, or could be, or tend to be harmful or detrimental to the public health, safety or welfare.

**HEALTH CENTER** : A public or private facility for persons requiring various medical, dental, visual, psychotherapeutic or similar treatment, observation or advice, which complies with all federal, state, and municipal statutes, laws, ordinances and regulations. Such use shall include the offices of licensed medical professionals, limited to physicians, osteopaths, chiropractors, psychiatrists, psychotherapists, podiatrists, and dentists.

**HISTORIC SITE** : Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance, as found on one of either the National, State, or Municipal Registers of Historic Places

**HISTORIC DISTRICT** : One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

**HOME BUSINESS** : An occupation or business activity carried out as an accessory use in a dwelling, the proprietor of which is a permanent full-time resident of the dwelling and that involves only a limited number of non-resident customers, clients, business invitees or guests and that involves no more than 1 non-resident employee on the premises. Examples of such uses may include offices of physicians, dentists, podiatrists, and lawyers residing on the premises on a permanent and full time basis. Businesses operated by persons other than by permanent full-time residents of the dwelling shall not be

considered home businesses. Barber shops, beauty parlors, and kennels, and other similar businesses shall not be deemed to be home occupations.

**HOME OFFICE** : An office activity carried on by a permanent full-time resident in a dwelling unit and involving no non-resident employees, customers, clients, business invitees or guests. Such use shall require no zoning approvals from the City provided it satisfies the criteria set forth in §500-3.6.D.10, Home Offices.

**HOSPITAL** : An institution specializing in providing clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice. Such institution includes such related accessory facilities as laboratories, emergency services, out-patient services, training services, central services and staff offices that are integral parts of such institution.

**HOSPITAL, ANIMAL** : An institution providing primary health services and medical or surgical care to animals.

**HOTEL** : A lodging facility that contains 10 or more guest rooms and has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping accommodations are available to transient guests.

**INDUSTRIAL USES, HEAVY** : Any use in the operation of which there is a possibility of creating excessive heat, glare, vibration, or noise as measured on any part of the lot line including, but not limited to, blast furnace, boiler works, brick tile or terra cotta manufacture requiring furnace or kilns, coke ovens, forge plant, or rock or stone crusher; or any use in the operation of which there is a possibility of becoming noxious or offensive by reason of emission of odors, dust or smoke, as measured on any part of the lot line or above it, including the manufacture of asphalt, petroleum and tar processing and products; starch, glucose or dextrine manufacture or the storage or processing of animal matter including candle or tallow manufacture; grease or lard manufacture; linoleum manufacture; raw hides or skins storage, curing or tanning; slaughtering of animals, dead animals, offal or refuse; or soap manufacture.

**INDUSTRIAL USES, LIGHT** : Enterprises engaged in the processing, manufacturing, compounding, fabrication, packaging, treatment and/or assembly of products, primarily from processed or previously manufactured materials. Light industrial uses consist of those that are capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. and thus do not qualify as heavy industrial uses, as defined herein.

**INN**: A commercial establishment providing lodging and meals for travelers during short-term visits to the City of Paterson. Any structure used for such a purpose shall provide not more than 10 guest rooms for travelers and shall have full occupancy by paying guests at not more than 25 persons. Such structures shall be licensed by the City of Paterson and shall meet all local and state codes for health, safety, and zoning. Any such use shall be subject to regular inspection as provided in the Code of the City of Paterson.



**JUNK** : Any scrap, waste (organic or inorganic), reclaimable material or debris, whether or not stored or used in conjunction with dismantled, processing, salvage, storage, bailing, disposal, or other use or disposition.

**JUNKYARD** : Any yard, covered or uncovered, space or place in the City, used for the purpose of sale, purchase, storage or exchange of rags, old metals, old bottles, old glassware, old tin ware, old paper, old lumber, old plumbing fixtures, material from dismantled buildings, dismantled old automobiles, or parts thereof, motor vehicle junk or any other old material commonly called junk. "Junkyard", however, shall not be deemed to include a yard, space or place used for the storage of old material to be used for manufacturing purposes by the person storing the same.

**KENNEL** : Any premises or portion thereof on which more than 4 dogs, cats, or other domestic animals over 6 months in age are kept, boarded, bred, or cared for, in return for remuneration.

**LAUNDROMAT** : An establishment providing washing and drying machines on the premises for self-serve rental use to the general public and may include wash and fold or drop off dry cleaning as an accessory use, but shall not include on-site dry cleaning processing.

**LIQUOR STORE** : Any premises wherein alcoholic beverages are sold at retail for consumption off the premises.

**LODGE** : A hall or meeting place of a local branch or the members composing such a branch of a fraternal order or society, such as the Masons, Knights of Columbus, Moose, American Legion and other similar association of persons that gather periodically for promotion of a non-profit common objective, such as literature, science, politics, good fellowship, etc.

**LONG-TERM CARE NURSING FACILITY** : An institution or a distinct part of an institution which is licensed by the New Jersey State Department of Health to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption. A long-term care facility may be either:

- A. A skilled nursing home, where patients receive at least 2.75 hours of nursing care daily; or
- B. An intermediate care facility, which provides health care and services to individuals who do not require the degree of care and treatment which a hospital or nursing home is designed to provide, but who because of physical or mental conditions require care and services above the level of room and board. In an ICF-level A facility, patients receive at least 2.5 Hours of nursing care daily. In an ICF level B facility, patients receive at least 1.25 hours of nursing care daily.

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

**LOT, CORNER** : A lot at the junction of, and abutting on, 2 or more intersecting streets when the interior angle of intersection does not exceed 135 degrees.

**LOT COVERAGE** : The portion of a lot that is covered with buildings or structures.

LOT DEPTH : The average of the mean distances as -measured from the center of the front street line and along each sideline of a lot to its rear line.

LOT FRONTAGE : The width of a lot abutting a public right-of-way.

LOT, INTERIOR : A lot other than a corner lot.

LOT LINE : A property boundary line of any lot.

LOT OF RECORD : A lot that is currently recorded in the office of the county registrar of deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT, THROUGH : An interior lot that fronts upon 2 parallel streets or that fronts upon 2 streets that do not intersect at the boundaries of the lot.

LOT WIDTH: The coverage of the straight-line distances measured at the street between the rear line and at the points at which the required setback lines meet the side lot lines.

MAINTENANCE GUARANTEES : Any security which may be accepted by a municipality for the maintenance of any improvements required pursuant to this chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5 and cash.

MASTER PLAN : A composite of one or more written or graphic proposals for the development of the City of Paterson, showing objectives, policies and standards for development, covering land use, housing, circulation, utilities, community facilities, recreation, and conservation, written and adopted in a manner determined by law.

MEDICAL TESTING LABORATORIES : See Research Laboratory.

MICROBREWERY : an establishment engaged in brewing any malt alcoholic beverages for sale and distribution to wholesalers and retailers, licensed in accordance with the State Alcoholic Beverage Law, that is licensed to operate pursuant to N.J.S.A. 33:1-10.

MIXED RESIDENTIAL AND COMMERCIAL USES : A building containing one or more commercial uses and one or more dwellings.

MIXED USE : Two or more permitted principal and/or conditional uses located in one building and/or on one lot.

MIXED USE COMMUNITY DEVELOPMENT : A development that contains two or more of the permitted uses within the respective zoning district. Mixed Use Community Development may also include residential units/apartments as stipulated in Subsection 500-4.17.B of this ordinance.

MORTUARIES : Any establishment with facilities to be used for the preparation of the dead for burial or cremation. Such establishments may also include facilities for viewing of the body, such as a funeral.

**MOTOR VEHICLE JUNKYARD** : Any business and any place of storage which displays, or in/or upon which there are displayed two or more unregistered motor vehicles which are unfit for reconditioning for use for highway and road transportation or for used parts of motor vehicles or material which has been a part of a motor vehicle, the sum of which parts or material shall be equal in bulk to two or more 'motor vehicles.

**MOTOR VEHICLE SALES** : The use of any building or land area for the display and sale of new or used automobiles; trucks or vans; trailers; campers or recreational vehicles; or, motorcycles, all terrain vehicles or snowmobiles.

**MUNICIPAL LAND USE LAW** : Chapter 291, Laws New Jersey, 1975, (N.J.S.A. 40:55D-1 et seq.).

**MUSEUM** : A non-profit, non-commercial establishment operated as a repository for collected natural, scientific, historic or literary objects of interest or works of art that is open to the public and not regularly engaged for profit in the sale or distribution of the objects collected.

**NEWSSTAND** : A small stand-alone structure no greater than 72 square feet in area, in which one or more of the walls of the structure are open to allow for the sale of goods such as newspapers, magazines, brochures, and other small pre-packaged items.

**NONIONIZING ELECTROMAGNETIC RADIATION (NIER)** : Electromagnetic radiation of such frequency that the energy of the radiation does not dissociate electrons from their constituent atoms when an atom absorbs the electromagnetic radiation.

**NON-CONFORMING BUILDING** : A building in which the size, dimension or location of which was lawful prior to the adoption, revision or amendment of this zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

**NON-CONFORMING LOT** : A lot having an area, dimension or location which was lawful prior to the adoption, revision or amendment of this zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

**NON-CONFORMING USE** : A use or activity which was lawful prior to the adoption, revision or amendment of this zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

**NURSING HOME** : A facility licensed by the New Jersey Department of Health as defined in N.J.S.A. 30:13-2C.

**OBSTRUCTION** : Any structure, fill, excavation, channel modification, embankment, rock, grave, refuse or matter along, across or projecting into any channel, watercourse or floor hazard area which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting

debris carried by such water, or is placed where the flow of water might carry the same downstream to the damage of life or property.

OFFICE, BUSINESS OR PROFESSIONAL : A building or portion, public or private, wherein services are performed involving administrative, professional, medical, dental, or clerical operations.

OFF-STREET PARKING FACILITY : Any facility, either a parking lot or structured parking garage, where the intended primary purpose is the storage of automobiles for the general public.

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

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

OPEN SPACE, USABLE : Apartment balconies with a minimum usable space of 60 square feet and with a minimum dimension of 6 feet shall be counted as part of the open space requirements. Usable open space may include roofed area, the total area of which is less than 20% of the unroofed or uncovered area of a lot, provided that such roofed area is devoted to recreational purposes and not enclosed on more than one side, or on more than 10% of the perimeter of the roofed area, whichever is greater.

OWNER : Any individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest in the land subject of a development application to commence and maintain development application proceedings regarding same under this ordinance.

PARKING SPACE, OFF-STREET : An off-street parking space shall consist of an open or enclosed space on a lot adequate for parking an automobile, with properly related access to a public street or alley

PAWN SHOP : Any establishment where the primary means of business deals with purchasing private personal property with the intention of selling it back at a stipulated price, or providing loans or money advances in exchange for goods.

PERFORMANCE GUARANTEE : Any security, which may be accepted by the City, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5 and cash.

PERFORMANCE STANDARD : Standards: adopted by the Code of the City of Paterson regulating noise levels, glare, earthborn or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the City; or required by other applicable City, State, or Federal Laws.

**PERSONAL SERVICE BUSINESSES** : Establishments primarily engaged in providing services involving the care of a person, such as hair care, nail and skin care, and other similar types of businesses.

**PLACES OR WORSHIP** : A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

**PLANNED DEVELOPMENT** : Planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development, as those terms are defined in N.J.S.A. 40:55D-6.

**PLANNED UNIT RESIDENTIAL DEVELOPMENT** : An area with a minimum contiguous or noncontiguous acreage of 5 acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial and/or office uses or public or quasi-public uses all primarily for the benefit of the residential development.

**PLANNED INDUSTRIAL DEVELOPMENT** : An area of a minimum of 3 contiguous or noncontiguous acres to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

**PLANNED COMMERCIAL DEVELOPMENT** : An area of a minimum of 2 contiguous or noncontiguous acres to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential and other uses incidental to the predominant use as may be permitted by Ordinance.

**PLANNING BOARD** : The Planning Board of the City of Paterson, New Jersey established pursuant to Section 14 of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-23.

**PLAT** : A map or maps of a subdivision.

**PLAT, FINAL** : The final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with the regulations outlined herein and which, if approved, shall be filed with the Passaic County Planning Board and the Passaic County Register of Deeds office.

**PLAT, PRELIMINARY** : The preliminary map indicating the proposed layout of the subdivision which is submitted to the Planning Board for consideration and tentative approval, meeting the requirements of this chapter.

**PORTABLE STORAGE CONTAINER** : Any box like container that is transported by truck or trailer to a desired location for temporary drop-off and pick up of items to be permanently stored at an off-site location.

**PRELIMINARY APPROVAL** : The conferral of certain rights prior to final approval, after specific elements of a subdivision or site plan have been agreed upon by the Planning Board and the applicant.

**PRINCIPAL USE** : The main purpose for which a lot or building is used.

**PUBLIC UTILITY FACILITY** : A facility operated, managed or controlled by a public utility as that term is defined in N.J.S.A. 48:2-13 whose primary function is the generation, creation or harnessing of natural or man-made energy for essential services use or distribution off-site, including electrical sub- and switching stations, or the disposal or treatment of water or wastes, but not including service yards or storage or wireless telecommunication facilities.

**RECREATIONAL COMMUNITY CENTER** : Premises where classes, learning activities, services, entertainment and /or recreation for seniors, adults, and youth is offered for profit or non-profit such as meeting and conference rooms; banquet halls, swimming pools and whirlpools; saunas; tennis; racquetball; basketball and volleyball courts; outdoor athletic fields/courts; fitness and exercise classes; weightlifting and gymnastic equipment; locker rooms; and a restaurant or snack bar.

**RECREATION AND AMUSEMENT ESTABLISHMENT, COMMERCIAL** : Premises where entertainment and/or recreation is offered for profit or non-profit such as a theater, public hall, billiard or pool room, bowling alley, ice or skating rink, miniature golf course and all other similar places of amusement and recreation. Such use shall not include drive-in theaters or video arcades, as defined and regulated by municipal Ordinance.

**RECREATION ESTABLISHMENT; PUBLIC** : Premises where any tract of land or building, buildings or any part of any buildings are used as a recreational establishment, the control of which is vested in the City, a board or agent thereof.

**RECREATION SPACE** : Portion of a development specifically designed for active or passive recreation, including but not limited to sitting areas, formal and informal sports fields, game rooms, court games, pools, gazebos and pavilions.

**RECYCLING FACILITY** : Premises where materials containing paper, plastic, scrap metal and glass are brought to be sorted, baled, or compacted and then shipped to another location to be recycled for use in a substantially different form. A recycling facility does not include any use involving hazardous materials or flammable materials or the exposure of merchandise for retail use at the site.

**RESEARCH LABORATORY** : A building or group of buildings in which are located facilities for scientific research, investigations, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESTAURANT** : A commercial establishment where food and drink are prepared, served, and consumed primarily at tables on the premises and served by waiters and waitresses. A restaurant may include a bar for the sale of alcoholic beverages for consumption on the premises, as an accessory use.

**RESTAURANT, DRIVE-THROUGH** : An establishment where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant and where ordering and pickup of food takes place from a motor vehicle.

RESTAURANT, FAST-FOOD : An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, heated or grilled quickly for consumption either within the restaurant building or for carry-out and where customers are not served by a restaurant employee at the same table or counter where the items are consumed; or the establishment includes a drive-through service facility.

RESUBDIVISION : Resubdivision means:

- A. The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or
- B. The alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

RETAIL BUSINESS, COMMUNITY : A fully enclosed retail establishment larger than 5,000 square feet in size but no greater than 10,000 square feet in size that is engaged in the selling of goods or merchandise to the general public for their personal or household consumption as well as the rendering of services in association with the sale of such goods.

RETAIL BUSINESS, GENERAL : A fully enclosed retail establishment that is engaged in the selling of goods, merchandise or services and that is larger in size than neighborhood retail businesses, community retail businesses and personal services and which, as a result, generally results in a greater degree of traffic and parking demands than experienced in association with neighborhood retail businesses, community retail businesses and personal services.

RETAIL BUSINESS, NEIGHBORHOOD : A fully enclosed retail establishment no greater than 5,000 square feet in size engaged in the selling of goods or merchandise primarily oriented towards residents of the immediately surrounding neighborhoods for their personal or household consumption as well as the rendering of services in association with the sale of such goods. Such businesses include the following: neighborhood-scale food stores; delicatessens; bakeries that manufacture goods for on-premise sale only; florists; pharmacies; confectionary stores; gifts shops; hardware stores; periodical and stationary stores; variety stores; and similar retail establishments of such size primarily designed to sell goods to patrons residing in immediately surrounding neighborhoods.

RETAIL ESTABLISHMENT : Business enterprises, not including wholesalers, selling good or commodities directly to the general public for personal or households consumption and rendering of services incidental to the sale of such goods.

SATELLITE DISH ANTENNAS : Any apparatus, including structural supports, which is designed for the purpose of receiving television, radio, microwave, internet, wireless cable, satellite or similar signals. Such apparatus is commonly referred to as a dish antenna.

SCHOOL : A public or private facility licensed by the State of New Jersey Department of Education for academic instruction that provides a full curriculum of elementary or secondary academic instruction,

including kindergartens, elementary schools, junior high schools and high schools, charter schools, vocational high schools, and colleges; but not including trade or technical schools, driving schools or other such places of instruction not providing a full curriculum of academic instruction as described above.

**SCHOOL, AUTOMOBILE DRIVING** : A facility for the primary purposes of instructing persons in the legal operation of an automobile or other such motor vehicle.

**SCHOOL, TRADE OR TECHNICAL** : A private facility for academic instruction that provides education and training for a particular hobby, sport, or vocation.

**SEDIMENTATION** : The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

**SETBACK LINE** : A line drawn parallel to a lot line and drawn through that portion or plane of a building lying nearest to the street line or lot line.

**SETBACK LINE, REQUIRED** : That line to which a building must be setback from the street line or lot line.

**SEXUALLY-ORIENTED BUSINESS** : Such term shall mean: (a) a commercial establishment which as one of its principal business purposes offers for sale, rental, or display any of the following: books, magazines, periodicals or other printed material, or photographs, films, motion pictures, video cassettes, slides or other visual representations which depict or describe a "specified sexual activity" or "specified anatomical area"; or still or motion picture machines, projectors or other image-producing devices which show images to one person per machine at any one time, and where the images so displayed are characterized by the depiction of a "specified sexual activity" or "specified anatomical area"; or instruments, devices, or paraphernalia which are designed for use in connection with a "specified sexual activity"; or (b) a commercial establishment which regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or which regularly shows films, motion pictures, video cassettes, slides, or other photographic representations which depict or describe a "specified sexual activity" or "specified anatomical area." For the purposes of this Ordinance, a "person" shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity. A "specified anatomical area" shall mean: (a) less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or (b) human male genitals in a discernibly turgid state, even if covered. A "specified sexual activity" shall mean: (a) the fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast; or (b) any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.

**SIGHT EASEMENT** : At intersections, a triangular area in which nothing shall be erected, placed, planted or allowed to grow in a manner as to obstruct vision between a height of three (3) feet and ten (10) feet above the center line grade of either street.



**SIGN** : A name, identification, description, display or illustration which is affixed to or painted on, or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

**SIGN, ADDRESS** : A sign which bears only the name(s) of the individual building occupant(s) and/or the property address(es) and post office numbers.

**SIGN, AWNING** : A sign on or attached to a temporary retractable shelter that is supported entirely by the exterior wall of a building.

**SIGN, BUILDING** : A sign that is permanently attached to the facade of a building and consisting of either a wall sign or projecting sign, as defined herein.

**SIGN, BOX** : A sign consisting of individually painted, plastic, metal, or wood letters or symbols applied to or embossed in an enclosure containing interior illumination or an apparatus for interior illumination of the background, the individual letters and/or symbols.

**SIGN, BUSINESS** : A sign which directs attention to a business, profession, commodity, service, or entertainment offered or sold upon the premises where such sign is located or to which it is affixed.

**SIGN, CANOPY** : A sign on or attached to a permanent overhanging shelter which projects from the face of a building.

**SIGN, FLASHING** : An illuminated sign on which the attached artificial light is not stationary and/or constant in intensity and color at all times when such sign is in use. All revolving illuminated signs shall be considered a "flashing sign."

**SIGN, FLAT** : A sign consisting of individually painted, plastic, metal or wood letters applied, embossed or engraved on a flat backing which is attached to a building facade, freestanding support, or other structure.

**SIGN, FREESTANDING** : A sign that is supported by a structure (such as a pole, mast, frame or monument structure) other than a building housing the business to which the sign pertains.

**SIGN, GOVERNMENTAL AND PUBLIC UTILITY LOGO**: Flags and insignia of any government and/or public utility except when displayed as a commercial promotion.

**SIGN, IDENTITY** : A sign that identifies the name of a building, the primary occupant, or the principal use of the premises not related to a business or any combination of the above.

**SIGN, ILLUMINATED** : A sign that is artificially lit by any interior or an exterior apparatus.

**SIGN, INDIVIDUAL LETTER** : A wall sign that consists of individual plastic, wood, or metal letter(s) and/or symbol(s) that are attached directly to the facade of a building.

**SIGN, INSTITUTIONAL AND PLACE OF WORSHIP BULLETIN BOARDS** : A board or panel with means for interchanging letters and/or messages which is erected and maintained by a place of worship, school,

governmental building, or other approved religious or institutional use for the purpose of announcing events related to such institution or church.

**SIGN, MARQUEE :** A wall sign that is placed on or attached to a permanent overhanging shelter and that projects from a face of a building and is entirely supported by said building.

**SIGN, PROJECTING :** A sign containing the sign message in a plane or planes which projects more than 12 inches from the building to which it is attached.

**SIGN, ROOF :** A sign located on the roof of a building or supported by the roof of a building.

**SIGN, TEMPORARY :** Any sign, banner, pennant or advertising display intended to be displayed for a period of time no greater than 60 days and that is removed within 30 days after the use or function to which such sign has been directed or related has terminated.

**SIGN, WALL :** A sign attached to a building in such a manner that the sign message is parallel to the face of the building to which it is attached and which projects no more than 12 inches from the building.

**SIGN, WINDOW :** A sign placed on the inside or outside of a window in such a manner that it can be viewed from the exterior of the building.

**SIGN AREA :** Sign area shall equal the entire face of a sign consisting of the square foot area of any backing, material, sign box or color forming an integral part of the background of the sign and used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly incidental to the sign itself, except that the sign area of individual letter signs and awning/canopy signs shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, graphic illustration, picture, symbol or other display. The sign area for a sign with two (2) faces shall be computed by adding together the area of all sign faces visible from any one (1) point. When a sign having two (2) faces is such that both faces cannot be viewed from any point at the same time, the sign area shall be computed by the measurement of the larger of the two (2) faces. For purposes of calculating window signs, a window shall be considered the glazed area. Name and property address signs, governmental and public utility logo signs, signs which are required by county, state or federal agencies, traffic, parking and directional signs shall not be considered in determining the sign area of a building.

**SIGN HEIGHT :** The distance from the base of the sign to the top of the highest attached component of the sign.

**SIGN FACADE AREA :** The area of a building facade upon which a sign is proposed to be placed. The sign facade area shall be measured by multiplying the horizontal length of the building facade or tenant space upon which a sign is to be located by the above ground height of the space occupied by such use or tenant.

**SILTATION BASIN** : A temporary facility, designed in accordance with the standards of this chapter, to collect silt and eroded soil resulting from grading the area of a subdivision for the purpose of limiting the deposit of silt and eroded soil in streams, brooks and sewers.

**SITE PLAN** : A development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways; (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices; and (3) other information required in this Ordinance and (4) any other information that may be reasonably required in order to make an informed determination pursuant to this Ordinance.

**SOCIAL CLUB OR FRATERNAL LODGE, STORE FRONT** : A fully or partially converted premises formerly used for business or commerce which is primarily used as a meeting or gathering place for individuals with similar interests, restricted to members and their guests, to which membership is required for participation and is not operated for profit nor to render a service which is customarily carried on as a business. While such facilities are generally used for non-commercial purposes, such facilities may occasionally be used for commercial purposes and occasionally be open to members of the general public.

**STORAGE FACILITY** : See Warehouse.

**STORE, STAND-ALONE CONVENIENCE** : A retail store that provides multiple types of neighborhood or community retail uses as a single business use. Such retail convenience store may be a combination pharmacy/ packaged food/dairy store or may consist solely of such use, or be a 7-11 type store that sells both dry goods and perishable food stuffs. Convenience stores shall not include laundries, package stores, bars, nor stores in combination with auto repairs or auto parts sales. In addition, such uses shall not include neighborhood retail businesses as defined herein.

**STORY** : That portion of a building between the surface of any floor and the surface of the next floor above it, or if there is no floor above it then the portion between the floor and the ceiling above it. That portion of a building between the finished grade and a maximum of 3 feet above grade to the surface of the finished floor immediately above grade shall not be considered a story.

**STORY, HALF** : A space under a sloping roof with a headroom of five (5) feet or less that occupies at least forty (40) percent of the total floor area of the story directly beneath.

**STREET** : Any street, thoroughfare, avenue, boulevard, road, parkway, viaduct, drive or other way which is: an existing state, county or city roadway; or which is shown upon a plat heretofore approved pursuant to law; or which is approved by official action as provided by this ordinance; or which is shown on a plat duly filed and recorded in the office of the County recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders,

gutters, curbs, sidewalks, parking areas and other areas within the street lines. For the purposes of this ordinance, "streets" shall be classified as follows:

- A. ARTERIAL STREETS - Those which are used primarily for fast, heavy or through traffic.
- B. COLLECTOR STREETS - Those which carry traffic from minor streets, including the principal access and circulation streets within a development.
- C. MINOR STREETS - Those which are designed to be used primarily for access to the abutting properties.
- D. MARGINAL ACCESS STREETS - Those which are adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

STREET LINE : The street right-of-way line forming the dividing line between the street public right-of-way and a lot privately or publicly owned.

STRUCTURE : A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

SUBDIVIDER : Any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this chapter to affect a subdivision of land hereunder for himself or for another.

SUBDIVISION: The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land for the purpose, whether immediate or future, of sale or development. The following shall not be considered subdivisions within the meaning of this ordinance, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size; (2) divisions of property by testamentary or intestate provisions; (3) divisions of property upon court order, including but not limited to judgments of foreclosure (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "re-subdivision".

SUBDIVISION, MINOR : Any subdivision which will result in not more than three (3) lots fronting an existing accepted street, not involving: (1) a planned development; (2) any new street or road; or (3) the extension of any off-tract improvement the cost of which is to be pro-rated pursuant to N.J.S.A 40:55D-42.

SUBDIVISION COMMITTEE : A committee of at least three (3) but no more than five (5) Planning Board members, appointed by the Chairman with approval of the Board, for the purpose of classifying subdivisions in accordance with the provisions of this chapter and such other duties as may be conferred on this Committee by the Planning Board or state statutes.

**SUBSTANTIAL IMPROVEMENTS** : Any improvement or repair of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement is started or the damage has occurred.

**SWIMMING POOL** : Private residential and public pools, permanently constructed, above or below ground, having a depth of more than two (2) feet and/or a water surface of more than one hundred (100) square feet, designed and maintained for swimming and bathing purposes. Pools include all buildings, structures and equipment appurtenant thereto.

**SWIMMING POOL; PORTABLE** : A pool not permanently installed, lacking water filtration, circulation and purification systems, without braces or supports, and having less than 2 feet of water in depth and less than 100 square feet of water surface.

**TAILORING** : A personal service business establishment which conducts physical alterations of clothing, fabrics, or other such garments on the premises for retail customers.

**TATTOO PARLOR** : Any establishment where a tattoo artist conducts tattooing on the premises.

**TAVERN** : See BAR.

**TAXI CAB STORAGE** : Any facility where the primary function is the temporary or long-term storage of taxi cabs or other such vehicles when the vehicles are not in use.

**TELECOMMUNICATIONS ANTENNA**: A device used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as whip antennas, and parabolic antennas as part of, or in conjunction with, a WTSP. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

**THEATER** : An establishment with facilities that are intended to be used for live, or screen performances of productions such as movies, plays, concerts, or other similar acts.

**TRAILER (TRUCKING)** : Any structure designed for the purpose of being mounted upon wheels, but incapable of moving or travelling under its own power other than when attached to a motorized trucking cab for the purpose of travelling or hauling.

**TRUCKING CAB** : A motorized vehicle used to pull a trailer.

**TRAILER CAMP** : Any premises on which are parked 2 or more vehicles designed, intended, arranged or used for housekeeping and sleeping purposes, or any premises used or offered for the purpose of supplying to the public a parking space for 2 or more such vehicles, whether such vehicles stand on wheels or rigid supports.

**TRUCK TERMINAL** : Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory

storage for other facilities or uses. The terminal facility may include storage area for trucks, and buildings or areas for the repair of trucks associated with the terminal.

VARIANCE : A departure granted by the appropriate authority from the literal requirements of this ordinance.

VEHICLE RENTAL ESTABLISHMENT : Any establishment where the primary means of business is the temporary leasing of vehicles such as automobiles, buses, tractors, or other such vehicles.

WAREHOUSE : Any building whose primary purpose is for the storage of goods and materials.

WHOLESALE ESTABLISHMENTS : Establishments primarily engaged in the selling of merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIRELESS TELECOMMUNICATION SERVICES (WTS) : The provision of wireless telecommunication services, including, but not limited to, those more commonly referred to as cellular telephones, which services are regulated by the FCC in accordance with and as the term personal wireless services is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332 (c)(7)(C), or as hereafter amended.

WIRELESS TELECOMMUNICATION SERVICES FACILITY (WTSF) : A facility or structure designed or intended to be used or used to support and include antennas for WTS. A WTSF is a facility or structure intended for transmitting and/or receiving radio, television, cellular, paging or personal wireless telecommunications services or microwave telecommunications, but excludes facilities or structures used exclusively for fire, police and other dispatch telecommunications, private radio and television reception, private citizens bands, amateur radios and other similar telecommunications. A WTSF includes, without limit, antennas applied or affixed to the facade of a building or roof mounted antennas, freestanding towers, guyed towers, monopoles, equipment shelters, and similar structures that employ camouflage technology, and including, but not limited to, structures such as a church steeple, water tower, flagpole, sign, or combination thereof or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such.

YARD, FRONT : An open space extending along the full width of the lot between the street line and the front-most point of the building.

YARD, REAR : An open space extending along the full width of the lot between the rear lot line and the rear-most point of the building.

YARD, SIDE : An open space extending from the front yard to the rear yard and lying between the side lot line and the closest building point on either side.

ZONING BOARD OF ADJUSTMENT : The Zoning Board of Adjustment of the City of Paterson, New Jersey established pursuant to Article 9 of the New Jersey Municipal Land Use Law (Chapter 291, Law of N.J. 1975).

ZONING OFFICER : An employee of the Division of Planning and Zoning charged with the administration and enforcement of this and all other applicable land use ordinances.

ZONING PERMIT : A document signed by the Zoning Officer: (1) which is required by this ordinance or N.J.S. 40:55D-7 as a condition precedent to commencement of an application of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building; and (2) which acknowledges that such a use, structure or building complies with the provisions of this Ordinance or variance therefrom by the duly authorized board pursuant to Sections 47 and 57 (C.40:55D-60, C.40:55D70) of the New Jersey Municipal Land Use Law.

**ARTICLE II PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT****§200-1 PLANNING BOARD****§200-1.1 Establishment of the Planning Board.**

- A. Membership. The Planning Board shall consist of nine (9) members divided into, for convenience of designating the manner of appointment, the following four (4) classes:

CLASS I: The Mayor or the Mayor's designee in the absence of the Mayor;

CLASS II: One (1) of the officials of the municipality other than a member of the City Council to be appointed by the mayor;

CLASS III: A member of the City Council to be appointed by it; and

CLASS IV: Six (6) other Paterson residents to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one such member may be a member of the Zoning Board of Adjustment or a member of the Historic Preservation Commission, and one such member may be a member of the Board of Education. Two alternate members, Alternate No. 1 and Alternate No. 2, shall be appointed from Class IV. For the purpose of this section, membership on a City board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

- B. Alternate Members. Alternative members, appointed by the Mayor and meeting the qualifications of Class IV members, may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. Alternate members shall be designated by the Chairman as "Alternate No. 1." and "Alternate No. 2." In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. An alternate member shall not serve as Chairman or Vice-Chairman of the Planning Board.

- C. Terms.

1. The existing nine (9) members of the Planning Board appointed under previous City Ordinance and state statute shall retain their membership with a continuation of their respective terms.
2. The terms of all members, unless otherwise indicated, shall conform to a fiscal year starting July 1st and ending June 30th.
3. The term of the member composing Class I shall correspond to his or her official tenure.
4. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first.
5. The terms of the members composing Class IV shall be four (4) years. The term of a Class IV member who is also a member of the Zoning Board of Adjustment, Board of Education or the Historic Preservation Commission shall terminate whenever he or she



is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

6. Alternate members of Class IV shall serve for terms of two (2) years, provided, however, that in the event that no alternate members of Class IV are appointed, the initial terms of such members shall be one (1) and two (2) years respectively.
- D. Substitute Members When Conflict Exists. In the event that the Planning Board lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to the member's personal or financial interest, regular members of the Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board in order of seniority of continuous service to the Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest. If a choice has to be made between regular members of equal seniority, the Chairperson of the Board of Adjustment shall make the choice.
- E. Vacancies and Removal.
1. If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.
  2. Any member other than a Class I member may be removed, by the City Council for cause. If an accused member requests a public hearing on the charges, one shall be granted before final action by the Council.
- F. Organization.
1. The Planning Board shall be organized in conformity with the Code of the City of Paterson, as amended or modified, and the Municipal Land Use Law (MLUL).
  2. At its organization meeting in July of each year, unless adjourned to a later date, the Planning Board shall elect a Chairman and Vice-Chairman from the members of Class IV, and shall select a Secretary who may or may not be a member of the Planning Board, the Director of Planning or another municipal employee.
  3. The following compensation is hereby established for the Members of the Planning Board:
    - a. The Chairman shall receive \$300 per year in addition to the per-meeting sum.
    - b. The sum of \$75 per meeting shall be paid to each member.
- G. Expense and Costs.
1. The City Council shall make provision in its budget and appropriate such funds as it may deem necessary for the expenses of the Planning Board.
  2. The Planning Board shall recommend to the City Council that a reasonable fee be charged, as approved and established by the City Council, for all reviews and hearings, which fees shall be incorporated and lawfully adopted by the City Council.
- H. Staff and Special Services.

1. Professional Staff Services.
  - a. The Planning Board shall use for professional staff services the Division of Planning and Zoning, which is headed by the Director of Planning (Chief Planner).
  - b. The nature of such professional planning staff services to the Planning Board shall include but not be limited to those set forth in Section 5-85 of the Code of the City of Paterson as amended and modified and shall include professional planning services empowered under the Municipal Land Use Law, Chapter 291, Laws of New Jersey 1975, as amended and specifically listed under C.40:551 D-25.
  - c. The City Planning Director, who heads the Planning and Zoning Division, or someone whom he appoints from the Planning Division staff, shall provide professional planning services and attendance at the Planning Board evening meetings. The City Planning Director or his designee shall be professionally and appropriately compensated for such services and attendance beyond the normal City work hours. The services rendered shall be in the form of technical presentations on all matters coming before the Board for action, advice and recommendations when requested. The City Planning Director shall also guide and advise the Board in carrying out the requirements of C.40:55D-25.
2. Legal and Other Services. The Planning Board shall appoint an attorney, a secretary, a certified shorthand reporter or provide for a tape recorder if it wishes, and shall provide for a clerical assistant, whose duties, terms of office and salaries shall be as follows:
  - a. The term of office for the attorney and for the secretary shall each be for one (1) year.
  - b. The duties of the attorney are to advise and consult with the Board on all legal questions pertaining to the proper and efficient conduct of the Board in the discharge of its statutory duties; to render formal written opinions to the Board when requested to do so by the majority vote of the Board members at a public meeting of the Board; to attend all workshop and public hearings of the Board; to consult with the Planning Director and the City Corporation Counsel in connection with all proposals for Ordinances, revision of Ordinances, the Master Plan, revisions of the Master Plan, capital expenditure programs and any and all references from the Municipal Council to the Planning Division staff and the Planning Board; to coordinate in conjunction with the City Planning Director in the preparation and formulation of all of the above assigned legal duties and such other legal duties which may arise from time to time in connection with the operation of the Planning Division in carrying out its mandated responsibilities to the Board. The attorney's appointment and salary shall be reflected in resolution form.

- c. The secretary shall attend each meeting of the Board, call the roll and record the vote of each member of the Board, and perform all other duties required by the Chairman or by the Board.
- d. The certified shorthand reporter, if applicable, shall be an official reporter appointed by the Supreme Court and assigned to the Trial Division of the Superior Court. The reporter shall make a record of all public proceedings before the Board and prepare and furnish suitable minutes thereof for each member of the Board when requested by the Board as well as prepare verbatim transcripts of any proceedings required by any participant or the Board in a proceeding before the Board, at the expense of such participant. The certified shorthand reporter shall be appointed by resolution.
- e. The Clerical Assistant, if applicable, shall assist the members of the Board and its other personnel in the performance of their respective duties. The Clerical Assistant in assisting the City Planning Director as part of his/her duties within the Planning and Zoning Division and in providing services to the Planning Board shall also:
  - i. Receive all correspondence to the Board and shall at the discretion of the Board answer same.
  - ii. Keep a record of each hearing or other official action of the Board.
  - iii. Review all applications preparatory to the meeting at which the same are to be acted upon and prepare the agenda for each meeting of the Board, under the direction of the City Planning Director.
  - iv. Attend each meeting of the Board.
  - v. Maintain a cross file card index of the addresses of properties affected by application and names of owners thereof.
  - vi. Be in charge of the preparation of all bills and salaries of Board personnel for payment.
  - vii. Be in charge of the keeping of all of the correspondence, notes, records, applications, bills, data and other records which shall be comprehended within the duties of Clerical Assistant in the physical custody of the City Planning Director of the Planning and Zoning Division or such other person as the City Planning Director may appoint for such purpose of record keeping and coordinating responsibility and clearance of all data between the Secretary, the Clerical Assistant and the Planning and Zoning Division.
  - viii. Perform duties under the Planning Director's direction in officially corresponding information to agencies implementing the Board's actions.

- ix. Develop abbreviated minutes which reflect application details, significant comments, Board actions and for use in transmitting the Board's decision to the Zoning Officer for implementation. The Board shall appropriately compensate the Clerical Assistant for this work and attendance at night meetings and shall appoint her by resolution.
- I. Rules and Regulations. The Planning Board shall adopt "Rules", not inconsistent with the "Municipal Land Use Law" or with any other ordinance, as may be necessary to carry into effect the provisions and purposes of this Ordinance, under Chapter 291 Laws of New Jersey 1975 as amended, C.40:55D-8.
  - J. Meetings.
    1. Regular Meetings. The Planning Board shall hold regular meetings as specified in its by-laws.
    2. Special Meetings.
      - a. Applicants wishing to have special meetings/hearings on development applications of timely importance separate and apart from the yearly established calendar of meeting dates may request the Board Chairman to conduct such special meetings. The Chairman may call for a special meeting on his own or be requested in writing by any two Board Members.
      - b. Special meetings requested, in writing, by the applicant shall require compliance with Article III regarding escrow deposits for development applications.
    3. Call for Meeting. The Board may fix by rule the manner in which the Chairman shall issue any such call for a meeting and the amount of notice required of any such call. The Board may also fix by rule the manner, including the amount of notice, in which meetings other than those at the call of the Chairman may be held.
    4. Oath. The presiding officer or such person as he may designate, may administer oaths and compel the attendance of witnesses.
    5. Minutes. Minutes shall be kept of all meetings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall also keep records of its examination and other official action, all of which shall be a public record.
    6. Evidence. During a public hearing on each application for development, the technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.
    7. Eligibility to Vote. When any hearing before a Planning Board shall carry over two (2) or more meetings, a member of the Board who was absent for one (1) or more of the meetings shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings; provided, however, that such Board member has available to him a transcript or recording of the meetings

from which he was absent, and he has certified in writing to the Board that he has read such transcript or listened to such recording.

- K. Conflicts of Interest. No member of the Planning Board shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest.
- L. Citizens Advisory Committee. After the appointment of a Planning Board, the Mayor may appoint one or more persons as a Citizens Advisory committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.
- M. County Approval. Whenever review or approval of the application by the County Planning Board is required by U.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6, in the case of a site plan, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.

#### **§200-1.2 Powers, Duties and Jurisdiction of the Planning Board.**

The Planning Board shall have the powers and duties as stated below.

- A. Mandatory Powers. The Planning Board shall exercise its powers in accordance with the MLUL in regard to:
  - 1. Adoption or amendment of the City Master Plan pursuant to N.J.S.A. 40:55D-28 and periodic examination as required by N.J.S.A. 40:55D-89.
  - 2. Review of subdivision and site plan applications pursuant to this Chapter.
  - 3. Any official map adopted by the City Council pursuant to N.J.S.A. 40:55D-32 et seq.
  - 4. Administration of the Zoning Ordinance including conditional uses pursuant to this Chapter.
  - 5. Any capital improvements programs pursuant to N.J.S.A. 40:55D-29 et seq.
  - 6. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to Section 200-1.2. C.1.a below.
  - 7. Planned developments.
- B. Other Powers. The Planning Board may:
  - 1. Participate in the preparation and review of programs or plans required by State or Federal law or regulation.
  - 2. Assemble data on a continuing basis as part of a continuous planning process.
  - 3. Perform such other advisory duties as are assigned to it by ordinance or resolution of the City Council.

C. Ancillary Powers of the Planning Board.

1. Planning Board review in lieu of Board of Adjustment.

- a. Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70.d, the Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:
    - i. Variances pursuant to N.J.S.A. 40:55D-70.c.
    - ii. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
    - iii. Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.
  - b. Whenever relief is requested pursuant to this section, notice of the hearing on the application for development shall include reference to the request for variances or direction for issuance of a permit, as the case may be.
  - c. The applicant may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon the grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.
  - d. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to N.J.S.A. 40:55D-60, the Planning Board shall grant or deny approval of the application within one hundred twenty (120) days after submission by an applicant of a complete application to the Planning Board or within such further time as may be consented to by the applicant. In the event that the applicant elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance(s) or direction for issuance of a permit. The period for granting or denying any subsequent approval shall be as otherwise provided in this Chapter.
2. Review of capital project expenditures such as action by a housing, parking, highway, special district, or other authority, development agency, school board or other similar public agency, state, county or municipality.

D. Referral Powers.

1. Prior to the adoption of a development regulation, revision, or amendment thereto, the Planning Board shall make and transmit to the City Council within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the Board deems appropriate. For this Ordinance, a "development regulation" means a "zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to the MLUL. The City Council, when considering the adoption of a development regulation, revision or amendment, shall review the report of the Planning Board and may disapprove or change a recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the Planning Board to transmit its report within the 35-day period provided herein shall relieve the City Council from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the Planning Board.
2. The City Council may by ordinance provide for the reference of any matter or class of matters to the Planning Board before final action thereon by a municipal body or municipal officer having final authority thereon, except for any matter under the jurisdiction of the Board of Adjustment. Such reference shall not extend the time for action by the referring body, whether or not the Planning Board shall have made a recommendation regarding a matter authorized by the Ordinance to another municipal body. Such recommendation may be rejected only by a majority of the full authorized membership of such other body.

## **§200-2 ZONING BOARD OF ADJUSTMENT**

### **§200-2.1 Establishment of the Zoning Board of Adjustment.**

A. Membership.

1. The Zoning Board of Adjustment shall consist of seven (7) members appointed by the City Council.
2. Two alternate members shall be appointed by the City Council. Alternate members shall be designated by the Chairman as "Alternate No. 1" and "Alternate No. 2." Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

3. No member, regular or alternative, shall hold any elective office or position under the municipality.
  4. All Board members and alternate members shall be citizens of the City of Paterson.
- B. Terms.
1. The terms of all members, unless otherwise indicated, shall conform to a fiscal year starting on July 1st and ending June 30th.
  2. The terms of each member shall be four (4) years.
  3. The term of each alternate member shall be two (2) years.
- C. Substitute Members When Conflict Exists. If the Board of Adjustment lacks a quorum because its regular or alternate members are prohibited by N.J.S.A. 40:55D-69 from acting on a matter due to the member's personal or financial interest, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service to the Planning Board until there is the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest. If a choice has to be made between Class IV members of equal seniority, the Chairperson of the Planning Board shall make the choice.
- D. Vacancies and Removals.
1. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only.
  2. Any member of the Board may be removed by the City Council for cause. If an accused member requests a public hearing on the charges, one shall be granted before final action by the council
  3. Any member of the Board who shall fail to be in attendance for three (3) consecutive meetings shall be subject to immediate removal by the City Council.
- E. Organization.
1. The Zoning Board of Adjustment shall be organized in conformity with the Code of the City of Paterson and the MLUL.
  2. At its organizational meeting in July each year, the Zoning Board of Adjustment shall elect a Chairman and Vice-Chairman from its members and select a Secretary who may or may not be a member of the Zoning Board of Adjustment or a municipal employee.
- F. Expenses and Costs. The City Council shall make provisions in its budget and appropriate such funds as it may deem necessary for the expenses of the Zoning Board of Adjustment.
- G. Compensation of the Board Members. The following salaries are hereby established for the members of the Zoning Board of Adjustment until amendment hereto.
1. Chairman - \$300 per year in addition to the per-meeting sum.



2. The sum of \$75 per meeting to be paid to each member

H. Staff and Special Services.

1. Professional Staff Services. The Zoning Board of Adjustment shall use for professional staff services the Division of Planning and Zoning, which is headed by the Director of Planning (Chief Planner).
2. Legal and Other Services. The Zoning Board of Adjustment shall appoint an attorney, secretary, certified shorthand reporter or provide for a tape recorder to record the proceedings, and may appoint a clinical assistant whose responsibilities, duties, terms of office and salaries shall be as follows:
  - a. The term of the attorney and secretary shall each be one (1) year.
  - b. The duties of the attorney are to attend the regular and special meetings of the Board; to advise and consult with the Board on all legal questions pertaining to the efficient operation of the Board in the discharge of its statutory duties; to consult with Planning Division staff when necessary; and to render formal written opinions to the Board when requested to do so by the majority vote of the Board Members at a public meeting of the Board. The attorney's appointment and salary shall be approved in resolution form.
  - c. The secretary shall keep a record of each hearing or other official action of the Board; attend each meeting of the Board; call the roll call and record the vote of each member of the Board; and perform other duties required by the Board. Appointment and salary shall be in resolution form.
  - d. The certified shorthand reporter, if applicable, shall be an official reporter appointed by the Supreme Court and assigned to the Trial Division of the Superior and County Courts. The reporter shall make a record of all public proceedings before the Zoning Board of Adjustment, prepare and furnish suitable minutes thereof for each member of the Board, as well as prepare verbatim transcripts of any proceedings required by a participant in a proceeding before the Board, at the expense of such person. Appointment shall be in resolution form.
  - e. Pursuant to the Code of the City of Paterson, the Planning Division shall, under the Director of the City Planning Director, assist the Members of the Board and its other personnel in the performance of their respective duties. The Planning Division shall:
    - i. Receive and maintain all correspondence to the Board.
    - ii. Keep a record of each hearing or other official action of the Board
    - iii. Review all applications preparatory to the meetings at which the same are to be acted upon and prepare the agenda for each meeting of the

Board, under the direction of the City Planning Director, or under the direction of whomever he may assign on his staff.

- iv. Maintain a cross file card index of the addresses of properties affected by applications and names of owners thereof.
  - v. Prepare all bills and salaries of Board personnel for payment.
  - vi. Maintain all of the Board's correspondence, notes, applications, bills, data and all other records.
  - vii. Review development applications and make recommendations for the Board's consideration.
- f. The Board of Adjustment may hire a professional planner from the Staff of the Division of Planning and zoning to attend its night meetings, to convey technical information, and to provide a report on each application developed by the Planning and Zoning Division for Board consideration and action. The services rendered by the Division of Planning and Zoning Staff Planner and compensation thereof shall be reflected in a detailed resolution passed by the Board.
- I. Rules and Regulations. The Zoning Board of Adjustment shall adopt "Rules" as may be necessary to carry into effect the provisions and purposes of this Ordinance.
1. Meetings.
    - a. Regular Meetings. The Board shall hold regular monthly meetings as specified in its "Rules".
    - b. Special Meetings.
      - i. Applicants wishing to have special meetings/hearings on developments of timely importance separate and apart from the yearly scheduled calendar of meeting dates may request the Board Chair-man to conduct such special meetings. The chairman may call for a special meeting on his own or be requested in writing by any two Board members
      - ii. Special meetings requested, in writing, by the applicant shall require compliance with Article XII regarding escrow deposits for development applications.
    - c. Call For Meetings. The Board may fix by rule the manner in which the Chairman shall issue any such call for a meeting and the amount of notice required of any such call. The Board may also fix by rule the manner, including the amount of notice, in which meetings other than those at the call of the Chairman may be held.
    - d. Oaths. The presiding officer, or such person as he may designate, may administer oaths and compel the attendance of witnesses.

- e. Minutes. Minutes shall be kept of all meetings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall also keep records of its examination and other official action, all of which will be immediately filed in the office of the Board and shall be a public record.
  - f. Evidence. During a public hearing on each application for development, the technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.
- J. Conflicts of Interest. No member of the Zoning Board of Adjustment shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest.

### **§200-2.2 Power, Duties and Jurisdiction of the Zoning Board of Adjustment.**

The Zoning Board of Adjustment shall follow the provisions of this ordinance and the MLUL and accordingly shall have the power to review and decide the following:

- A. Appeals of Zoning Decision(s) by the Zoning Officer. Hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by the Zoning Officer based on or made in the enforcement of the zoning ordinance.
- B. Interpretations of Zoning Map and Zoning Ordinance. Hear and decide requests for interpretation of the Zoning Map or Ordinance or for decisions upon other special questions upon which such Board is authorized to pass by any Zoning or Official Map Ordinance in accordance with the MLUL.
- C. Bulk And Dimensional Variances:
  - 1. Where: (i) by reason of exceptional narrowness, shallowness or shape of a specific piece of property; or (ii) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or (iii) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, the Board may grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; or
  - 2. Where in an application or appeal relating to a specific piece of property the purposes of zoning set forth in N.J.S.A. 40:55D-2 would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, the Board may grant a variance to allow departure from such zoning requirements, provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under §200-2.2.C.1,

above, and provided that no variance from those departures enumerated in §200-2.2.D, below, shall be granted under this subsection; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has the power to review a request for a variance pursuant to N.J.S.A. 40:55D-60a.

- D. Use Variances. In particular cases and for special reasons, the Board may grant a variance to allow departure from zoning regulations to permit (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a non-conforming use, (3) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, (5) an increase in the permitted density as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by ten (10) feet or ten (10) percent the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members.
- E. Relief Not Enumerated In §200-2.2.D To Be Decided Under §200-2.2.C. If an application for development requests one or more variances but not a variance for a purpose enumerated in §200-2.2.D, the decision on the requested variance or variances shall be rendered under §200-2.2.C
- F. Requirement For Showing Of No Substantial Detriment. No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance.
- G. Referral Of Application To Other Agencies. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- H. Additional Powers. The Zoning Board of Adjustment shall have the following additional powers:
  - 1. To direct issuance of a building permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved in the official map, as permitted under N.J.S.A 40:55D-34, unless such request is made in the context of an application for approval of a subdivision, site plan or conditional use not requiring a variance pursuant to N.J.S.A. 40:55D-70(d), in which case such authority shall rest with the Planning Board.
  - 2. To direct issuance of a permit for a building or structure not related to street pursuant to N.J.S.A. 40:55D-36, unless such request is made in the context of an application for approval of a subdivision, site plan or conditional use not requiring a

variance pursuant to N.J.S.A. 40:55D-70(d), in which case such authority shall rest with the Planning Board.

3. Whenever the proposed development requires approval by the Board of Adjustment of a variance pursuant to §200-2.2.D of this ordinance (N.J.S.A. 40:55D-70(d)), the Zoning Board of Adjustment shall have power to grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval or conditional use approval. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals of a site plan or subdivision by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial impairment to the public good and without substantial impairment to the intent and purpose of the zone plan and zoning ordinance. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in this Chapter for the approval in question.
4. Whenever review or approval of the application by the Passaic County Planning Board is required by Section 5 of P.L. 1968, C. 285 (C. 40:27-6.3), in the case of a subdivision, or Section 8 of P.L. 1968, C. 285 (C. 40:27-6.6), in the case of a site plan, the Zoning Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Passaic County Planning Board or approval by the Passaic County Planning Board by its failure to report thereon within the required time.
  - I. No variance or other relief may be granted under the terms of this Ordinance unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Ordinance.
  - J. An application under this Section may be referred to any appropriate person or agency, including the Planning Board, pursuant to the Municipal Land Use Law, for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
  - K. Annual Report On Variances Heard By Zoning Board Of Adjustment. In accordance with N.J.S.A. 40:44D-70.1, the Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Board of Adjustment shall send copies of the report and resolution to the City Council and Planning Board.

**§200-2.3 Appeals.**

- A. Appeals to the Zoning Board of Adjustment by an interested party affected by any decision of the Zoning Officer of the City based on or made in the enforcement of the Zoning Ordinance or Official Map shall be taken within 20 days by filing a notice of appeal with the Zoning Officer. The notice shall specify the grounds of such appeal. All information pertinent to the matter shall be transmitted immediately by said officer to the Division of Planning and Zoning as agent for the Zoning Board of Adjustment.
- B. An interested party may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to a Zoning Officer. The applicant shall specify the specific approval requested and any and all accompanying variances requested. Such application shall be made through the Planning and Zoning Division, which Division provides services to the Planning Board and the Zoning Board of Adjustment.
- C. The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end, have all powers of the Zoning Officer from whom the appeal is taken.
- D. An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the officer from whose action the appeal is taken has certified to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certification a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an Order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown.
- E. Appeals to the City Council. Any interested party may appeal to the City Council any final decision of the Zoning Board of Adjustment approving an application for development pursuant to N.J.S.A. 40:55D-70(d) of the MLUL. Such appeal shall be made pursuant to the regulations of Article I of the MLUL (N.J.S.A. 40:55D-17).

**ARTICLE III ADMINISTRATION & ENFORCEMENT****§300-1 APPLICATION FOR A ZONING PERMIT, CONSTRUCTION PERMIT AND CERTIFICATE OF OCCUPANCY****§300-1.1 Zoning Permit, Construction Permit and Certificate of Occupancy.**

- A. Zoning Permit. No building or structure shall be erected, moved, extended, or altered, nor shall any excavation, demolition or other land improvement take place without a Zoning Permit issued by the Zoning Officer. No Zoning Permit shall be issued in the City of Paterson unless that action is in complete conformity with this, and all other applicable ordinances, statutes and regulations. Application for the issuance of a Zoning Permit shall be made to the Zoning Officer.
- B. Construction Permit. No Construction Permit shall be granted without submission of a Zoning Permit issued by the Zoning Officer.
- C. Certificate of Occupancy. It shall be unlawful to use or occupy or to permit the use or occupancy of any building, structure or premises, or both, or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure unless a Zoning Permit has been issued by the Zoning Officer certifying that the proposed use conforms to the requirements of this Ordinance. The Director of Community Improvements is responsible for the issuance of Building Permits and Certificates of Occupancy following the issuance of a Zoning Permit by the Zoning officer.

**§300-1.2 Application Materials.**

The following application materials shall be submitted to the Zoning Officer in support of a request for a Construction Permit or a Certificate of Occupancy:

- A. Two (2) copies of the appropriate application form, signed by the applicant.
- B. Two (2) copies each of the following information on one or more drawings:
  - 1. Survey of the property.
  - 2. All materials required for issuance of a Construction Permit or Certificate of Occupancy, as applicable.
  - 3. A diagram of a proposed sign containing the information required for a sign permit as specified in this Ordinance.

**§300-1.3 Decision by Zoning Officer.**

- A. The Zoning Officer shall issue or deny a Zoning Permit within ten (10) business days of a request therefor. The Zoning Officer is usually the first municipal official whom the typical property owner meets in the process of making an application to do something with his property. The

Municipal Land Use Law requires applicants to file, with the Zoning Officer, for a Zoning Permit. In this ordinance, the Zoning Permit is defined as a document signed by the Zoning Officer which:

1. Is required as a condition precedent to the commencement of a use, change of a use, or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and;
  2. Acknowledges that such use, structure or building complies with the provisions of this ordinance or variance therefrom duly authorized by the Planning Board or the Zoning Board of Adjustment.
- B. The basic purpose of a Zoning Permit is to assure that the proposed use, construction or alteration will be in accordance with the provisions of this ordinance. A Building Permit shall be granted only following approval of a Zoning Permit. Certificates of Occupancy are also required to indicate specific certification of compliance with the Uniform Construction Code of the State of New Jersey following completion of construction. The Certificate of Occupancy is concerned with construction details of the building and assurance that it is constructed and, in the case of rental units, maintained in compliance with the State Construction Code or applicable state, health and safety regulations. The Zoning Permit looks to the location and use of the building in light of the requirements to the Zoning and Land Development Ordinance and certifies that such location and use (1) is permitted or (2) that it exists as a non-conforming use and/or non-conforming structure or (3) is permitted by the terms of a variance.
- C. Upon the filing of a completed application for a Zoning Permit, the Zoning Officer shall determine whether the proposed use is permitted or not, and whether a development application is required to be submitted to the Planning Board or Zoning Board of Adjustment. A Zoning Permit application for a use not specifically listed as permitted in a particular zone district shall be denied and it shall be the duty of the Zoning Officer to specify what sections of the ordinance are involved and what approvals and/or variances would be required before a Zoning Permit could be issued. Such specifications of approvals and/or variances listed on the permit application shall be submitted to the Planning Board or Zoning Board of Adjustment, as applicable, for consideration of the development application.

## **§300-2 REVIEWS BY APPROVING AGENCIES**

### **§300-2.1 Further Application.**

If, after the receipt of a denied application for a Zoning Permit, the applicant wishes to pursue his proposal for development, he shall make application to the Planning Board or the Zoning Board of Adjustment, as applicable, through the Division of Planning and Zoning.



**§300-2.2 Direct Application.**

An applicant may file an application for development directly with the Zoning Board of Adjustment or the Planning Board through the Division of Planning and Zoning without prior application to the Zoning Officer, provided that an application made under the provisions of this subsection shall make mention of each and every type of review sought. This provision does not waive the requirement of obtaining a Zoning Permit in the event the party is granted approval by either Board.

**§300-2.3 Pre-Submission Conference; Informal Review.**

- A. Applicants are encouraged to participate in a pre-submission conference with a member of the Division of Planning and Zoning, either in person, by agent or by attorney. The purpose of the conference shall be to evaluate the proposal for the type of reviews required and to insure that the developer applicant receives, and understands the requirements and expectations with respect to, all proper application materials. No statement or representation by either the applicant or the Division of Planning and Zoning at the time of pre-submission conference shall be binding or final.
- B. At the request of the developer, the Planning Board shall grant an informal review of a concept plan for a development for which the developer intends to prepare and submit an application for development. The amount of any fees for such an informal review shall be a credit toward fees for review of the application for development. The developer shall not be bound by any concept plan for which review is requested, and the planning board shall not be bound by any such review.

**§300-2.4 Application Material.**

The following information shall be submitted for all types of approval sought. Checklist for submissions to the Paterson Planning Board and Paterson Zoning Board of Adjustment for Site Plan, Minor Subdivision, Major Subdivision, Conditional Use, "C" Variance and "D" Variance approvals are described below:

- A. General Requirements. No application for development shall be deemed complete unless the items, information and documentation required in the General Requirements form (found in Appendix A), where applicable, are submitted to the Paterson Planning and Zoning Division.
- B. Site Plan Review. No application for site plan review and approval shall be deemed complete unless the items, information and documentation required in the Site Plan Submission Details and Requirements form (found in Appendix A) where applicable, are submitted to the Planning Board or Zoning Board of Adjustment, as applicable.
- C. Subdivision Review. No application for subdivision review and approval shall be deemed complete unless the items, information and documentation required in the Sketch and Minor

Subdivision Plat Details and Requirements form, the Preliminary Plat Details and requirements form, or the Final Plat Details and Requirements form (found in Appendix A), where applicable, are submitted to the Planning Board or Zoning Board of Adjustment, as applicable.

- D. Variances. No application for variance approval shall be deemed complete unless the items, information and documentation required in the Variance Submission Details and Requirements form (found in Appendix A), where applicable, are submitted to the Planning Board or Board of Adjustment, as applicable, and in conjunction with other types of approvals sought. All requirements under Section A, B and C, as applicable to the types of approvals desired shall be submitted.
- E. No application for Conditional Use review and approval shall be deemed complete unless all requirements under Section A, B, C and D above, as applicable to the types of approvals desired, are submitted to the Planning Board or Board of Adjustment, as applicable, and in conjunction with other types of approvals sought.
- F. An applicant for development may request in writing from the appropriate Board, a waiver or elimination of specific checklist details or requirements. The Planning Board or Board of Adjustment, as the case may be, shall have the power and authority to waive or eliminate specific checklist details and requirements that are not deemed necessary to make an informed decision as to whether the requirements necessary for approval of an application have been met. The applicant shall submit all materials and information as set forth herein and all other applicable local and state ordinances and codes.

#### **§300-2.5 Proof of Payment of Taxes Required.**

Notwithstanding any potentially conflicting provisions of this Ordinance of the City of Paterson (Code of the City of Paterson - Chapter 297), the applicant for any development application, at the time of filing of said application, shall file with the Planning Board or the Board of Adjustment a certification of the Tax Collector that all municipal taxes and/or assessments have been paid and are current with respect to the property for which the application is made. In the event taxes and/or assessments on the subject property are unpaid, the applicant may submit a written request to the Planning Board or Board of Adjustment that any approval on said development application be subject to the payment of taxes and/or assessments. For good cause, the appropriate Board may waive the requirement of proof of payment as a condition of completeness of the application. However, in such instance, the Board shall condition any approval of the development application upon prompt payment of the full amount of unpaid taxes and/or assessments. In the event the Board shall condition any approval of the development application upon prompt payment of the full amount of unpaid taxes and/or assessments, the applicant shall have no right to proceed with the development until all such taxes and/or assessments have been paid and are made current.

**§300-2.6 Application Process.**

## A. Determination of Complete Application.

1. Applications for development shall require the submission of all required application forms together with all required accompanying documents and information in accordance §300-2.4, Application Material.
2. An application shall be certified as complete in writing to the applicant by the City Planning Director upon the applicant's meeting all requirements specified in §300-2.4, Application Material, and shall be deemed complete as of the day it is so certified by the City Planning Director, who shall be the Administrative Officer for purposes of the commencement of the time period for action of the approving authority.
3. In the event that the City Planning Director does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45-day period for purposes of commencing the applicable time period, unless: (a) the application lacks information indicated on a checklist required in accordance with §3002.4, Application Material; and (b) the City Planning Director has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
4. The applicant may request of the approving board that one or more of the submission requirements be waived, in which event the approving board shall grant or deny the request within 45 days from the date of such request.
5. Certain types of development proposals may require the submission of additional application material as determined by the Division of Planning and Zoning and conveyed to the applicant through an instruction sheet accompanying the application form. In all cases, sufficient information shall be provided to permit the Planning Board or Zoning Board of Adjustment to consider all relevant facts concerning the application. However, the application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required.
6. The approving agency may subsequently require correction of any information found to be in error and submission of additional information not specified in §300-2.4, Application Material, or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for consideration of the application for development have been met. However, the application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the approving authority.
7. The Director of the Division of Planning and Zoning, or a member of his staff, may require the submission of extra copies or additional information to complete the application when such would aid the approving agency in its deliberations or when required by law for review by other governmental agencies. However, the application

shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required.

8. Nothing herein shall be construed as diminishing the applicant's obligation to prove, in the application process, that he or she is entitled to approval of the application.
- B. **Schedule and Notification of Meeting.** When an application is deemed to be complete, it shall be scheduled for the next available meeting of the approving agency and the applicant shall be so notified by the Division of Planning and Zoning.
  - C. **Staff Review and Recommendation.** All complete applications for development shall be reviewed by a member of the staff of the Division of Planning and Zoning. The staff member shall evaluate the proposal for conformance with the criteria for approval set forth in the appropriate sections of this ordinance, make findings of fact thereon, and may recommend the proposal for approval or denial by the approving agency. The staff review shall be in writing and become part of the record at the public meeting or hearing on the application. In addition, a staff member of the Division of Planning and Zoning may testify under oath before the approving agency at the meeting or hearing.
  - D. **Classification of Subdivision**
    1. The Planning Board, or its Subdivision Committee if so designated to said Committee, shall review the plat prior to the regular meeting and shall classify the subdivision as a minor or major subdivision.
    2. Section 300-5.3.B notwithstanding, the Planning Board may require notice and public hearing of minor subdivision applications
  - E. **Interagency Review.** If the proposal requires approval by other local, county or other agencies, the applicant shall submit a copy of the application material to those agencies. The Division of Planning and Zoning may assist an applicant in identifying when his proposal requires review or approval by any county, state or federal agency, but the responsibility for determining the appropriate non-City approvals and the cost of application to such agencies shall be borne by the applicant.
  - F. **Hearing and Notice.** The approving agency shall hold a hearing open to the public on each application for development in accordance with §300-5. Applications requiring formal public notice shall not be heard unless public notice has been given in complete conformance with §300-5 and the Municipal Land Use Law.
  - G. **Time Limits for Review and Action.** Action on completed applications shall be reviewed and decided within the time limits as set forth in the Municipal Land Use Law as incorporated herein in Section 300-4 or within such further periods as the applicant may consent to in writing. In the event of a conflict between time frames as provided in the Municipal Land Use Law and this Ordinance, the Municipal Land Use Law shall govern.

**§300-2.7 Zoning Permits.**

- A. Submission of Certified Zoning Permit to Obtain Building Permit and/or to Validate a Previously Approved Non-Conforming Use or Bulk Condition.
  - 1. All Building Permits and Certificates of Occupancy shall only be issued by the Director of Community Improvements upon an applicant's first submitting a certified Zoning Permit issued by the Zoning Officer. Such certified Zoning Permit shall be issued only if a Zoning Permit application does not warrant Planning Board or Zoning Board of Adjustment approval or if the Planning Board or Zoning Board of Adjustment has approved the development application with or without conditions inherent in that approval.
  - 2. Where this ordinance is violated, the Zoning Officer may file a complaint for the violation in the Paterson Municipal Court. Upon conviction for the violation, the defendant would be subject to a fine not exceeding \$1,000 per day or imprisonment not exceeding ninety (90) days or both.
- B. The application for a Zoning Permit shall include all of the information specified in the required in the Application for a Zoning Permit form (found in Appendix A) as well as applications for development or wishing to obtain a Building Permit or a Certificate of Occupancy. C. The Zoning Permit shall be issued by the Zoning Officer and shall reflect the following information indicated in the form included in Appendix A.

**§300-3 FEES****§300-3.1 Fee Schedule**

No application for development, involving the review of site plan, subdivision, variance conditional use of combination thereof, shall not be consider complete until the fee indicated below has been paid. For applications where two fees are applicable, the higher fee shall be charged.

Application Type	Non-Refundable Application Fees
A. Site Plan or Subdivision Application	
1. Residential	
a. One (1) dwelling unit	\$200
b. Two (2) or Three (3) dwelling units	\$325
c. Four (4) to Ten (10) dwelling units	\$725
d. Eleven (11) or more dwelling units	\$1,000 plus \$45 per unit
2. Commercial and Industrial	
a. Less than 2,500 square feet of proposed building space	\$350
b. 2,500 to 5,000 square feet of proposed building space	\$500
c. More than 5,000 square feet of proposed building space	\$500, plus \$200 for each additional 2,000 square feet of proposed building floor space or fraction thereof
3. Charitable and Institutional	\$250
4. Minor Subdivision and Site Plan for Existing Development	\$500
B. Use Variances	
1. Residential	\$500
2. Commercial	\$700
3. Industrial	\$1,000
4. Multiple Uses	\$1,500
C. Conditional Uses	\$800
D. Other Variances	\$250
E. Signs	\$500
F. Official Map (street vacation, etc)	\$2,500
G. Appeals	
1. Appeals to Zoning Board of Adjustment	\$500
2. Appeals to City Council	\$500
H. Zoning Change Request	\$5,000
I. Street Vacation	\$2,500
J. Additional fee for list of adjoining owners	\$0.25 per name or \$10, whichever is greater
K. Open Space Fee	An open space fee of \$100 per application shall be collected from each applicant and dedicated for the acquisition of property to be used for passive and active recreational purposes. A separate fund shall be established and all monies collected shall be placed in this account for the purposes stated.
L. Review by Historic Preservation Commission	10% of the review fee for other aspects of the project, or \$25, whichever is greater
M. Informal Review before Planning Board	\$50

N. When deemed necessary by a Municipal Agency, escrow fees shall be provided in accordance with the following:	
<b>Type of Application</b>	<b>Escrow Fees</b>
Site Plan	
Preliminary Site Plan – Residential	
Less than 10,000 sq. ft. GFA	\$1,000
10,001 to 50,000 sq. ft. GFA	\$2,500
Greater than 50,000 sq. ft. GFA	\$3,500
Preliminary Site Plan – Non Residential	
Less than 1,000 sq. ft. GFA	\$1,000 if less than 1 acre; \$2,500 if greater than 1 acre
1,001 to 10,000 sq. ft. GFA	\$2,500
10,001 to 50,000 sq. ft. GFA	\$3,500
Greater than 50,000 sq. ft. GFA	\$5,000
Final Site Plan	50% cost of Preliminary Site Plan escrow fee
Amended Site Plan Approval	\$1,000
Conceptual Site Plan	\$300
Subdivision	
Minor Subdivision	\$500
Preliminary Major Subdivision	
Fewer than 10 Lots	\$1,000
11 Lots or Greater	\$2,000
Final Major Subdivision	50% cost of Preliminary Minor Subdivision fee
Amended Subdivision Approval	50% cost of Preliminary or Final Major Subdivision Escrow fee, as applicable
Appeals and Interpretations	
Appeals and Interpretations as per NJSA 40:55D-70 a & b	\$1,000 (which may be waived or reduced when deemed not to require staff time in excess of 5 hours)
‘c’ variance as per NJSA 40:55D-70(c)	
For any project on lots under 3,000 sq. ft.	\$500
For any project on lots 3,000 sq. ft. and over	\$1,000
‘d’ variance as per NJSA 40:55D-70(d)	
For any project on lots under 3,000 sq. ft.	\$1,000
For any project on lots 3,000 sq. ft. and over	\$2,500
Rezoning or Redevelopment Plan Amendment	\$3,000
Historic Preservation Review	\$750

**§300-3.2 Fee Collection.**

All fees will be collected by the Division of Planning and Zoning and transmitted to the proper account of the City of Paterson in a manner as required by law.

**§300-3.3 Additional Fees.**

- A. A charge of \$50.00 for a copy of the Zoning and Land Development Ordinance of the City of Paterson;
- B. A charge of \$50.00 for a copy of the Master Plan of the City of Paterson;
- C. A charge of \$1.50 for a 20" x 26" street index map, a charge of \$3.00 for a 36" x 42" street index map, and a charge of \$.50 per page for reproducing any 3 " x 11 " sheet of text; and
- D. A charge of \$10.00 for a copy of the 36" x 42" Zoning Map of the City of Paterson.

**§300-3.4 Escrow Deposits for Development Applications.**

- A. In the event an applicant seeks a special or expedited meeting for the consideration of his development application, the applicant shall be responsible to reimburse the municipality for all expenses of professional personnel and transcriber/stenographer services. No applicant shall be responsible to reimburse the agency for attendance at such meetings of commissioners or board members.
- B. When deemed necessary by a municipal agency, an applicant shall be responsible to reimburse the municipality for the costs of professional charges for review of applications, review and preparation of documents, and inspections of developments under construction, by outside consultants when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the City, and/or other purposes under the provisions of P. L. 1975 c. 291 et. seq.). The City shall be entitled to be reimbursed for the review of applications by such outside consultants, both as to completeness and content; for the review and preparation of documents such as, but not limited to: resolutions, developers agreements and necessary correspondence with applicant or applicants professionals; meetings; and all communication and all time spent reviewing the application submittals. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professional or consultants including normal and typical expenses incurred in processing applications and inspecting improvements. The City shall not bill an applicant for any clerical or administrative functions, overhead expenses, meeting rooms or any other cost or expenses not associated with an application. The initial deposit to be made shall be as specified in the §300-3.1 Fee Schedule, and shall be in addition to all other fees required by the City.
- C. If an escrow account contains insufficient funds to cover the costs of charges approved by the Chief Financial Officer against the escrow account, the Chief Financial Officer shall provide the



applicant with notice of the insufficient balance requesting that the applicant post a deposit to the account in an amount agreed upon by the City or the approving authority and the applicant.

- D. No Zoning Permits, Building Permits, Certificates of Occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the City from professional personnel rendering services in connection with such applicant and payment has been made. However, the appropriate maps or permits may be signed and permits released or issued, if the applicant shall have deposited with the City an amount agreed upon by the applicant and the City likely to be sufficient to cover all reimbursable items; and upon posting said deposit with the City. If the amount of the deposit exceeds the actual costs as approved for payment by the governing body, the developer shall be entitled to a return of the excess deposit, together with such interest as allowed by N.J.S.A. 40:55D-53.1; but if the charges submitted and approved by the governing body exceed the amount of the deposit, the developer shall be liable for payment of such deficiency.
- E. The following represents the amount of reimbursable expenses per special meeting for which an applicant/ developer shall be responsible:
1. \$850 for attorney's time;
  2. Other professional personnel (outside consultants) at their normal hourly rate then in effect;
  3. For municipal professionals, an amount equal to 200% of the professional's hourly base salary times the number of hours spent or anticipated to be spent by the professional;
  4. \$450 for the cost of a shorthand reporter plus \$35 per hour after 11:00 P.M. unless the developer/applicant arranges for his own reporter and so notifies the Board in advance in writing. In either case, the shorthand reporter shall provide a full transcript of the proceedings; and
  5. Actual out-of-pocket expenses of outside professionals or consultants.
- F. Deposits received from any developer in excess of \$5,000 shall be deposited by the City's Chief Financial Officer in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The municipality shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The municipality shall not be required to refund an amount of interest paid on a deposit that does not exceed \$100 for the year. If the amount of interest exceeds \$100, that entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the municipality may retain for administrative expenses a sum equivalent to no more than 33-1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so

expended shall be refunded to the applicant within 90 days after the final decision by the appropriate municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.

- G. Each payment charged to the deposit shall be pursuant to a voucher from the professional which voucher shall identify the personnel performing the service, and each date the services were performed, the hours spent to one-quarter hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the municipality simultaneously to (1) the applicant and (2) the municipal agency for whom said services were performed.
- H. The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis if monthly charges are \$1,000 or less, or on a monthly basis if monthly charges exceed \$1,000.
- I. The following close out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:55D-1 et seq. and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved in accordance with N.J.S.A. 40:55D-53, in the case of improvements inspection escrows and deposits. The applicant shall send written notice by certified mail to the Chief Financial Officer of the municipality and the approving authority and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within thirty (30) days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within forty-five (45) days of receipt of the final bill. Any balances remaining in the deposit or escrow account including interest in accordance with N.J.S.A. 40:55D-53.1 shall be refunded to the developer along with the final accounting.
- J. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with the conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items that are subject to approval by any State governmental agency and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals on the subdivision or site plan.
- K. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction

shall charge only for inspections that are reasonably necessary to check the progress and quality of the work and such inspections shall be reasonably based on the approved development plans and documents.

- L. If the municipality retains a different professional or consultant in the place of a professional originally responsible for development application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.
- M. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Municipal Engineer based on documented construction costs for the public improvements prevailing in the general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.
- N. Disputed Charges
  1. An applicant shall notify in writing the governing body with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional. The governing body or its designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals established pursuant to N.J.S.A. 52:27D-127 any charge to an escrow account or deposit by any municipal professional or consultant or the cost of the installation of improvements estimated by the municipal engineer pursuant to N.J.S.A. 40:55D-53.4. An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority, and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within forty-five (45) days from receipt of the informational copy of the professional's voucher required by subsection N.J.S.A. 40:55D-53.2(c), except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within sixty (60) days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D53.2(c). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six (6) months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.
  2. Appeals shall be taken in accordance with the Rules and procedures established by the County Construction Board of Appeals.
  3. During the pendency of any appeal, the municipality or approving authority shall continue to process, hear and decide the application for development and to inspect the

development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

### **§300-4 TIME LIMITS AND SCHEDULES**

#### **§300-4.1 Time for Action by Planning Board on Site Plan, Subdivision , Conditional Use and General Development Plan Applications.**

- A. Action (i.e., approval, approval with conditions or denial) shall be taken on development applications within the time limits indicated below. The time limits shall commence upon the written certification by the City Planning Director that the application is complete in accordance with §300-2.6.B. Upon the written certification by the City Planning Director that the application is complete, the Planning Board has:
1. Forty-five (45) days for approval of a minor subdivision in accordance with N.J.S.A. 40:55D-47 or within such further time which may be consented to by the applicant;
  2. Forty-five (45) days within which to act on an application for preliminary subdivision approval for a subdivision of ten (10) or fewer lots in accordance with N.J.S.A. 40:55D-48, or within such further time which may be consented to by the applicant;
  3. Ninety-five (95) days within which to act on an application for preliminary subdivision approval for a subdivision of more than ten (10) lots in accordance with N.J.S.A. 40:55D-48, or within such further time which may be consented to by the applicant;
  4. Forty-five (45) days within which to act on an application for final subdivision approval in accordance with N.J.S.A. 40:55D-50, or within such further time which may be consented to by the applicant;
  5. Forty-five (45) days for an application for preliminary site plan approval which involves ten (10) acres of land or less and ten (10) dwelling units or less in accordance with N.J.S.A. 40:55D-46, or within such further time which may be consented to by the applicant;

6. Ninety-five (95) days for an application for preliminary site plan approval which involves more than ten (10) acres or more than ten (10) dwelling units in accordance with N.J.S.A. 40:55D-46, or within such further time which may be consented to by the applicant;
7. Forty-five (45) days within which to act on an application for a final site plan approval in accordance with N.J.S.A. 40:55D-50, or within such further time which may be consented to by the applicant;
8. Ninety-five (95) days for approval of an application for conditional use approval in accordance with N.J.S.A. 40:55D-67a, or within such further time which may be consented to by the applicant. The longest time period for action by the Board, whether it be for subdivision, conditional use or site plan approval, shall apply.
9. When an applicant makes simultaneous application for a site plan, subdivision or conditional use and for a variance(s) cognizable before the Planning Board, the Planning Board must grant or deny approval of the application within 120 days, or within such further time which may be consented to by the applicant, from the date of written certification by the City Planning Director that the application is complete. An applicant may elect, however, to file for the variance first and make subsequent application for the approval of the subdivision, site plan or conditional use. The Planning Board would then have 120 days to render a decision on the variance application and the time period for review of subsequent applications for the subdivision, site plan or conditional use approval would be as required in paragraphs (1) through (8), above.
10. Where a general development plan is submitted to the Planning Board, it has ninety-five (95) days within which to grant or deny the plan. (N.J.S.A- 40:55D-45.3).
11. When reviewing several applications (e.g., subdivision and site plan, site plan and conditional use) simultaneously, the Board shall be provided the longest period allowed to the Board for action on any individual application comprising the proposal.

#### **§300-4.2 Time for Action by the Zoning Board of Adjustment.**

- A. The Zoning Board of Adjustment shall render a decision not later than 120 days after the date: (1) an appeal is taken from the decision of an administrative official or (2) upon which the application receives written certification by the City Planning Director that the application is complete, or within such further time which may be consented to by the applicant.
- B. If the applicant elects to file for the variance first and make subsequent application for the approval of a subdivision, site plan and/or conditional use application, the Zoning Board of Adjustment shall have 120 days to render a decision on the variance application. The time period for review of subsequent applications for subdivision, site plan or conditional use approval would be as required in paragraphs (1) through (8), above.

**§300-4.3 Failure to Act; Extension of Public Hearing.**

An applicant shall comply with the provisions of N.J.S.A.40:55D-10.4 whenever the applicant seeks to claim that his application has been approved by reason of the failure of the municipal agency to grant or deny approval within the time limits as set forth herein. Nothing in this section, however, shall prevent an applicant from extending any time limit, for any reasonable number of days. All such extensions shall be in writing and signed by the applicant, or his agent or attorney, and approved by the responsible Board.

**§300-4.4 Other Review Concurrent.**

- A. The Board may refer any development application under review to any appropriate agency or individual for evaluation; provided, however, that the time limits of this section shall not be extended as a result, without the written consent of the applicant.
- B. County Approval. Whenever review or approval of a development application by the County Planning Board is required by N.J.S.A. 40:27-6.3 or 40:27-6.6, the Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board. The County Planning Board's failure to report thereon within the required time period provided by law shall be considered a favorable response. Whenever County Planning Board review or approval is required, the applicant shall be responsible for filing all necessary applications, plans, reports and other documents directly with the County Planning Board.

**§300-4.5 Decisions.**

- A. The approving agency shall make a formal written decision on all applications for development, including any conditions for approval, and shall include findings of fact and conclusions based thereon. That decision shall be in the form of a resolution adopted pursuant to N.J.S.A. 40:55D-10g. A copy of this decision shall be mailed by the approving agency within ten (10) days of the date of the decision to the applicant or if represented then to his attorney, to the Zoning Officer, and to the Division of Planning and Zoning. The Division of Planning and Zoning shall file the resolution and make it available for inspection or shall provide a copy of such filed resolution to any interested party for a reasonable fee. A brief notice of the decision shall be published in the official newspaper of the City. Such publication shall be arranged by the applicant. The municipality may make a reasonable charge for its publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision.
- B. All conditions of preliminary and final approval shall be binding upon the applicant, all present and future owners, tenants, users and occupants of the property and their respective successors and assigns.

- C. The applicant and any successor in interest shall be responsible for installing and maintaining in good order and condition all required improvements and landscaping, unless such improvements in landscaping are to be installed by, and/or dedicated to and maintained by the City, County or another party, under the terms of approval granted by the Board. Such required improvements shall include, but not be limited to, parking improvements, buffer zones, drainage facilities, exterior lighting and landscaping. Failure of any responsible party to install and/or maintain required improvements or landscaping, shall constitute a violation of this Chapter and shall be subject to the enforcement procedures set forth herein.

#### **§300-4.6 Effect of Approvals and Expiration of Approvals.**

- A. After a proposal for development has received all necessary reviews and approval, and the applicant has complied with all conditions of approval, a Construction Permit shall be issued by the Construction Official and a Certificate of Occupancy shall be issued by the Director of Community Improvements when the premises have satisfied all requirements therefor.
- B. Effect and Expiration of Approvals for Minor Subdivisions.
  - 1. Approval of a minor subdivision shall be deemed final approval provided that the Board may condition such approval on the provision of improvements as may be required. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date on which the resolution of approval is adopted provided that any such approved minor subdivision shall have been duly recorded in accordance with §300-4.6.B.2.
  - 2. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date on which the resolution of approval is adopted unless within such period a plat in conformity with such approval and the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the County Register, the City Engineer and the City Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the Board Chairperson and Secretary. In reviewing the application for development for a proposed minor subdivision, the Board may accept a plat not in conformity with N.J.S.A. 46:23-9.9 et seq.; provided that if the developer chooses to file the minor subdivision as provided herein by plat rather than deed such plat shall conform with the provisions of the said act.
  - 3. The Board may extend the one hundred ninety (190) day period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Board: (a) that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and (b) that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the

Board or for a period not exceeding one (1) year from what would otherwise be the expiration date.

4. The developer shall apply for the extension for filing a minor subdivision plat or deed before (a) what would otherwise be the expiration date of minor subdivision approval; or (b) the 91st day after the developer receives the first legally required approval from other governmental entities, whichever occurs later.
- C. Effect and Expiration of Approvals for Preliminary Subdivision and Site Plans.
1. Preliminary approval of a major subdivision or site plan, except as provided in this section, shall confer upon the applicant the following rights for a 3-year period from the date on which the resolution granting preliminary approval is adopted:
    - a. That the general terms and conditions on which preliminary approval was granted shall not be changed, including, but not limited to, use requirements; layout and design standards for streets, curbs and sidewalks; lot sizes; yard dimensions and off-tract improvements; and in the case of a site plan, any requirements peculiar to site plan approval pursuant to N.J.S.A. 40:55D-41, except that nothing herein shall be construed to prevent the City from modifying by ordinance such general terms and conditions of preliminary approval as related to public health and safety.
    - b. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.
    - c. That the applicant may apply for and the Board may grant extension on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that if the design standards have been revised by ordinance, such revised standards may govern,
    - d. In the case of a subdivision of or a site plan for a planned development of fifty (50) acres or more, the Board may grant the rights referred to in paragraphs a, b and c above for such period of time, longer than three (3) years, as shall be determined by the Board to be reasonable taking into consideration: (1) the number of dwelling units and non residential floor area permissible under final approval, (2) economic conditions and (3) the comprehensiveness of the development. The applicant may apply for thereafter, and the Board may thereafter grant, an extension of preliminary approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration: (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and non residential floor area remaining to be developed, (3) economic conditions and (4) the comprehensiveness of the development, provided that if the design standards have been-revised by ordinance, such revised standards may govern.



- e. Whenever the Board grants an extension of preliminary approval pursuant to paragraphs c or d above and preliminary approval has expired before the date on which the extension was granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for an extension either before or after what would otherwise be the expiration date.
- f. The Board shall grant an extension of preliminary approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The developer shall apply for the extension before: (1) what would otherwise be the expiration date of the preliminary approval, or (2) the 91st day after the developer received the last legally required approval from other governmental entities, whichever is later. An extension granted pursuant to this section shall not preclude the Board from granting an extension pursuant to paragraphs c or d above.

D. Effect and Expiration of Approvals for Final Subdivision and Site Plans

1. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The Board may for good cause shown extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The Board may extend the 95-day or 190-day period if the developer proves to the reasonable satisfaction of the Board that: (1) the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities; and (2) the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the planning board. The developer may apply for an extension either before or after the original expiration date.
2. The subdivision plat shall be signed by the Chairperson and Secretary of the Planning Board prior to its filing with the county recording officer. The Chairperson and Secretary of the Planning Board shall not sign the plat unless it has been duly approved has been duly approved by the Planning Board and until the developer has posted the required performance guarantees. If the county recording officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the municipality, the plat shall be expunged from the official records.
3. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not

be changed for a period of two (2) years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the time period required. If the developer has followed the standards prescribed for final approval and, in the case of subdivision, has duly recorded the plat as required, the Board may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions. Notwithstanding any other provisions of this Ordinance, the granting of final approval terminates the time period of preliminary approval for any section of the development that is granted final approval.

4. In the case of a subdivision or site plan for a planned development of fifty (50) acres or more, conventional subdivision or site plan for one hundred fifty (150) acres or more, or site plan for the development of nonresidential floor area of 200,000 square feet or more, the Board may grant the rights referred to in paragraph 1 of this section for such period of time, longer than two (2) years, as shall be determined by the Board to be reasonable, taking into consideration: (a) the number of dwelling units and non-residential floor area permissible under final approval; (b) economic conditions; (c) the comprehensiveness of the development. The developer may apply for thereafter, and the Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Board to be reasonable taking into consideration the following: (a) the number of dwelling units and nonresidential floor area permissible under final approval; (b) the number of dwelling units and nonresidential floor area remaining to be developed; (c) economic conditions; and (d) the comprehensiveness of the development.
5. Whenever the Board grants any extension of final approval pursuant to paragraphs 1 or 2 above, and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
6. The Board shall grant an extension of final approval for a period determined by the Board but not exceeding one (1) year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for an extension before (a) what would otherwise be the expiration date of final approval, or (b) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this section shall not preclude the Board from granting an extension pursuant to paragraphs 1 or 2 above.

**§300-4.7 Conformity with Application.**

- A. A Construction Permit or Certificate of Occupancy shall be issued only on the basis of the information submitted by way of application therefor. Any addition, subtraction, extension or alteration or other deviance from the conditions stated in said application material shall make the Construction Permit or Certificate of Occupancy null, void and of no effect.
- B. Whenever the Construction Official shall become aware of a building or structure or use constructed, used or occupied in a manner not in conformity with the application materials submitted to request the Construction Permit or Certificate of Occupancy, he shall promptly notify the applicant that the said permit or certificate is no longer valid and that the use, construction or occupancy is unlawful, and in addition, shall take any appropriate action under Section 300- 15 of the Ordinance.

**§300-5 PUBLIC HEARING AND PUBLIC NOTICE****§300-5.1 New Jersey Open Public Meeting Law.**

The provisions of the "Open Public Meetings Law" (N.J.S.A. 10:4-6 et seq.) shall govern all meetings and hearings of the Planning Board and the Zoning Board of Adjustment

**§300-5.2 Hearing Required.**

- A. The approving agencies shall hold a hearing open to the public on each application for development. All applications for development shall be considered at regularly scheduled meetings, unless, for good cause, the Chairman or, by written request, a majority of Board members shall request a special hearing. Notice of such meetings shall be provided in accordance with the provisions of the "Open Public Meetings Law" (N.J.S.A. 10:4-6 et seq).
- B. No application shall be considered by any less than a quorum of the full-authorized membership of a Board. All board actions shall be taken by a majority vote of a quorum, except for the approval of a use variance which requires the affirmative vote of five members of the Zoning Board of Adjustment.
- C. When reviewing several applications (e.g., subdivision and site plan, site plan and conditional use) simultaneously, the Board shall not be required to hold further hearings. The longest time period for action by the Board (whether it be for subdivision, site plan or conditional use) shall apply.

**§300-5.3 Public Notice.**

- A. No application which requires formal public notice shall be heard unless public notice has been given in complete conformance with this Ordinance and the Municipal Land Use Law. Any decision on a development application which requires formal public notice and for which proper public notice has not been given shall be void and of no effect, and the application shall be reheard de-novo after proper public notice has been given
- B. Public notice shall be required for all applications for development except for:
  1. Conventional site plan applications.
  2. Minor subdivision applications.
  3. Final approval of major site plans and major subdivisions that have been given preliminary approval and conforming to the conditions of such preliminary approval.
  4. A continuance of any hearing for which proper public notice has already been given, unless otherwise ordered by the approving agency.
- C. Contents of Notice. The notice of hearing required by this section shall contain the following information:
  1. The date, time and place of the hearing.
  2. A description of all types of approvals being sought and the nature of the matters to be considered.
  3. Identification of the property under review by street address and by tax map and block number.
  4. The location and times at which the complete application materials will be available for public inspection.
- D. Form of Notice. Public notice shall be given as follows:
  1. By publication in the official newspaper of the City, at least ten (10) days prior to the scheduled date of the hearing on the application, arranged and paid for by the City of Paterson.
  2. By the applicant serving a copy of the notice to the owners, at least ten (10) days prior to the scheduled date of the hearing on the application, of all real property located within 200 feet in all directions of the borders of the property under review, service to be either by hand to the owner or his agent in charge of the property or by certified mail to the property owner at the address as shown on the City's tax records.
  3. Additional Notice. Additional notice, by personal service or certified mail, shall be made, when required, at least ten (10) days prior to the scheduled date of the hearing on the application, as follows:
    - a. To the clerk of any municipality that is located within 200 feet of the property under review.

- b. To the County Planning Board when the application involves a property located adjacent to an existing County road or proposed road on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.
  - c. To the State Commission of Transportation when the application involves a property located adjacent to a state highway,
  - d. To the State Planning Commission when the application involves a property that exceeds 150 acres or 500 dwelling units. Such notice shall be accompanied by a copy of all maps or documents required to be on file with the municipal clerk pursuant to N.J.S.A 40:55D-10.
  - e. To any public utility, cable television company or local utility, as defined in N.J.S.A. 40:55D-3,5 and 6 if any of those entities possesses a right-of-way within the municipality and has registered in accordance with N.J.S.A. 40:55D-12.1.
- E. Notice to Partnership and Corporate Owner. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.
- F. Certified Mail. Any notice made by certified mail shall be deemed complete upon mailing.
- G. List of Property Owners. A list of all owners of real property within 200 feet of the borders of the property under review shall be prepared and certified by the office of the Tax Assessor of the City of Paterson within seven (7) days of the receipt of a written request from the applicant, which request shall include proof of payment of the fee required for the preparation of the list. Any failure to give notice to any owner not on said list shall not invalidate any hearing or proceeding.
- H. Affidavit. The applicant shall file an affidavit of proof of service with the Division of Planning and Zoning not less than three (3) days prior to the date of the hearing. Said affidavit shall show all parties served and the manner of service employed.
- I. Substantial Modification After Preliminary Approval.
1. If any substantial modification is proposed or required after preliminary approval has been granted, an application for such a modification shall be submitted and proceeded upon as in the case of the original application for development. Notice pursuant to this Ordinance and N.J.S.A. 40:55D-1 et seq. shall as required for the original application and shall state the nature of the proposed modification. A substantial modification shall mean one which (1) increases density of development, (2) increased the square footage of buildings, (3) proposes a different use, (4) would result in increased adverse impact

upon properties in the immediate area with respect to factors such as, but not limited to noise, glare, and increased drainage runoff, or (5) materially changes a required element of the development plan. Any modification which decreases the number of proposed lots, dwelling units, number of square feet, density or intensity of use shall not be considered a substantial modification so long as there is no proposed change of use and no additional variances or exceptions are required.

2. If the Planning Board required any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon, as in the case of the original application for development. The Planning Board shall, if the proposed development complies with the ordinance and the Municipal Land Use Law, grant preliminary approval.

### **§300-6 SITE PLAN REVIEW**

#### **§300-6.1 Actions Requiring Site Plan Approval.**

Except as provided under §300-6.2, site plan approval shall be required for the following:

- A. Applications involving the building, erection, extension, alteration, or enlargement of any building or structure.
- B. Applications involving the construction, alteration, or addition of parking facilities containing five (5) or more parking spaces.
- C. Applications involving a change of tenant of a building, structure, or premises from a single tenant use to a multi-tenant use or from a residential use to a non-residential use.
- D. In non-residential districts where changes of use(s) are proposed.

#### **§300-6.2 Exemption From Site Plan Approval.**

The following types of development shall be exempt from the requirements of site plan approval prior to the issuance of permits:

- A. Detached one-family dwellings.
- B. Detached two-family dwellings.
- C. Related accessory uses to the above, such as a private garage, toolhouse, private greenhouse or barn.
- D. With respect to paragraphs C and D in §300-6.1, above, a Certificate of Occupancy may be granted, without the necessity of site plan approval, provided the applicant provides evidence to the City Planning Director and the Zoning Officer that: (a) the proposed use on the premises is

the same as the previous type of use and is a permitted use; (b) that no need for a variance would be created due to additional off-street parking requirements resulting from the change of use; (c) that no need for a variance would be created due to additional off-street loading/unloading requirements resulting from the change of use; (d) that in no other way would the use change create a variance that was not previously granted by the Planning Board and/or the Zoning Board of Adjustment; and (e) that the proposed use does not involve a physical expansion of the existing structure(s) or the addition of parking facilities containing five (5) or more parking spaces.

### **§300-6.3 Final Approval Required Prior to Issuance of a Building Permit.**

For development requiring site plan approval, no Building Permit shall be issued prior to approval of the site plan application. No Certificate of Occupancy shall be issued for any building or structure or use of land unless the structure is completed or the land is developed or used in accordance with a site plan given final approval.

### **§300-6.4 Non-Compliance.**

Any failure of the applicant, any successors, assignees or heirs to construct, operate, or maintain any building, structure, or use in a manner in conformance with the site plan as finally approved shall constitute a violation of this Ordinance and, in addition, shall be grounds for the issuance of a stop order or any other legal sanction at the disposal of the City of Paterson.

### **§300-6.5 Requirements for Site Plan Approval.**

- A. In considering and acting upon site plan applications, the approving agency shall take into consideration the public health, safety and welfare, the comfort and immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards, including hours of operation, as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this Ordinance.
- B. Determination. No site plan shall be approved unless the approving agency makes the following determinations:
  1. All application materials shall have been submitted in conformance with this ordinance. The proposed site plan shall be in conformance with all applicable ordinances and statutes, including this ordinance, the Municipal Land Use Law, and the New Jersey Map Filing Law, as applicable.
  2. The proposed site plan shall be in keeping with the spirit of the City of Paterson's Master Plan.

3. The proposed site plan shall be so designed as to minimize the impact of additional traffic and to avoid hazardous and congested traffic conditions. There shall be an adequate but not excessive number of traffic access and egress ways all of a reasonable width, grade alignment and visibility. No vehicular route shall be located too near street corners or entrances to places of public assembly so as to create traffic congestion or hazards.
4. Parking and loading spaces shall be provided of a design that is safe, easily accessible, and well able to accommodate expected needs. Interior circulation shall be adequate.
5. The proposed site plan shall comply with all applicable City, County and State requirements pertaining to drainage so as to avoid potential drainage problems.
6. Play or recreation space shall, if required, be arranged to insure the safety, welfare, comfort and convenience of residents.
7. Landscaping and other screening shall be carried out to the extent necessary to insure the public health, safety, welfare, comfort and convenience.
8. The location, projection and brilliance of all outdoor lighting shall be designed to minimize objectionable glare on adjoining properties.
9. The proposed site plan shall be one that will not tend to depreciate the value of adjacent properties, and in addition shall conform as much as possible to the existing character of the neighborhood.
10. The proposed site plan and construction process shall protect and conserve soils at the site from erosion by wind, water, excavation or grading.
11. If the proposal is for a property, part or of all of which lies in a designated flood way fringe area, the site plan shall be designed so that the flood carrying capacity of the area will not be impaired in order to avoid danger to life or property.
12. Hours of conducting business shall not constitute a nuisance or are detrimental to the immediate neighborhood. The hours of conducting business may be specified as a condition of approval if the hours may constitute a nuisance or are detrimental to the immediate neighborhood.
13. The site plan shall involve adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants.
14. The site plan shall involve adequate provision of necessary stormwater easements or drainage and utility rights-of-way.
15. The site plan shall involve adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants.
16. The site plan shall involve suitable size, shape and location for any area reserved for public use pursuant to N.J.S.A. 40.55.D-43..



17. Conformity with Article IV, Recycling, of Chapter 427, Solid Waste and conformity with the model ordinance promulgated by the Department of Environmental Protection and the Department of Consumer Affairs pursuant to section 2 of P.L 1993, c. 81 (C.13:1E-99.13aa) regarding the inclusion of facilities for the collection or storage of source separated recyclable materials in any new multi-family development.
18. Conformity with standards promulgated by the Commissioner of Transportation pursuant to the Air Safety and Hazardous Zoning Act of 1983 (N.J.S.A. 6:1-80 et seq.) for any airport safety zones delineated under that Act.
19. Conformity with any access management code adopted by the county with respect to any county roads within the city or adopted by the city with respect to municipal streets.
20. Conformity with the state highway access management code adopted by the Commissioner of Transportation with respect to state highways within the city.
21. Protection of potable water supply reservoirs from pollution or other degradation of water quality in accordance with siting, performance or other standards or guidelines adopted by the Department of Environmental Protection.
22. Conformity with public safety regulating concerning stormwater detention facilities pursuant to N.J.S.A. 40:55D-38 and as reflected in stormwater management plans and ordinances adopted pursuant to N.J.S.A. 40:55D-93 et seq.
23. Where applicable, the site plan shall contain streets of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map and the circulation element of the master plan (including adequate right-of-way widths for various classifications of streets as indicated in the Master Plan and Official Map) and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map.
24. The site plan complies, to the greatest degree determined appropriate by the approving authority, with the Development Design Standards contained in Article IV.

### **§300-7 SUBDIVISION REVIEW**

#### **§300-7.1 Review Standards.**

- A. In reviewing and application for subdivision approval, the Planning Board shall apply design standards that encourage good development patterns within the city and ensure the following:

1. Consistency with the Zoning Ordinance.
2. Appropriate extension and/or realignment of existing and/or proposed streets.
3. Streets of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the official map and the circulation element of the master plan (including adequate right-of-way widths for various classifications of streets as indicated in the Master Plan and Official Map) and so oriented as to permit, consistent with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain; provided that no street of a width greater than 50 feet within the right-of-way lines shall be required unless said street constitutes an extension of an existing street of the greater width, or already has been shown on the master plan at the greater width, or already has been shown in greater width on the official map.
4. Elimination of reverse strips controlling access to streets.
5. Adequate street grades, intersection sight distances, appropriate length and treatment of dead- end streets and avoidance of duplication of street names.
6. Appropriate and adequate block lengths and widths as related to zoning, and pedestrian walks.
7. Appropriate and adequate lot sizes, shapes and frontages.
8. Protection and conservation of soil from erosion by wind or water or from excavation or grading;
9. Provision of necessary stormwater easements or drainage and utility rights-of-way.
10. Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants.
11. Suitable size, shape and location for any area reserved for public use pursuant to N.J.S.A. 40.55.D-43.
12. Appropriate and adequate treatment of land subject to flooding in accordance with applicable flood damage control regulations in order to avoid danger to life or property.
13. Provision of appropriate and adequate buffer strips,
14. Proper design of cul-de-sac and street turnarounds;
15. Conformity with Article IV, Recycling, of Chapter 427, Solid Waste and conformity with the model ordinance promulgated by the Department of Environmental Protection and the Department of Consumer Affairs pursuant to section 2 of P.L 1993, c. 81 (C.13:1E-99.13aa) regarding the inclusion of facilities for the collection or storage of source separated recyclable materials in any new multi-family development.

16. Conformity with standards promulgated by the Commissioner of Transportation pursuant to the Air Safety and Hazardous Zoning Act of 1983 (N.J.S.A. 6:1-80 et seq.) for any airport safety zones delineated under that Act.
  17. Conformity with any access management code adopted by the county with respect to any county roads within the city or adopted by the city with respect to municipal streets.
  18. Conformity with the state highway access management code adopted by the Commissioner of Transportation with respect to state highways within the city.
  19. Protection of potable water supply reservoirs from pollution or other degradation of water quality in accordance with siting, performance or other standards or guidelines adopted by the Department of Environmental Protection.
  20. Conformity with public safety regulations concerning stormwater detention facilities pursuant to N.J.S.A. 40:55D-38 and as reflected in stormwater management plans and ordinances adopted pursuant to N.J.S.A. 40:55D-93 et seq.
  21. The overall effect of the subdivision on the community, the city and the health, safety and general welfare of the residents of the city.
- B. The Planning Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established by ordinance for final approval, the conditions for preliminary approval and the standards prescribed by the Map Filing Law (N.J.S.A. 46:23-9.9 et seq.). If the Planning Board approves the final plat, a notation to that effect shall be made on each plat and shall be signed by the Chairman and the Secretary of the Planning Board.

### **§300-7.2 Improvements.**

- A. Required Improvements. Prior to the granting of final approval, the subdivider shall have installed all improvements or shall have furnished performance guaranties for the ultimate installation of all improvements, including:
1. Streets.
  2. Street signs.
  3. Curb and/or gutters.
  4. Sidewalks.
  5. Street lighting.
  6. Shade trees, to be located on the street line so as not to interfere with utilities or sidewalks.
  7. Topsoil protection. No topsoil shall be used as spoil or removed from the site. Topsoil moved during the course of construction shall be redistributed so as to provide at least

six (6) inches of cover to all areas of the subdivision and shall be stabilized by seeding, sodding or planting on slopes of less than twelve percent (12%) as shown on the final grading plan and shall be stabilized by sodding on slopes of twelve percent (12%) or over as shown on the final grading plan.

8. Monuments, to be of the size and shape required by N.J.S.A. 46:23-9.11, as amended, and shall be placed in accordance with said statute.
  9. Water mains, culverts, storm sewers and sanitary sewers. All such installations shall be properly connected with an approved system and shall be adequate to handle all present and probable future development.
  10. Grading.
  11. Pavement.
  12. Drainage structures, erosion controls and sedimentation control devices.
  13. Public improvements of open space.
- B. Inspection and Approval of Improvements; Costs. All of the above listed improvements shall be subject to inspection and approval by the City Engineer who shall be notified by the subdivider at least twenty-four (24) hours prior to the start of construction. No underground installation shall be covered until inspected and approved. The City may charge the subdivider an inspection fee not to exceed the costs incurred in performing the inspection.
- C. Completion of Improvements Prior to Final Approval. No final plat shall be approved by the Planning Board until the completion of all such required improvements has been certified to the City Council by the City Engineer, unless the subdivider shall have filed with the city a performance guarantee as provided in §300- 14. The filing of such performance guarantee shall be a condition of final approval and shall be filed prior to the endorsement of the final plat by the Planning Board Chairman and Secretary.

### **§300-7.3 Violations, Lien**

- A. Violations and Penalties. If, before final approval has been obtained, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval as owner or agent, any land which forms a part of a subdivision on which, by ordinance, the Planning Board is required to act, such person shall be subject to a fine not to exceed one thousand dollars (\$1,000.), and each lot disposition so made may be deemed a separate violation.
- B. Civil Remedies. In addition to the foregoing, the city may institute and maintain a civil action:
  1. For injunctive relief;
  2. To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued.

- C. Lien. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the subdivider or his assigns or successors to secure the return of any deposits made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be instituted within two (2) years of the date of the recording of the instrument of transfer, sale or conveyance of said land, or within six (6) years if unrecorded.

## **§300-8 VARIANCES.**

### **§300-8.1 Authority for Variances.**

The Board of Adjustment, or, when it has jurisdiction, the Planning Board, shall be the approving agency for the purposes of this section and shall have the power as provided below to grant variances pursuant to N.J.S.A. 40:55D-70 and order the issuance of a Construction Permit or Certificate of Occupancy where the provisions of this ordinance, if strictly enforced, would not so allow.

### **§300-8.2 Jurisdiction.**

Variances shall be heard and decided by the Zoning Board of Adjustment except that the Planning Board, when reviewing applications for approval of subdivisions, site plans, or conditional uses, shall have the power to grant, to the same extent and subject to the same restrictions as the Zoning Board of Adjustment, variances pursuant to N.J.S.A. 40:55D-70(c).

### **§300-8.3 Section (d) Variances.**

The Zoning Board of Adjustment shall have the power to grant variances pursuant to N.J.S.A. 40:55D70(d) but only by affirmative vote of at least five members of the full authorized membership of the Board.

### **§300-8.4 Conditions of Approval.**

Any variance granted under this Section shall run with land, regardless of changes or ownership. However, any change in the use or physical development of the property from that violates the terms of a variance constitute a violation of this Ordinance and shall render the offender subject to the enforcement provisions of this Ordinance. Such violation may also result in the need for a new Certificate of Occupancy or Construction Permit.

**§300-9 CONDITIONAL USE.****§300-9.1 Requirement.**

If so required by any of the provisions of this Ordinance, conditional use approval by the appropriate approving agency shall be obtained prior to the issuance of a Construction Permit by the Division of Community Improvements. The review of a conditional use shall also include any required site plan review.

**§300-9.2 Approving Agency**

The Planning Board shall act as the approving agency for all applications for conditional use approval, except that the Zoning Board of Adjustment shall have the power to grant conditional use approval to the same extent and subject to the same restrictions as the Planning Board whenever the Zoning Board of Adjustment is reviewing an application for approval of a variance pursuant to Section 300-8.3 (N.J.S.A. 40:55D-70(d)) of this Ordinance.

**§300-10 APPLICATION FOR CHANGES IN ZONING MAP****§300-10.1 Procedure for Amendment.**

The procedure for amendment of this Ordinance and of the Zoning Map that forms a part hereof shall be as prescribed by the Municipal Land Use Law (N.J.S.A. 40:55D-26, N.J.S.A. 40:55D-62 and N.J.S.A. 40:55D-63).

**§300-11. FLOOD CONTROL REVIEW****§300-11.1 Application for Approval.**

- A. Planning Board Review. Any conditional use in the flood plain as specified in §500-11.9.B.3 and in §500-11.9.C.2 may be allowed only upon issuance of a conditional use permit by the Planning Board or by the Board of Adjustment where applicable.
- B. State Review. An applicant for all development activities within the flood way which require conditional use permits shall be required to notify and receive approval from the New Jersey Department of Environmental Protection of such activity prior to review by the appropriate City agency.

**§300-11.2 Determinations by the City Review Agency.**

The reviewing board shall consider all technical evaluations, all relevant factors, standards specified in §500-11, Flood Damage Prevention, and the following general review factors:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding erosion damage;
- C. The degree to which the natural, scenic, and aesthetic values at the proposed activity site could be retained.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage;
- E. The proposed water supply and sanitation systems.
- F. The importance of the service provided by the proposed facility to the community and the degree to which the proposed use would serve the general public health, safety and welfare.;
- G. The necessity to the facility of a waterfront location, where applicable;
- H. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
- I. The compatibility of the proposed use with existing and anticipated development.
- J. The relationship of the proposed use to the Master Plan and Flood Plan Management Program of that area;
- K. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- L. The degree to which archeological or historical sites and structures and endangered or rare species of animals and plants would be degraded or destroyed;
- M. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- N. The degree to which people, animals, and property would be evacuated in the expected time available after flood warning.
- O. Whether the proposed use would provide adequate facilities for the proper handling of litter, trash, refuse, and sanitary and industrial wastes.
- P. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

**§300-11.3 Requirements.**

In addition to the stated requirements for submitting site plan and conditional use applications and the submittal requirements of §500-11, Flood Damage Prevention, the applicant shall further furnish the following information:

- A. Grade elevation at the exterior corners of all structures and the elevation of the lowest floor level.
- B. Location and elevations of streets, water supply, and sanitary facilities.
- C. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- D. Relationship and proximities of the above to the location of the channel, flood way, and the flood protection elevation.

**§300-11.4 Conditions Attached to Permits.**

In conjunction with those permitted pursuant to §500-11, Flood Damage Prevention, the municipal review agency may attach conditions to the granting of permits. Among such conditions, without limitation, shall be included:

- A. Modification of waste disposal and water supply facilities so as to avoid impairment.
- B. Imposition of operational controls, sureties, and deed restrictions.
- C. Requirements for construction of storm water detention facilities, channel modifications, dikes, levees, and other protective measures.
- D. Installation of an adequate flood warning system.
- E. Postponement of development until such time as protective measures are installed.
- F. Flood-proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors. The Planning Board shall require that the applicant submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the flood protection elevation and associated flood factors for the particular area, and a record of such certificates shall be maintained in the Planning Board files. Flood proofing alone shall not be adequate for residences, hospitals, nursing homes, schools, day care centers, and similar uses. The flood-proofing measures that shall be required include, but are not limited to, the following:
  - 1. Anchorage to resist flotation and lateral movement.
  - 2. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.



3. Reinforcement of walls to resist water pressures.
  4. Use of paints, membranes, or mortars to reduce seepage of water through walls.
  5. Addition of mass or weight to structures to resist flotation.
  6. Installation of pumps to lower water levels in a structure.
  7. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
  8. Installation of pumping facilities or comparable practices for substance drainage systems for buildings to relieve external foundation wall and basement floor pressures.
  9. Construction to resist rupture or collapse caused by water pressures or floating debris.
  10. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent back ups of sewage and storm waters into buildings or structures. Gravity drainage of basements may be eliminated by mechanical devices.
  11. Location of all electrical equipment, circuits, and installed electrical appliances such that they are not subject to flooding.
  12. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials, which could be hazardous to public health, safety, and welfare, above the flood protection elevation or provision of adequate flood-proofing to prevent flotation of or damage to storage containers which could result in the escape of toxic materials into flood waters.
- G. Specifically for subdivisions, the following requirements must be met:
1. All improvements shall be designed and constructed so as to minimize flood damage potential.
  2. All new utility lines and other public improvements shall be located and constructed so as to - minimize or eliminate flood damage potential.
  3. Adequate drainage shall be provided.
  4. The water and sewer system shall be designed and constructed so as to eliminate or minimize infiltration.
  5. On-site waste disposal shall be designed so as to avoid impairment.

## **§300-12. SOIL EROSION CONTROL REVIEW.**

### **§300-12.1 Statutory Authorization.**

The City of Paterson is authorized to adopt and enforce regulations for soil erosion and sediment control (pursuant to P.L. 1975, C. 251, N.J.S.A. 4:24-39 et seq.) which conform to standards promulgated by the Soil Conservation Committee in the New Jersey Department of Agriculture.

**§300-12.2 Requirements.**

For all land disturbance activities involving a minimum of 5,000 square feet of surface area for which a Building Permit is required, with the exception of one family homes on individual lots, a soil erosion control plan must be reviewed and approved as provided for in this Section.

- A. Information. The applicant shall submit the following information in addition to any other information that may be required under other provisions of this ordinance:
  1. Location and description of existing natural and man made features on and surrounding the site including general topography and soil characteristics.
  2. Location and description of proposed changes to the site.
  3. Measures for soil erosion and sediment control which shall be equivalent to or exceed the "Standards for Soil Erosion and Sediment Control" adopted by the New Jersey State Soil Conservation Committee.
  4. A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project including anticipated starting and completion dates.
  5. Submission of other data deemed necessary by the Planning Board or Zoning Board of Adjustment for review and for the development of a specific site.
- B. Review Agency. All applications involving soil erosion review shall be presented in conjunction with other required reviews to the Planning Board or Zoning Board of Adjustment pursuant to this Ordinance. In addition to review by the Planning Board, an application shall be presented to the Hudson-Essex-Passaic Soil Conservation District if the proposal involves land area with any of the following characteristics:
  1. The total lot area to be disturbed exceeds one-half (1/2) acre.
  2. The existing or proposed slope of the land is greater than fifteen (15) percent.
  3. The water table is within four (4) feet of the surface at anytime of the year.
  4. Soil type is a "moderate" to "high" shrink-swell potential, especially if development of road or building is involved.
  5. Exposed surface area is to remain unprotected and unstabilized for six (6) months or longer.
  6. The site is within flood hazard area.
- C. Approval.
  1. In matters not requiring approvals by the Hudson-Essex-Passaic Soil Conservation District, the Planning Board or Zoning Board of Adjustment shall make the final determination.

2. In matters that require approval of the Hudson-Essex Passaic Soil Conservation District, the Planning Board or Zoning Board of Adjustment shall condition their approval on the final determination made by the said soil conservation district.

## **§300-13 HISTORIC PRESERVATION ORDINANCE**

### **§300-13.1 Title**

This Chapter shall be known as and may be cited as the City of Paterson Historic Preservation Ordinance. The membership, powers and duties of the Historic Preservation Commission (hereafter, Commission) are set forth herein.

### **§300-13.2 Definitions**

The following as used in this chapter shall have the meaning and scope herein given:

1. Administrative Officer shall mean the Historic Preservation Professional (HPP) appointed as per the provisions of this Chapter. In the event that the Historic Preservation Professional is vacant, the Principal Planner of the City of Paterson shall serve as the Administrative Officer of this chapter.
2. Alteration shall mean any act or process that in any way effects a change in the design or outer appearance of a building, structure, object or site, or any part thereof.
3. Application shall mean an application form and all accompanying documents submitted for approval of a permit for alteration, repair, reconstruction, demolition or relocation of a designated historic site, building, structure or object, or improvement within a designated historic district or review of a development application concerning same.
4. Archaeological shall mean the science or study of the material remains of past life or activities and the physical site, location, or context in which they are found, as delineated in the Department of Interior's Archaeological Resources Protection Act of 1979.
5. Architectural shall mean relating or conforming to the rules of Architecture; having or conceived as of having a single unified overall design, form, or structure.
6. Architectural Feature shall mean the architectural style, design, general arrangement and components of all the parts and surfaces, including but not limited to the kind, texture and color of the building material, and the type and style of all windows, doors, lights, signs, cornices, ornaments, brackets, parapets, roofs, foundations, cladding, framing and other features appurtenant to the building, structure, object or improvement.
7. Architectural Survey shall mean a complete document of such similar title and intent that is executed, compiled, drafted by qualified historic preservation professionals and/or New Jersey licensed planning or building professionals in a methodology and format accepted and derived

by the State of New Jersey Historic Preservation Office. One example that is herein referenced is the most current Architectural Survey of the City of Paterson.

8. Building shall mean any structure, part of a structure, extension thereof, or addition thereto having a roof supported by columns, posts, piers, or walls and intended for the shelter, business, housing or enclosing of persons, animals, or property.
9. Certificate of Appropriateness shall mean a document attesting that proposed work within a historic district or affecting a landmark building, structure, object, site or landscape feature has been reviewed and deemed appropriate and consistent with the purpose of this Chapter by the City of Paterson Historic Preservation Commission or the Historic Preservation Professional as provided herein.
10. Certificate of No Effect shall mean a document attesting that proposed work within a historic district or affecting a designated landmark building, structure, object, site or landscape feature has been reviewed by the Historic Preservation Professional and has been deemed not detrimental to the historic district or landmark on which the work is to be done or neighboring buildings, structures, objects, sites or landscape features.
11. Certified Local Government (CLG) shall mean the New Jersey Department of Environmental Protection, Natural & Historic Resources, Historic Preservation Office (HPO) program that offers municipalities the opportunity to participate more directly in state and federal historic preservation programs. Participation in the CLG program requires that a municipality execute a Programmatic Agreement to have a historic preservation ordinance and a historic preservation commission conforming to the specifications of both the Municipal Land Use Law and the National Park Service approved CLG guidelines. As a CLG, the community is eligible to apply for Historic Preservation Fund (HPF) grants for a variety of local preservation activities. The level of funding is contingent upon the annual appropriation from the National Park Service. Grant applications are available from the HPO annually.
12. Commission shall mean the City of Paterson Historic Preservation Commission.
13. Construction shall mean the act of: (a) adding an addition to an existing building or structure; (b) the erection of a new principal or accessory building or structure on a lot or property; or (c) all alterations to existing building or structure.
14. Days shall mean calendar days.
15. Demolition shall mean the dismantling or razing of all or part of any historic site or landscape feature of or any improvement in a historic district.
16. Design Review shall mean the process to discuss a project or request a formal review of a project by the Historic Preservation Commission. The project will be evaluated based upon the Secretary of the Interior's Standards for the Treatment of Historic Properties and any other design guidelines established for the building, site or district, or through this ordinance.
17. Design Guidelines shall mean locally-developed criteria which assist property owners, developers, architects, and others in making decisions about the appropriate treatment of

historic resources (i.e. buildings, structures, etc.) when planning repair, rehabilitation, restoration, landscape, or new construction projects. These criteria are also used by the Commission in evaluation of project proposals. Guidelines explain in more detail how to achieve the goals of Design Standards.

18. Design Standards shall mean broad methodology that assist long-term preservation of a property's significance through the preservation of historic materials and features. The goals of the standards are achievable by consulting the Guidelines.
19. Development shall mean any division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mixing, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.
20. Great Falls National Historic Landmark District (a/k/a "Great Falls Historic District") shall mean the area depicted as such on the map entitled "Paterson Great Falls National Historical Park – Proposed Boundary, numbered T3/80,001, and dated May 2008, and any maps which replace or supplement said map.
21. Great Falls National Historic Park (a/k/a "National Park; Paterson Great Falls National Historical Park; PAGR") shall mean the area established by Congress as such 16 U.S.C. § 410III(b)(1)(A) as depicted on the map entitled "Paterson Great Falls National Historical Park – Proposed Boundary, numbered T3/80,001, and dated May 2008, and any maps which replace or supplement said map.
22. Historic District shall mean one (1) or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.
23. Historic Preservation shall mean a) the application of strategies that promote the identification, evaluation, documentation, registration, protection, treatment, continued use, and interpretation of historic resources; b) the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.
24. Historic Preservation Professional (HPP) shall mean an employee or consultant with a graduate degree in Historic Preservation or a closely related field of study, plus a minimum of two years of professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification,

evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories.

25. Historic Landmark shall mean the same as Historic Site.
26. Historic Site shall mean any real property, building, man-made structure, object, lot, location, park, monument, street, neighborhood, district, or any other feature of the environment that can be situated collectively or individually of historical, archaeological, cultural, scenic or architectural significance.
27. Improvement shall mean any building, structure, work of art or other object installed upon real property or any part of such improvement
28. Local Landmark shall mean the same as Historic Site or Historic District as designated by City Council pursuant to this ordinance or included within the Master Plan Historic Preservation Plan element.
29. Major Work shall mean any external modification of the type that under the Uniform Construction Code (UCC) would require a federal, state or local development approval or permits, or any construction of new "structures" as defined by the UCC. On publicly-owned lands, any work that may not require local development approvals or permits shall be considered as major work if such work on private lands would require a local development approval or permit.
30. Match shall mean either an exact or an approximate replication. If not an exact replication, the approximate replication shall be so designed as to achieve a harmonious result which exhibits the color, texture and dimensions of the original features(s).
31. Minor Application shall mean an application for approval of actions on a designated historic building, structure or object that consists of ordinary maintenance and repair as defined herein. In accordance with the UCC, a repair is confined to an area of less than 25% of the overall area of that constituent element (i.e. roofing, brickwork, fascia boards, etc.)
32. NPS shall mean National Park Service.
33. Object shall mean anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.
34. Ordinary Maintenance shall mean the repair or renewal of deterioration, wear or damage to a structure or improvement in order to return same as closely as possible to its condition prior to the occurrence of such deterioration, wear or damage with materials and workmanship of the same quality and appearance of the structure, replacement or improvement.
35. Paterson Register of Historic Places shall mean a listing of all historic sites, buildings, districts, structures and objects within the City of Paterson as recorded by the City Clerk under Sec. IV of this chapter.
36. PAGR shall mean Paterson Great Falls National Historical Park.

37. Reasonable Return shall mean on the average rate of return for properties similar to and in the same area as the improvement parcel under consideration for the purposes of this chapter for the year preceding the application as arrived at through certified appraisals, records of sale, and any other research.
38. Reconstruction shall mean the act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.
39. Rehabilitation shall mean the act or process of returning an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those orations or features of the improvements which are significant to historical, architectural and cultural values.
40. Relocation shall mean any removal or relocation of a structure or improvement on its site or to another site.
41. Replacement shall mean the identical re-establish of a feature as an integral part of a rehabilitation project based on the essential form and detailing of that feature from other physical or historic evidence. Replacement of the entire feature with the same material is preferable.
42. Responsible Person shall mean any person or persons having such right to, title to, or interest in any property or improvement so as to be legally entitled, upon obtaining the required permits and approvals from City agencies, to perform with respect to such property or improvement any demolition, construction, reconstruction, alteration, restoration or other work as to which such person seeks the authorization or approval of the Commission.
43. Restoration shall mean the act or process of accurately recovering the form and details of an improvement by the removal of later work and/or by the reconstruction of missing earlier work.
44. Stabilization shall mean the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, structure or landscape feature while maintaining the essential form as it exists at present.
45. Streetscape shall mean the appearance or view of a street and its associated features.
46. Structure shall mean a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. Structure includes, but is not limited to, buildings, signs, fences, tanks, towers, poles, walkways, driveways, streets and roads.
47. Temporary shall mean lasting, enduring or serving for a limited time by design, intent or fact.

**§300-13.3 Designation of the Historic Preservation Professional**

1. The Director of the Division of Historic Preservation shall serve as the Historic Preservation Professional (HPP), who is the Administrative Officer for the purposes of this Chapter.
2. The HPP must meet the minimum professional qualifications outlined in the Certified Local Government (CLG) programmatic guidelines. These include a graduate degree in Historic Preservation or a closely related field of study, plus a minimum of two years of professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories.
3. In the absence of a Director of the Division of Historic Preservation, the City of Paterson Principal Planner shall serve as the Administrative Officer for the purposes of this Chapter.

**§300-13.4 Paterson Register of Municipal Historic Places**

1. The Municipal Clerk of the City of Paterson shall maintain a list of designated municipal historic places, also known as Local Landmarks. The list shall be designated "The Paterson Register of Municipal Historic Places."
2. The Paterson Register of Municipal Historic Places ("Register") shall include all historic sites and historic districts within in the City of Paterson designated by the City Council or by the Planning Board in the Historic Preservation Element of the Master Plan.
  - A. The list shall include all designations made by municipal ordinance.
  - B. The Register shall be available for public inspection both in hard copy and electronically.
  - C. Each entry in the Register shall include the effective date of adoption of the ordinance or code provision which creates the historic designation, as well as a citing reference to same.
3. Upon the designation of additional properties, the City of Paterson Municipal Clerk shall be charged with the responsibility to add the locations to the list within 60 days of passage by the City Council.

**§300-13.5 Designation of Historic Sites, Landmarks, Objects, and Districts**

1. Criteria for Designation
  - A. As stated in the U.S. Department of the Interior's National Register Criteria for Evaluation, promulgated pursuant to 16 U.S.C.A. Sec. 470a, the following criteria shall also be used by the Commission for its review for designation of historic sites, buildings and districts: the quality of significance in National, State or municipal history, architecture, archaeology, and culture if present in districts, sites, buildings, structures,



and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

- (1) That are associated with events that have made a significant contribution to the broad patterns of our history; or
  - (2) That are associated with the lives of persons significant in the past; or
  - (3) That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
  - (4) That has yielded, or may be likely to yield, archaeological information important in prehistory or history.
- B. The designation of historic districts, sites, buildings, structures, and objects within the boundaries of the City of Paterson by the Municipal Council represents that a district, site, building, structure, or object:
- (1) Is fifty (50) or more years of age; and
  - (2) Qualifies as "significant" according to the Criteria for Significance set forth in this Section; and
  - (3) Possesses "integrity" of location, design, setting, materials, workmanship, feeling, and association, meaning that its features (including its potential archaeological deposits) have not been seriously disfigured or compromised at the time of consideration by irreversible and/or inappropriate alterations.
- C. For the purposes set forth herein, "significance" is determined in whole or part by the site's ability to meet one or more of these specific criteria:
- (1) Possesses a high degree of historic, architectural, cultural, social, or aesthetic value;
  - (2) Is associated with events that have made a significant contribution to the patterns of national, regional, or state history, or of Paterson's history, considered in international, national, regional, or local terms;
  - (3) Is associated with the lives of persons significant to the nation, state, or region, or in Paterson's past;
  - (4) Embodies the distinctive characteristics of a type of architecture or structure, including a "local vernacular"; or of a cultural and /or architectural period in which Paterson had a part; or exhibits the use of special materials or of materials of special local origin;
  - (5) Represents the work of a master engineer, designer, architect, artist, craftsperson, or other professional either by local or larger reputation;
  - (6) Possesses qualities of high artistic or aesthetic interest;

- (7) Is a significant composite of elements, even if the individual parts may not be distinguished by themselves;
  - (8) Has archeological potential, that is, has, or may yet yield important information related to history or pre-history; or
  - (9) Is already listed or qualifies as eligible for listing on the New Jersey or National Register of Historic Places.
- D. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for nomination; however, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:
- (1) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
  - (2) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
  - (3) A birthplace or grave of a historical figure of outstanding importance if there is not other appropriate building, structure or site directly associated with his or her productive life; or
  - (4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from distinctive design features, or from association with historic events; or
  - (5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
  - (6) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
  - (7) A property achieving significance within the past fifty (50) years if it is of exceptional importance.

## 2. Procedures of Designation

- A. Any person, including the Commission, may propose a historic for designation and inclusion on the Register of Municipal Historic Places. The Commission may make studies and surveys of sites, buildings and districts in order to determine if same meets the criteria set forth herein for designation as historic sites or historic districts and may make its own recommendations for designation and inclusion on the Register.

- B. Nominations for designation and inclusion on the Register of Municipal Historic Places shall be presented to the Historic Preservation Commission, followed by consideration for designation by the Municipal Council pursuant to N.J.S.A. 40:55D-65.1 or action by the Planning Board pursuant to N.J.S.A. 40:55D-28b (10) indicating the location and significance of historic sites and historic districts designated to the Register of Municipal Historic Places or listed on, or eligible for, listing to the National or State Registers. In the event that a nomination is passed by the Municipal Council before the Planning Board, the Planning Board shall have thirty-five days from receipt pursuant to N.J.S.A. 40:55D-26 to hear the nomination and to take formal action, otherwise the nomination shall be deemed as passed.
- C. No historic building, structure, site or district shall be so designated without first being reviewed by the Commission. The recommendation of the Commission shall be secured in accordance with the provisions herein.
- D. All nominations shall be submitted in a form approved by the Commission including, but not limited to, the State of New Jersey and the National Register of Historic Places Nomination Forms.
- (1) Nominations for designation of historic sites and historic districts shall be submitted to the HPP, who will review the application for completeness.
  - (2) The completed applications shall be presented to the Commission at its first meeting following receipt of the application. After having reviewed all documents relating thereto, the Commission shall determine whether or not the application should be accepted for its review.
  - (3) At the same meeting, the Commission shall set a date for a public hearing (which may be a regularly scheduled meeting of the Commission) on all requests that have been accepted for review.
  - (4) At least fifteen (15) days prior to the public hearing, public notice by publication in the official newspaper shall be given notifying interested parties that the site or district has been nominated for designation. The notice shall include information as to where and when the application may be reviewed, as well as information regarding the consequences of the proposed designation and the opportunity to be heard regarding such designation.
  - (5) At the scheduled public hearing, the Commission shall afford a reasonable opportunity for the presentation of facts and the expression of views by responsible persons and/or interested parties, and may take the testimony of witnesses and receive evidence.
  - (6) After full consideration of the evidence brought forth at the hearing, the Commission shall make a recommendation and issue a report recommending designation or non-designation of historic site or historic district to the Planning Board or the Municipal Council. In the case of the Planning Board, it shall review

the Commission's report and shall issue a final report recommending designation or non-designation of the historic site or district on the zoning map of the City of Paterson to the Municipal Council.

- (7) The Commission's recommendation report shall include the following information:
- i. An explanation of the significance or lack of significance, integrity or lack of integrity of the nominated site or district as it relates to the criteria for designation.
  - ii. The relationship of the nominated site or district to the ongoing efforts by the Commission to identify and nominate all potential areas, sites, structures and buildings that meet the criteria for designation.
  - iii. A map showing the location of the nominated site or district and the boundaries of same.
  - iv. An explanation of the criteria for designation applied and how the proposed site meets those criteria.
- (8) If the recommendation of the Planning Board is that the proposed site or district not be designated in the ordinance, any new nomination for the same property or district should be based upon a showing of substantial information in redress of the Planning Board's comments.
- (9) Upon favorable action by the Municipal Council, the nominated historic site or district shall be designated on the Zoning Map of the City of Paterson and the Planning Board shall list it in the City of Paterson Register of Historic Places.
- (10) Historic districts, site and landmarks listed on the National or State Register of Historic Places shall automatically be designated to the City of Paterson Register of Historic Places and shall be considered landmarks, historic sites or historic districts under the provisions of this Chapter.

### 3. Uses of Designated Properties

- A. Nothing contained herein shall affect the present legal use of the designated property.
- B. Use classifications and bulk restrictions as to all such property shall continue to be governed by the general zoning ordinance of the City of Paterson and the procedures established therein.
- C. In no case, however, shall any use be permitted which requires demolition, relocation, or alteration of a designated historic building, structure, site or within a designated district so as to adversely affect its character except upon compliance with the terms of this Chapter.
- D. Each designated historic site or district may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

4. Removal of Designation.
  - A. Upon recommendation of the Commission based upon new and compelling evidence and negative evaluation according to the same criteria and following the same procedures set forth herein for designation, a determination may be made by the Commission to remove designation of a historic site or district
  - B. Such a determination must receive five (5) favorable votes, i.e., the majority of the Commission membership.
  - C. A historic site, landmark or district shall not be removed from the City of Paterson Register of Historic Places without consideration of the recommendation by the Commission and must be affirmed by ordinance adopted by simple majority of the Municipal Council.

#### **§300-13.6 Historic Marker Program**

1. The Paterson Historic Marker Program is hereby established to commemorate persons, events, municipal historic landmarks and districts prominently identified with the history of the Nation, State, or the City of Paterson.
2. A Historic Marker consists of an engraved bronze plaque or sign, erected at suitable historic sites, denoting and describing locations, events and occasions of historic significance in the City of Paterson.
  - A. Historic Marker shall be privately sponsored and not funded by the City
  - B. No Marker shall be erected to commemorate living persons.
  - C. Each proposed marker and location shall be reviewed and edited by the Historic Marker Committee of the Paterson HPC and verified by the Executive Director of the HPC.
  - D. In order for an historic event to be eligible for commemoration with a marker, the event must have occurred at least fifty years ago. Likewise, a person must have attained their historic significance at least fifty years ago in the City of Paterson. There are exceptions if the event or person is of extraordinary historic significance to the Nation.
  - E. Markers shall be erected in a safe location, at or close to the places being commemorated, and where they will be visible to the traveling public.
  - F. Any individual or group may nominate a location or occasion of historic interest for historic marker commemoration.
3. The City of Paterson Historic Preservation Commission shall have the exclusive responsibility to receive, review and approve or deny applications for historic markers in accordance with this Ordinance and criteria, rules, regulations and standards promulgated by the Historic Preservation Commission.

**§300-13.7 Historic Preservation Commission**

1. Membership. The Commission shall be made up of seven (7) members and two (2) alternate members, each appointed by the Mayor without confirmation of the Council, and shall consist of the following:
  - A. Class A: At least two (2) members who may reside outside the City who are knowledgeable in building design and construction, and possesses by completed education, license, or significant professional practice and experience from the disciplines of planning, folklore, cultural anthropology, curation, conservation, landscape architecture, architecture, engineering, history, architectural history, prehistoric, historic and industrial archaeology. The City can request from the HPO an exemption from this requirement by demonstrating that a reasonable effort has been made to appoint qualified professionals. However, when any of these disciplines is not represented, the commission shall obtain professional expertise as outlined in the CLG programmatic guidelines.
  - B. Class B: At least two (2) members who may reside outside of the city and have a demonstrated interest, competence, or knowledge in historic preservation and local history.
  - C. Class C: Two (2) members who are residents of the City of Paterson and who have demonstrated knowledge or an interest in the history and heritage of the City of Paterson. These members shall hold no other municipal office, position or employment except for membership on the Planning Board or Zoning Board of Adjustment.
  - D. Two (2) alternate members whom shall possess the same qualifications as a Class C member. At the time of their appointment, the Mayor shall designate regular members by Class and the alternate members as "Alternate No. 1" and "Alternate No.2."
  - E. Of the regular members, a total of at least one less than a majority shall be of Classes A and B.
2. Terms. Regular members shall serve for a period of four (4) years and the term of an alternate member shall be two (2) years, except for the term of any member common to the Historic Preservation Commission and the Planning Board, which shall be for the term of the membership on the Planning Board; and the term of any member common to the Historic Preservation Commission and the Zoning Board of Adjustment shall be for the term of the membership on the Zoning Board of Adjustment.
3. Vacancies.
  - A. A vacancy occurring otherwise than by the expiration of a term shall be filled for the unexpired term only.
  - B. A member may only be removed, after a public hearing if he requests it, by the City Council for cause.

- C. The Mayor shall fill any vacancy on the Commission within sixty (60) days of the position becoming vacant. A vacancy occurring by the expiration of a term that is not reappointed by the Mayor prior to the expiration date shall be considered reappointed by hold over. In this circumstance only, the Mayor may replace a hold over within sixty (60) days and the replacement shall serve for the remainder of the term. In the case that a replacement is not made within sixty (60) days from the beginning of the held-over term, the held-over commissioner cannot be replaced and shall be considered reappointed; and shall continue to serve in full force and effect for the remainder of the term.
4. Officers and Meetings.
- A. Chairperson and a Vice-Chairperson: At its first meeting and every year at the first meeting after June 30, the Commission shall elect a Chairperson and a Vice-Chairperson who shall be Commissioners.
  - B. Secretary: The Commission shall select a Secretary who may or may not be a member of the Commission or a municipal employee. The Secretary shall, at minimum, keep minutes and records of meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications.
  - C. Meetings: The Commission shall meet not less frequently than once per month or as often as required to meet the needs of its business, to handle emergencies, or to meet time constraints imposed by law. Additional meetings may be called by the Chairperson or Vice Chairperson when the regular meetings are inadequate to meet the needs of its business or to meet time constraints imposed by law.
5. Staff and Special Services.
- A. Professional Staff
    - (1) At its discretion, the Commission may utilize for professional staff services of the Division of Historic Preservation, which is headed by the Director of Historic Preservation. In any case the lead staff member, herein referred to as the Historic Preservation Professional (HPP), to the Commission must meet the minimum professional qualifications outlined in the Certified Local Government programmatic guidelines.
    - (2) The HPP, or his designee, shall attend the Commission's evening meetings and other evening meetings and events as required from time to time in the conduct of Commission business; The HPP shall be appropriately compensated for such services and attendance beyond normal City work hours. The professional services rendered include but are not limited to technical briefs, background and presentations on matters coming before the Commission for advice, actions and recommendations when requested; organization of and participation in public events in representation of the Commission; and when requested,

delivery of testimony on behalf of the Commission either in person or in written form.

B. Legal and Other Services

- (1) The Commission shall obtain its legal counsel from the City of Paterson Corporation Counsel unless the City Council, by separate appropriation, provides funding for separate legal counsel for the Commission. The duties of the attorney for the Commission are to advise and consult with the Commission on all legal questions pertaining to the proper and efficient conduct of the Commission in the discharge of its statutory duties; to render formal written opinions to the Commission when requested to do so; to attend all workshops and public meetings of the Commission; to consult with the HPP, Chairperson, Corporation Counsel and other city attorneys in connection with all proposals for Ordinances, revision of Ordinances, the Master Plan, revisions of the Master Plan, capital expenditure programs and any and all references from the Municipal Council to the HPP, staff and Commission; to coordinate in conjunction with the HPP and the Division of Historic Preservation staff in the preparation and formulation of all of the above assigned legal duties and such other legal duties which may arise from time to time in connection with the operation of the Commission in carrying out its mandated responsibilities.
- (2) The Commission shall select a Secretary in accordance with this Section who shall, at minimum, keep minutes and records of meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications. The Secretary shall attend the Commission's evening meetings and other evening meetings and events as required from time to time in the conduct of Commission business; organization of and participation in public events in representation of the Commission. If the Secretary is not a City employee, appointment, compensation and duties shall be reflected in resolution form. If a City employee, the Secretary shall be appropriately compensated for such services and attendance beyond normal City work hours.
- (3) The Commission shall be empowered to accept gifts, bequeaths, or other designations of funding or property to further its goals of preservation, conservation, promotion, and rehabilitation.

- C. If applicable, funding approval for staff and special services is subject to the existing Memorandum of Agreement between the City of Paterson and the State of New Jersey Department of Community Affairs. Funds shall not be expended without prior commitment and approval by the State in accordance with said Agreement.

6. Voting

- A. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be



delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

- B. Four members shall constitute a quorum. A majority vote of those present and voting shall prevail.
  - C. No member of the Commission shall be permitted to act on any matter in which he has, either directly or indirectly, and personal or financial interest.
7. Expenses and Costs.
- A. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary, or elect to accept staff and services assigned by the city Administration who may be employees. The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the City Council, unless the Council, by appropriation, provides for separate legal counsel for the Commission.
  - B. The Council shall make provisions in the municipal budget and appropriate such funds as it deems necessary for the expenses of the Commission, and expenditures pursuant to this section shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the Commission's use.
  - C. The Commissioners shall be entitled to reimbursement of actual expenses reasonably and necessarily incurred in the performance of their official duties, and other compensation as referred to in this Article.
  - D. All members shall be required to attend a qualified historic preservation training event, such as a workshop or conference, each year at the expense of the city, pursuant to the requirements of the CLG programmatic agreement.
  - E. If applicable, funding approval for expenses and costs is subject to the existing Memorandum of Agreement between the City of Paterson and the State of New Jersey Department of Community Affairs. Funds shall not be expended without prior commitment and approval by the State in accordance with said Agreement.
8. Rules and Regulations. The Commission shall adopt, and may from time to time amend, by-laws concerning its administration, internal management, meeting schedules and procedures for conducting meetings and processing applications, provided that all meetings are open to the public as provided for in the "Open Public Meetings Law" (N.J.S.A. 10:4-6 et seq.). The Commission may elect a sub-committee made up of three (3) members, one of whom shall be the Commission Chairman, or it may designate its staff, to perform the following:
- A. Meet from time to time to review preliminary applications and determine, based on the criteria in §300-13.2.C, whether review by the full Commission is required.

- B. If a preliminary application does not require full Commission review, the sub-committee shall have the authority to recommend the approval, approval with conditions or denial of the application.
9. Powers and Duties. The Commission shall have the power and duty to act according to the provisions of this ordinance. Specifically, the Commission shall:
    - A. Review and make written recommendations to the Construction Official on all applications for new construction, reconstruction, demolition, restoration, exterior or interior replacement, alteration or other work which would change the exterior appearance of any structure or site, including the erection or removal of signs and other improvements in the Great Falls Historic District, Downtown Commercial Historic District or within other historic districts or sites listed on the Paterson Register of Historic Places, that are referred to it from the Construction Official pursuant to N.J.S.A. 40:55D-111 and other provisions of the City of Paterson Zoning Ordinance.
    - B. Review and make written recommendations on all applications for development and all other improvements in any historic site or landmark or within any historic district that are referred to it by the Zoning Officer, Planning Board and Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-110 and other provisions of the City of Paterson Zoning Ordinance.
    - C. Develop and, from time to time, recommend amendment of specific regulations and standards for reviewing and approving any changes to structures in any historic site or landmark or within any historic district.
    - D. Develop, implement and, from time to time, amend criteria, rules, regulations and standards for reviewing, approving and installing Historic Markers.
    - E. Undertake the necessary studies, surveys and prepare reports to identify, record and maintain an inventory of all buildings, sites, places, structures, objects or landscape features of significant historical or architectural value and significance in the City which have the potential of being included as a historic district or historic landmark, including such recommendations on the Historic Preservation Plan Element of the Master Plan. Such findings and recommendations shall be presented to the City Council for action thereon, and further to the Planning Board by referral as per N.J.S.A. 40:55D-26, and also, where appropriate, to applicable County, State and Federal agencies, for the recognition of historic districts and landmark buildings, places and structures upon other registers of historic places.
    - F. Prepare a survey of historic sites and potential historic sites in the City of Paterson pursuant to criteria identified in the survey report, and that is compatible and coordinated with the statewide Inventory of the New Jersey State Historic Preservation Office (N.J.S.A. 40:55D-109a).
    - G. Advise the Planning Board on inclusion of historic sites in the recommended capital improvement program (N.J.S.A. 40:55D-109c).

- H. Make recommendations to the Planning Board on the Historic Preservation Plan Element of the Master Plan and on the implications for preservation of historic sites or potential historic sites of any other master plan elements (N.J.S.A. 40:55D-109b).
- I. Provide written reports to the Construction Official, Zoning Officer, Principal Planner and other staff, officers and elected officials on the application of the Zoning Ordinance provisions concerning historic preservation in the municipality, and to coordinate with local, County, State, Federal or national societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this Article.
- J. Review all proposed National Register of Historic Places nominations in the city in accordance with NJ CLG Guidelines.
- K. Request the Corporation Counsel to seek injunctive or other relief for violations of this Article or other actions contrary to the intent and purpose of this Article.
- L. Refer to the Division of Community Improvements and the Construction Official to inspect and enforce applicable codes and provisions of this Article.
- M. Carry out such other advisory, educational and informational functions as well as promote historic preservation in the municipality, and to maximize the City's knowledge and enjoyment of these historic resources and, as appropriate, promote these assets beyond the boundaries of the City (N.J.S.A. 40:55D-109f).
- N. The powers and duties of the Commission shall not conflict with the powers and duties of any other Board or Commissions in the City of Paterson.

### **§300-13.8 Government Consultation**

- 1. National Park Service – Congress authorized the establishment of the Paterson Great Falls National Historical Park in 16 U.S.C. § 4101ll (2009) and directed the acquisition of lands for the creation of the National Park and the management of the future uses of the lands within the Great Falls National Historic Landmark District. The goal of the PAGR is to address the historical, cultural and natural resources associated with the Great Falls Historic District.
  - A. Review by the National Park Service
    - (1) All properties located within the Great Falls National Historic Landmark District shall be subject to review by the Commission as set forth herein.
    - (2) Upon receipt of an application for review as required herein that is related to land use development, proposed alteration to any historic resource, land, building or structure that may affect the Great Falls National Historic Landmark District, the Commission shall notify the NPS of same.
      - i. The Commission shall deliver, mail, fax or e-mail a copy of the application and/or all materials received which relate to the proposed

project to the NPS within fourteen (14) days of its receipt of such application.

(3) No real estate asset currently in public ownership shall be conveyed out of public ownership without the Park Service first approving a management and/or development plan.

i. In the event any real estate asset currently in public ownership within the Great Falls National Historic Landmark District whose redevelopment may impact the National Park is to be conveyed out of public ownership, a management and/or development plan shall be submitted by the Commission for review and approval in writing by the NPS.

ii. Such submission shall be made by the Commission by certified mail or other acknowledged form of transmission within 60 days of its receipt of the said management and/or development plan.

iii. If approved by the NPS, the approved management plan shall be included as a recorded restriction within the deed, as an attachment thereto, or it shall be recorded with the County Registrar of Deeds separately and incorporated by reference.

(4) The Commission shall work with the NPS to foster appropriate and compatible uses and building treatments within the Great Falls Historic Landmark District that will serve the objectives of preservation, education and visitor accommodations.

2. State of New Jersey – The Commission shall coordinate with the State of New Jersey and all applicable political subdivisions in ensuring compliance with historic preservation laws and rehabilitation building codes.
3. County of Passaic – When applicable, the Commission will coordinate with the County of Passaic and the Passaic County Historical Society to further the shared goals of preservation and education.

### **§300-13.9 Actions Requiring Review; Permits Required**

1. A permit issued by the Construction Official shall be required for any of the following actions to proceed regarding a designated historic site or for any improvement within a designated historic district:
  - A. Rehabilitation, restoration, reconstruction, repair or alteration or change to any part of the exterior of a building, structure or site, including repainting and residing, replacement of windows, doors, roofing and all other architectural elements;
  - B. Additions to a building, structure or site, or within a historic district;

- C. Relocation of a historic site or within a historic district;
  - D. Demolition, partial demolition or removal of any portion or element of a historic site or within a historic district;
  - E. New construction on a historic site or within a historic district;
  - F. Change in use of a historic site or within a historic district.
2. No building permit shall be issued or amended, nor shall any construction, reconstruction, restoration, interior or exterior replacement, demolition, alteration, ordinary maintenance or repairs, or any other work, including the erection or removal of signs, be started on a designated historic building, structure or site, or within a designated historic district, prior to review by the Commission.
  3. All applications for permits pertaining to designated historic sites or improvements in historic districts shall be referred to the Commission for a written report and decision on the application of the provisions of this Article thereto.

#### **§300-13.10 Actions Not Requiring Review**

1. Changes to the interior of historic structures shall not require review except:
  - A. In cases that proposed interior changes are visible from the exterior of the structure;
  - B. In cases that the architectural significance of the historic structure is closely related to the use and layout of its interior spaces (i.e. churches, courthouses, public buildings, etc.) and/or the character defining features and finishes of the spaces.

#### **§300-13.11 Emergency Repairs**

1. In any instance in which the Construction Official certifies to the Commission that the work proposed by the applicant is necessary to remove or rectify a condition dangerous to the safety of the occupants or to the general public, the Commission shall schedule a special meeting to be held within seven (7) days of receipt of the completed application. The Construction Official in his or her certification shall indicate to the Commission what proposed work the applicant can take which will rectify the condition dangerous to the safety of the occupants or the general public. The Commission shall recommend that work, consistent with the certification of the Construction Official, which will have the most minimal impact on the historic nature, quality or character of the building. If the Commission determines that the Construction Official has provided the requisite certification, the Commission shall issue a letter of recommendation of approval or conditional approval to the Construction Official.
2. In the event an Act of God or any other unexpected event shall cause the responsible person the need for immediate issuance of a permit to commence to stabilize, secure, repair or protect a designated historic site or any improvement in a designated historic district damaged from such

event, and the Construction Code Official certifies the immediate necessity for such issuance, an approval of a permit may be issued in accordance herewith. Upon notice to the Chairman or Commission staff by telephone, personal contact or other appropriate means of communication, at least three (3) members of the Commission shall convene immediately and such convening members shall proceed to review the current conditions for which the emergency powers of this Article have been invoked. Subsequent to review, an approval may be issued upon a majority vote of the members convened. This approval will only apply to work which is deemed necessary for stabilization, securing, repair or protection of the historic site or improvement in a historic district.

3. All other work subsequent to this must be submitted for review by the Commission under the application procedures found herein.

### **§300-13.12 Informal Review**

If work is to take place on a building, structure or site, or within a district, which is listed on any architectural survey or has already undergone a Commission hearing and has been recommended for designation as a historic site or district, but has yet to be reviewed by the Municipal Council, the applicant shall follow the same procedure herein set forth for property already designated, at which point the Commission may make recommendations as to the appropriateness of the work and its impact on this historic fabric of the site or district.

### **§300-13.13 Application Procedures**

1. Persons seeking to undertake actions requiring review as per the provisions of this Section must submit a completed application to the Commission which shall be accompanied by twelve (12) copies of each of the following, or as otherwise outlined to the Applicant by the Commission staff:
  - A. A completed application form, available at the Division of Historic Preservation, the Division of Planning and Zoning and Division of Community Improvements.
  - B. Appropriate signed architectural/engineering drawings, site plans, sketches and renderings delineated at a minimum of 1/8-inch scale unless otherwise agreed to by the HPP. Professional scaled drawings must be submitted in 24x36 inch size on standard bond paper. On each of these materials will be printed a title block to include: the project name and address; scale and date of drawing; revision number or version; delineator and firm name, address, license number and contact numbers; a directional (north) arrow, if appropriate.
  - C. Current photographs of existing structure(s), objects, site, streetscape to include as appropriate to the application: façades, elevations, ancillary structures, amenities, streetscape, overall site setting, current conditions details and other pertinent details

and overviews. Photographs must be numbered and notated on a separate page included with the application. Photographs may be digitally printed several to a page or be standard photographic prints.

- D. Available historic photographs and/or drawings from local public resources, including but not limited to: the Local History Room of the Paterson Public Library; the Paterson Museum; the Passaic County Historical Society; the New Jersey State Library and the State Historic Preservation Office.
- E. Existing professional consultation reports, studies, and written testimony, regarding the proposal, to include findings of fact, opinions and recommendations, prepared by appropriately accredited firms and/or individuals. Topics of interest include, for example, as appropriate to the proposal and its issues: engineering, architecture and planning, environmental assessment, cultural resources, archaeology and historical analysis. Such reports and testimony shall be dated and identify the author, firm and credentials, and shall document its referenced sources. Pursuant to fulfilling its Powers and Duties to evaluate the application, the Commission may, at its discretion, require submission of certain professional reports by the applicant if they do not already exist, or if a preexisting report is expired, outdated or inadequate.
- F. Specifications of materials to be used for all aspects of the proposal being reviewed, including but not limited to: catalog cut sheets, sample paint chips, manufacturer product specifications, plan notations, etc.
- G. A detailed and complete proposal description explaining the proposed construction, demolition, alterations, minor alterations, ordinary maintenance and repair or other proposed changes.
- H. Application fees as specified under Article III, 300-3.1.
- I. The staff shall forward the complete application to the Commission for its report, except in those instances described herein where the HPP or Chairperson may issue a Certificate of No Effect.

#### **§300-13.14 Commission Review of Development and Zoning Applications**

1. The Planning Board and Board of Adjustment shall refer to the Commission every application for development submitted to either Board for development in historic districts or on historic sites designated on the zoning or official map or on the Paterson Register of Historic Places or identified in any component element of the master plan.
2. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.

3. The Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
4. If a recommendation of the Commission is rejected, the Planning Board or Board of Adjustment, as the case may be, shall include the reasons for rejecting the recommendation in the findings of its decision on the application.

### **§300-13.15 Commission Review of Application for Permits**

1. At the request of any person seeking to undertake actions requiring review as per the provisions of this Article, the Commission shall schedule a hearing on his or her application except if otherwise provided for in this Section. The Applicant shall not be required to appear or to be represented at the meeting in which the application is being considered.
2. Applications must be submitted to the Commission staff a minimum of twenty (20) business days prior to the regularly scheduled meeting of the Historic Preservation Commission at which the application is to be considered. The staff shall review the application for completeness and notify the applicant within five (5) days of receipt as to completeness of the application. For the purpose of scheduling, applications to the Commission must be deemed by staff to be complete at least ten (10) days prior to the hearing date. At least ten (10) days prior to the hearing, the applicant shall post a notice of the hearing on the property on a form provided by the Division of Historic Preservation.
3. Upon an application being deemed complete, such minor applications for minor alterations and ordinary maintenance and repair may be reviewed by the Historic Preservation Professional who, at his or her discretion may issue a Certificate of No Effect, or may require additional submittal information and/or may refer the application to the Commission upon being deemed complete. In making such a determination, the Historic Preservation Professional shall consider factors, including, but not limited to:
  - A. The effect of the proposed work in creating, altering, destroying or affecting the architectural features of the landmark building, structure, object, site or landscape feature upon which such work is to be done;
  - B. The relationship between the results of such work and the architectural features of neighboring buildings, structures, objects, sites and landscape features.

In appraising such effects and relationships, factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color in addition to any other pertinent matters shall also be considered.

4. Upon completion of the review, the HPP may suggest any changes or alterations to the Applicant that would bring the application into appropriate parameters for issuance of a Certificate of No Effect. The Applicant may decide to accept the conditions, by



- A. Agreeing to an extension of time beyond the given 45-day period during which they will provide for changed application documents and plans as required by the HPP, or
- B. At the discretion of the HPP, in cases where changed documents are not required, the Applicant may agree to changes and alterations that shall be listed on the Certificate of No Effect.

If the Applicant rejects the proposed changes or alterations, the application will be scheduled for a Commission review.

5. For all applications not issued a Certificate of No Effect, the Commission shall render a decision within forty five (45) days from when the application is deemed complete. The Commission may advise the Construction Code Official or the applicant, as the case may be, and make recommendations with regard to the appropriateness of the proposed action. These recommendations may become part of the conditions for approval of an application or the basis for the rejection of an application. If approved, such approval shall be known as a Certificate of Appropriateness.
6. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.
7. If the Commission should fail to act within forty-five (45) days, the application shall be deemed approved, except in such cases where an extension of time by mutual agreement between the applicant and the Commission is in effect.
8. If an application is approved with or without the imposition of conditions, the Commission staff shall notify the Construction Code Official by issuance of a Certificate of Appropriateness, which shall also clearly stipulate any additional conditions to the application, who shall promptly issue a permit after his review requirements have been also satisfied.
9. If an application is not approved, the Commission staff shall notify the Construction Code Official by issuance of a Letter of Denial, and the Construction Code Official shall not issue the permit.
10. A permit shall be valid for a period of one (1) year from the date of issue unless reasonable extensions are granted by the Commission. Requests for extensions shall be made by written request and shall rest in the sound discretion of the Commission.

### **§300-13.16 Standards for Review**

1. General standards
  - A. The following standards, and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, promulgated pursuant to 16 U.S.C.A. Sec. 470a, shall guide the Commission's and Planning Board's decision making concerning all applications and approvals described herein.
    - (1) New additions, exterior alterations, or infill new construction shall not destroy historic materials that characterize the property. The new work shall be

differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

- (2) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the designated historic property and its environment would be unimpaired.
- (3) Construction of historic designs that were never built shall not be undertaken.
- (4) New additions, alterations or construction in a historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.
- (5) Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.
- (6) A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.
- (7) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (8) Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.
- (9) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (10) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- (11) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.
- (12) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (13) Significant archaeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(14)The Development Design Standards in Article IV in the Land Use Ordinance to the extent deemed appropriate by the Commission.

2. Standards for protection

- A. Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.
- B. Protection shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.
- C. If any historic material or architectural features are removed, they shall be properly recorded, and, if possible, stored for future study or reuse.

3. Standards for stabilization

- A. Stabilization shall reestablish the structural stability of a property through the reinforcement of load bearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.
- B. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

4. Standards for new construction

- A. In considering whether to approve or disapprove an application for new construction on a designated historic site or in a designated historic district, the Commission shall be guided by standards of the Secretary of the Interior and the following visual compatibility standards.
- B. New construction need not replicate historic older buildings or structures, but may reflect contemporary design standards so long as the design and construction is compatible with surrounding historic structures. Building height, width, mass and proportion affect the degree of compatibility between the old and the new.
  - (1) Site and Setting: A developer intending to utilize historic resource as a part of a development must consider the context of the resource's original site by honoring the original historic intention of the resource and integrating it respectfully into the new development
  - (2) Building Height: Height should be visually compatible with adjacent buildings. The apparent physical size, scale and height should relate to existing resources.

- (3) Openings on Frontal Facades: The width and height of windows, doors, and entries must harmonize in scale and proportion with the width and height of windows, doors, and entries of buildings and structures of historic significance in the surrounding environment.
- (4) Relationship of Vacant Land to Buildings/Structures: The relationship of a building or structure to the vacant land between and adjoining buildings or structures should not violate the existing spatial relationship of historically significant structures to the vacant land between said structural projects.
- (5) Relationship of Major Exterior Building Materials: The major exterior building materials on the facade of a building or on a structure should reflect the predominant major building materials existent on the facades of historically significant buildings and on structures in the surrounding environment.
- (6) Roof Forms: The roof form and slope of a building or structure is a major element in the visual image of the building. Therefore designers must take care to honor the existing historic roof forms and slopes in consideration of new construction so as not to violate the aesthetic harmony of the whole streetscape.
- (7) Continuity in Site Elements: site elements such as retaining walls, fences and landscaping shall be aesthetically consistent with existing site elements in adjacent historic structures.
- (8) Scale of Buildings: Scale of buildings and structures shall be in scale with existing adjacent buildings and structures.
- (9) Signage: Signs which are out of keeping with the character of the existing streetscape shall not be used. In addition to overall signage standards found under Article V, additional signage standards for historic preservation review are found under Article V, Section 500-8.6/E.

5. Standards for relocation

- A. A permit to relocate a designated historic site or an improvement in a designated historic district, must receive five (5) favorable votes, i.e., the majority of the Commission membership.
- B. In considering whether to approve or disapprove an application for a permit for the relocation of a designated historic site or improvement in a designated historic district, the Commission shall be guided by the following considerations:
  - (1) Whether the historic character and aesthetic interest in the building, structure or object contributes to its present setting;
  - (2) Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be,

- (3) Whether the building, structure, or object can be moved without significant damage to its physical integrity; and
    - (4) Whether the proposed relocation area is compatible with the historical and architectural character of the building, object or structure.
  - C. Additional Requirements. If the Commission has approved the relocation of a historic site, the Commission may also require archaeological and architectural documentation and / or monitoring of either or both of the existing site and the new site where the building is to be moved as a condition for approval. Copies of all professional reports generated from these activities will be filed with the Commission, the City of Paterson Free Public Library and the Passaic County Historical Society. The scope of services for such a report will be determined by the Commission in consultation with its staff and other qualified consultants.
6. Standards for demolition
  - A. A permit to demolish a designated historic site or an improvement in a designated historic district must receive five (5) favorable votes, i.e., the majority of the Commission membership.
  - B. In considering whether to approve or disapprove an application for a permit to demolish a designated historic site or an improvement in a designated historic district, the Commission shall be guided by the following considerations:
    - (1) Its historic architectural and aesthetic significance;
    - (2) Its use;
    - (3) Its importance to the City and the extent to which its historic or architectural value is such that its removal would be detrimental to the public interest;
    - (4) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
    - (5) The probable impact of its removal upon the ambience of the historic district;
    - (6) The structural soundness and integrity of the building so as to comply with the requirements of the State Uniform Construction Code;
    - (7) The effect on the remaining portion of building, structure, site, object or landscape feature in cases of partial demolition.
    - (8) In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the Emergency Powers section of this Section shall be used.
    - (9) If an application to demolish is denied, and the applicant desires to appeal the decision, the applicant shall follow the appeal process detailed herein for denial of a permit.

(10) In cases of questionable structural integrity or soundness, whether opportunities for investigation and remediation have been pursued and exhausted.

- C. Additional Requirements. If the Commission has approved a demolition for a historic site, the Commission may require archaeological and architectural documentation and/or monitoring of the demolition as a condition for approval. Such activities shall be compliant with cultural resource and archaeological practices required for compliance with the NJ State Historic Preservation Office standards for data recovery and documentation, and shall culminate in a professional report of all activities, including mapping, inventory and disposition of cultural resources discovered or collected. Copies of all professional reports generated from these activities will be filed with the HPC, the City of Paterson Free Public Library and the Passaic County Historical Society. The scope of services for such a report will be determined by the commission in consultation with its staff and other qualified consultants if required. The Commission may also request the applicant to provide certain other documentation and professional reports to the extent necessary to fulfill its considerations listed herein. Engineering reports shall be conducted by and contain conclusions and recommendations certified by a licensed engineer who has a clear understanding and experience with successful historic preservation and rehabilitation projects in the typology of architecture in question for demolition. The engineer's experience and understanding shall be demonstrated in writing and illustrations as well as in any oral testimony provided.

### **§300-13.17 Local Guidelines**

In addition to the Secretary of the Interior's Standards and others applicable in this ordinance, the Commission may promulgate and utilize locally-generated guidelines, literature, publications and technical briefs in historic preservation best practices.

### **§300-13.18 Effect of Project Approval or Denial; Appeals**

1. If a permit is approved, then the applicant may proceed to perform the work approved in the permit in compliance with the conditions attached.
2. If a permit is denied, the applicant is precluded from undertaking the activity applied for.
3. An applicant dissatisfied with the action of the Commission relating to the issuance or denial of a permit shall have the right to appeal to the Board of Adjustment pursuant to N.J.S. 40:55D-70a within twenty (20) days after receipt of notification of such action.
4. The applicant shall be advised by the Clerk of the Board of Adjustment of the time and place of the hearing at which the appeal will be considered, and shall have all rights defined under N.J.S. 40:55D-70a.

5. If the Board of Adjustment affirms the Commission's denial, the applicant may seek legal remedies as afforded by law.
6. If, in the case of an appeal, the Board of Adjustment determines there is an error in any order, requirement, decision or refusal made by the Construction Code Official pursuant to a report submitted by the Commission, the Board of Adjustment shall include the reasons for its determination in the findings of its decision thereon.

### **§300-13.19 Enforcement**

1. If any person shall undertake any activity vis-à-vis a historic building, structure or site, or within a historic district, without first having obtained a permit to do so, such person shall be deemed to be in violation of this Article.
2. Upon learning of the violation, the Construction Code Official, Subcode Official or his designee shall serve upon the owner or responsible party of the lot whereon the violation is occurring, a notice describing the violation in detail and giving the owner fourteen (14) business days to abate the violation by restoring the historic site or improvement to its status quo ante. If the owner cannot be personally served within the municipality, the notice shall be deemed to have been officially served if a copy has been posted on site and a copy sent by certified mail, return receipt requested, to the owner or registered agent at his/her last known address as it appears on the municipal tax rolls.
3. In the event that the violation is not abated within fourteen (14) days of service or posting on site, whichever is earlier, the Construction Code Official shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this chapter.
4. Any person violating any of the provisions of this Historic Preservation Ordinance of the City of Paterson shall, upon conviction thereof, be subject to the penalties set forth for violation of the zoning ordinance.
5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
6. Fines not paid within the time period set by law shall convert to a tax lien placed against the property and shall be recorded with the City of Paterson Property Tax Office and the Passaic County Register of Deeds and Mortgages.
7. The Construction Official or his designee shall inspect work approved by a permit and report to the HPP or Commission the results of such inspections.

**§300-13.20 Preventive Maintenance**

1. The structural integrity of all historic sites and improvements in historic districts shall be preserved against decay and deterioration by being kept free from the following structural defects by the responsible person:
  - A. Deteriorated or inadequate foundation.
  - B. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety.
  - C. Members of walls, partitions or vertical supports that split, lean, list or buckle due to defective material or deterioration.
  - D. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety.
  - E. Fireplaces or chimneys, which list, bulge or settle due to defective material or deterioration or are of insufficient strength to carry imposed loads with safety.
  - F. Lack of weather protection.
  - G. The responsible person shall repair the improvement within a specified period of receipt of a written order to correct defects or repairs to any improvement as provided in paragraph a. above, so that such improvement shall be preserved and protected in accordance with the purposes of this Chapter.
  - H. Any such order shall be in writing, state the actions to be taken with reasonable particularity and shall specify dates for compliance which may be extended for a reasonable period-of-time upon request to allow the responsible person to secure financing, labor and/or materials. Any such order may be appealed to the Board of Adjustment within twenty (20) days of receipt of same.
  - I. That taking of an appeal or the commencement of any court action hereunder shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board of Adjustment or a court expressly stays such order.

**§300-13.21 Municipal Responsibility**

1. It is recognized that the intent and purposes of this Chapter would not be fully served if the City were to control the actions of others but fail to apply similar constraints to itself. Accordingly, a permit shall be required before final approval of any City actions on public as well as private lands, streets, easements and rights-of-way for actions affecting designated historic sites, buildings or districts.



2. This requirement shall be deemed to include any action by any party which requires the approval or concurrence of the City or any City agency and which is not otherwise covered by the provisions of the Chapter.

### **§300-13.22 Rules of Interpretation**

1. This Chapter shall be liberally construed to affect the purposes set forth herein. In the event that this chapter conflicts with State law, State law shall take precedence.
2. In the event that any portion of this Chapter is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Article actually adjudged invalid and shall not be deemed to affect the operation of any other portion hereof.

### **§300-13.23 Injunctive Relief**

In the event that any action which would permanently and adversely change the historic building, structure, site or district, such as demolition or removal, is about to occur without an approval having been issued, the HPP or Chairperson shall apply to the Municipal Council for such injunctive relief as is necessary to prevent the destruction.

## **§300-14 PERFORMANCE AND MAINTENANCE GUARANTEES**

### **§300-14.1 Performance Guarantees.**

- A. As condition of final site plan approval or prior to the recording of a final subdivision plat, the applicant shall file with the City a performance guarantee sufficient in amount not to exceed one hundred twenty percent (120%) of the cost of all required improvements or uncompleted portions thereof as estimated by the City Engineer pursuant to N.J.S.A. 40:55D-53.4 for improvements deemed necessary or appropriate, including streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyors monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewerage disposal, drainage structures, erosion control and sedimentation control devices, and public improvements of open space and in the case of site plans only, on-site improvements and landscaping. The City Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost shall be appended to each performance guarantee posted by the obligor. The City shall not require that more than ten percent (10%) of said guarantee shall be made in cash. The form and sufficiency of the guarantee shall be subject to approval of the City Attorney. Performance guarantees shall be expressly conditioned upon the developer's full compliance

with all City ordinances and regulations governing the installation of improvements and utilities and faithful performance of the terms of any developer's agreement with the City.

- B. The time allowed for installation of improvements may be extended by resolution of the City Council. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed one hundred twenty percent (120%) of the cost of the installation, as determined by the Municipal Engineer according to N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.
- C. If the required improvements have not been installed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the City for the reasonable cost of the improvements not installed or corrected and, either prior to or after receipt of the proceeds thereof, the city may complete such improvements. Such completion or correction shall be subject to the public bidding requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).
- D. Approval of a reduction in the performance guarantee
  - 1. Upon substantial completion of all required street improvements (except top course) and appurtenant utility improvements and the connection of the same to the public system, the obligor on the performance guarantee may request of the governing body, in writing, by certified mail addressed in care of the City Clerk, that the City Engineer prepare, in accordance with the itemized cost estimate prepared by the City Engineer and appended to the performance guarantee, a list of all uncompleted and unsatisfactorily completed improvements. If such a request is made, the obligor shall send a copy of the request to the City Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon, the City Engineer shall inspect all improvements covered by the request and shall file a detailed list and report in writing, with the governing body and shall also send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
  - 2. The list prepared by the City Engineer shall state in detail with respect to each improvement determined to be incomplete or unsatisfactory the nature and extent of the incompleteness or the nature and extent of and remedy for the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the City Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement in accordance with the itemized cost estimate prepared by the City Engineer and appended to the performance guarantee.
- E. Approval of complete and satisfactory improvements.
  - 1. The City Council, by resolution, shall either approve the improvements determined to be complete and satisfactory by the City Engineer or reject any of these improvements and

shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the City Engineer and appended to the performance guarantee. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the City Engineer. Upon adoption of the resolution by the City Council, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved improvements except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that thirty percent (30%) of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved improvements would exceed 70 percent of the total amount of the performance guarantee, then the municipality may retain 30 percent of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.

2. If the City Engineer fails to send or provide the list and report as requested by the obligor within forty-five (45) days from receipt of the request, the obligor may apply to a court in a summary manner for an order compelling the City Engineer to provide the list and report within a stated time. If the city fails to approve or reject the improvements determined by the Municipal Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the City Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the City Engineer and appended to the performance guarantee.
  3. In the event that the obligor has made a cash deposit with the city or approving agency as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.
- F. If any portion of the required improvements is rejected, the approving agency may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section, shall be followed.

- G. To the extent that any of the improvements have been dedicated to the City on the subdivision plat or site plan, the City Council shall be deemed upon the release of any performance guarantee required, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivisions plats approved by the Board, provided that such improvements have been inspected and have received final approval by the City Engineer.

#### **§300-14.2 Maintenance Guarantees.**

- A. As condition of final site plan approval or prior to the recording of a final subdivision plat, the applicant shall post a maintenance guarantee with the City Council for a period not to exceed two (2) years after final acceptance of the improvements, in an amount not to exceed fifteen percent (15%) of the cost of the improvements, which cost shall be determined by the Municipal Engineer according to N.J.S.A. 40:55D-53.4.
- B. The form and sufficiency of the maintenance guarantee shall be approved by the City Attorney. The maintenance guarantee for an improvement shall be posted upon final release by the City Council of the performance guarantee for that improvement and shall be expressly conditioned upon the maintenance by the developer of such improvement for a period of two (2) years, and particularly shall guarantee the remedy of any defects in such improvement which occur during that period.

#### **§300-14.3 Development in Stages**

In the event that final approval is by stages or sections of development, the provisions of this section shall be applied by stage or section.

#### **§300-14.4 Utilities or Improvements of Other Governmental Agencies or Public Utilities**

In the event that other governmental agencies or public utilities will automatically own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the City.

#### **§300-14.5 Acceptance of Guarantee**

The City Council shall accept a performance guarantee or maintenance guarantee which is an irrevocable letter of credit if it:

- A. Constitutes an unconditional payment obligation of the issuer running solely to the City for an express initial period of time in the amount determined pursuant to subsection A;
- B. Is issued by a banking or savings institution authorized to do and doing business in this State;
- C. Is for a period of time at least one year; and
- D. Permits the City to draw upon the letter of credit if the obligor fails to furnish another letter of credit which complies with the provisions of this section thirty (30) days or more in advance of the expiration date of the letter of credit or such longer period in advance thereof as is stated in the letter of credit.

### **§300-15 ADMINISTRATION AND ENFORCEMENT**

#### **§300-15.1 Administration.**

It shall be the duty of the Director of the Division of Community Improvements, including the sub-code officials, to enforce all of the provisions of this ordinance and, unless clearly stated otherwise, to act as required by the provisions of this ordinance or any other applicable law.

#### **§300-15.2 Action Against Violators.**

If the Zoning Officer or his designee, including the sub-code official shall find any of the provisions of this ordinance are being violated, he shall notify the person responsible for such violations in writing, indicating the nature of the violation, and shall order the action necessary to correct it. He shall order discontinuance of the illegal use of land, building, additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by law to ensure compliance with or to prevent violation of its provisions.

#### **§300-15.3 Penalty.**

Any agent, architect, building contractor, owner, tenant or any other person who commits, takes part or assists in any actions in violation of this Ordinance, shall for each and every violation be imprisoned in the Passaic County Jail for a period not to exceed ten (10) days or be fined an amount not exceeding five hundred dollars (\$500.00) or both. Each day that a violation continues or is permitted to continue shall constitute a separate offense.

**ARTICLE IV DEVELOPMENT REQUIREMENTS AND DESIGN STANDARDS****§400-1 PURPOSE AND APPLICABILITY**

- A. This Article is intended to encourage future development in the City that contributes in a positive manner to the character of the City's built environment. The development design standards contained in this Article supplement the minimum zoning requirements (e.g., use, building setback, building mass, lot coverage, etc.) set forth in Article V, Zoning, in that they address the appearance, character, layout and design of future development in a more detailed manner than is addressed by minimum zoning requirements. The standards are intended to result in better designed and more attractive development in the City; to provide applicants a better understanding of acceptable design in the City; and to provide the City's land use review boards (Planning Board or Zoning Board of Adjustment) with an objective set of standards upon which to review the appearance, design and site layout of future development proposals.
- B. Development proposals shall follow the development design standards contained in this Article to the greatest extent possible. The reviewing board shall review all development proposals against these development design standards to ensure compliance therewith. Deviations from requirements of this Article shall be permitted via design waiver granted by the reviewing board.
- C. Where applicable, the Residential Site Improvement Standards, as amended from time to time, shall apply.

**§400-2 DESIGN STANDARDS****§400-2.1 General Residential Design Standards.**

- A. The design and layout of buildings shall provide an aesthetically pleasing design that is compatible with the character of surrounding development, unless the existing pattern is contrary to other standards in this Article. To the extent possible, new residential development within an existing neighborhood shall be consistent and compatible with the housing units in the adjacent area in terms of building proportions and mass, building height, building materials and color, roof designs, porch design, entrance design, window design and placement, and architectural style. New development within existing neighborhoods shall incorporate any distinctive architectural characteristics of the neighborhood.
- B. A clear and attractive architectural design theme shall be established and shall be continued throughout the development. Groups of related buildings shall be designed to present a harmonious appearance in terms of building silhouette, architectural style and scale; massing of building form; surface material, finish and texture; decorative features; window and doorway proportions, entry way placement and location, signage and landscaping.
- C. Infill development shall continue the prevailing site layout of properties in the surrounding neighborhood unless the existing pattern (e.g., parking in the front yard) is contrary to other

standards in this Article. For example, infill development shall follow the existing pattern of parking lot locations (e.g., parking to the rear of the building) that is characteristic of the neighborhood.

- D. All additions, alterations and accessory buildings shall be compatible with the principal structure in terms of design and material and shall share a common architectural theme.
- E. All buildings shall be designed so as to have attractive, finished appearances visible from all public spaces and streets. Where sides and rear of a building would be visible from a public space or street, such side and rear elevations shall present a finished and attractive architectural appearance. Such rear and side elevations shall incorporate the design theme and architectural features (e.g., windows, siding, shutters and other facade treatment) of the primary or front facade. Such sidewalls shall have consistent proportion of openings (doors and windows) to solid wall as the front and rear walls. However, to the extent possible, the front of buildings (i.e., the side that offers the primary access into the building) shall face the street. Positioning buildings so that the side or rear of buildings are oriented towards the street shall be discouraged.
- F. Monotonous uninterrupted expanses of walls shall be avoided. Recesses, projections, columns, openings, ornamentation materials and colors shall be used as texture and detail.
- G. Buildings shall be set back from the street in a manner that is consistent with that existing in the area. For example, large setbacks that are inconsistent with the existing street wall shall be avoided.
- H. Building entries, porches, windows and other openings shall be compatible in location, scale and pattern to other structures on the street.
- I. A clear differentiation of public-vs-private space shall be encouraged along the street line. The use of low decorative steel, tubular steel, wrought iron or brick fencing shall be encouraged to accomplish this. The use of chain-link, board-on-board or other such unattractive and/or solid fencing shall not be encouraged. As required in Article V, no fencing in the front yard shall exceed 4 feet in height.
- J. Entries shall be well-defined and visible from the road, right-of-way or parking area serving the building. All entryways shall be properly illuminated so as to provide appropriate security, and to allow easy identification of each individual unit address.
- K. Fences or walls enclosing individually owned or controlled outdoor space shall be consistent throughout the development and shall compliment the architecture and design of the buildings.
- L. Mechanical equipment whether mounted on the roof or ground shall be screened from view. All screening devices shall be compatible with the architecture and color of the structures. If roof mounted, mechanical equipment shall be located below the highest vertical element of the building where feasible.
- M. Window security grates shall be as inconspicuous and as complementary to the facade as possible and shall be encouraged only on first floor windows.

- N. The types and arrangements of units shall be varied to allow the maximum range of building configurations within the development. Not more than 1/3 of the buildings shall have identical floor plans.
- O. Fire escapes shall be constructed only against the side or rear wall of a building and shall be located and/or screened so as not to distract from the appearance of such buildings.
- P. No more than 50% of the first floor facade that is facing the street shall be devoted to garages or carports. Where garages must be located facing streets, they shall be minimized by recessing the garage entrance within the building facade or through the use of other architectural techniques to make the garage entrance less conspicuous.
- Q. All roofs on principal buildings in association with one, two-story, multi-family, garden apartment and townhouse developments shall be pitched. Flat roofs shall not be permitted. Roof design shall be consistent with that exhibited in the existing block or neighborhood where appropriate. Roof design shall be an integral part of the overall building design. Hipped or gabled roofs are encouraged with roof slopes comparable to surrounding structures.
- R. To the extent feasible, off-street parking shall be placed to the rear and/or side of buildings. However, where conditions dictate otherwise or where the reviewing board determines that parking in the front yard would be appropriate, off-street parking and/or interior drives associated therewith may be placed in a required front yard provided that such parking and/or interior drives is separated from the front line street distance of 3 feet and screened from the street by a solid natural screen, high decorative wall, or combination thereof, at least 2 feet but no more than 4 feet in height. As required in Article V, off-street parking areas in association with one and two family dwellings shall not be permitted in the required front yard.
- S. Private outdoor space in the front yard shall be fenced or otherwise separated from public space. The use of decorative steel, tubular steel, wrought iron or brick fences shall be encouraged in lieu of standard chain-link or board-on-board fencing in front yards.
- T. Where entire or significant portions of blocks are being redeveloped, or where elsewhere feasible, shared parking and the use of alleys for access to off-street parking spaces and/or garages shall be pursued.
- U. Trash containers and outdoor storage areas shall be screened from public streets, pedestrian areas and neighboring properties. The screen shall be designed to be compatible with the architectural character of the development and shall be constructed as durable material and shall have solid walls and doors.
- V. To the extent possible, all public utilities and related facilities shall be located underground. In such event that they cannot be installed underground, facilities such as pumping stations or transformers shall be enclosed in buildings or effectively screened with an evergreen hedge and/or fencing as approved by the Board.
- W. Exposed concrete block (cinder block) or other such masonry units shall not be permitted as an exposed surface in residential zones. Split face, ribbed, scored and glazed masonry units, or an



approved equal, with integral color, are permitted. Nothing in this section shall be construed as to limiting brick, brick face, stone or other similar materials.

- X. Plumbing vents, dryer vents, rooftop vents and all other protrusions shall be finished, coated or painted to blend in with the general color of the roof and/or siding as the case may be.
- Y. Provisions shall be made for stormwater drainage, sanitary sewage and utilities. All such installations shall be connected with an approved system and shall be adequate for all present and probable future development and shall be made according to the standard requirements and specifications of the city.
- Z. Residential development shall also comply with the applicable design standards (e.g., off-street parking, landscaping, lighting, signage, etc.) enumerated below.

#### **§400-2.2 General Non-Residential Design Standards.**

- A. Unless the existing pattern in the surrounding area is contrary to other standards in this Article, the design and layout of buildings shall provide an aesthetically pleasing design that is compatible with the character of surrounding development. To the extent possible, new commercial development within an existing commercial area shall be consistent and compatible with buildings in the adjacent area in terms of building setbacks, building mass, building height, building materials and color, roof designs, entrance design, window design and placement, and architectural style. New development within existing commercial areas shall incorporate any architectural characteristic distinctive of the area.
- B. Infill development shall continue the prevailing site layout of properties (e.g., building placement, parking lot placement) in the surrounding area unless the existing pattern is contrary to other standards in this Article (e.g., buildings setback a distance from the street with parking in front yard along the street).
- C. The architectural design of non-residential uses shall, to the maximum extent possible, avoid the appearance of clutter by integrating mechanical, electrical, storage structures, loading facilities, chimneys, smokestacks, etc., into the general architectural concept for the site.
- D. Non-residential developments consisting of two (2) or more buildings, whether individually owned or owned by separate entities, shall maintain a consistent design theme including building silhouette, architectural style and scale; massing of building form; surface material, finish and texture; decorative features; window and doorway proportions, entry way placement and location, signage and landscaping) throughout the development. Within this overall design theme, individual buildings may be differentiated by size, shape, detailing and fenestration.
- E. Buildings shall be designed so as to have attractive, finished appearances from all public spaces and streets. Where sides and rear of a building would be visible from a public space or street, such side and rear elevations shall present a finished and attractive architectural appearance. Such rear and side elevations shall incorporate the architectural features of the primary or front facade.

- F. Blank walls shall be avoided. Facade articulations such as windows, trellises, recesses, arcades, openings, ornamentation, changes of material, landscaping and/or other such features shall be used to lessen the impact of blank walls.
- G. All rooftop equipment shall be screened from view by materials of the same nature as the main structure. If feasible, mechanical equipment shall be located below the highest vertical element of the building.
- H. All additions, alterations and accessory buildings shall be compatible with the principal structure and design and material and shall share a common architectural theme.
- I. In commercial structures, at least 50 percent of the ground floor facade area shall be fully or partially transparent for visibility from the sidewalk, with at least 30% fully transparent glass. On corner lots, the secondary storefront facade shall be consistent with the alignment, location and amount of glazing of the primary storefront window facade.
- J. Building entrances shall be clearly defined and highly visible. Primary access to buildings shall be from the front, facing the street. Where necessary and appropriate, the rear and/or side of the building shall be enhanced to provide public access from parking lots and service alleys.
- K. Where entire or significant portions of blocks are being redeveloped, or where elsewhere feasible, shared parking shall be pursued.
- L. In developments providing loading areas, service and loading areas shall be separated from main circulation and parking areas and away from public streets.
- M. Window security gates shall be encouraged to be placed on the inside of the entrance door and display window panels. Window security gates shall be of open mesh design except the lowest 1 foot which may be of solid design and shall be as inconspicuous and as complementary to the facade as possible. The use of decorative designs in store front security gates shall be encouraged.
- N. Fire escapes shall be constructed only against the side of the rear wall of the building and shall be located and/or screened so as not to distract from the appearance of such buildings.
- O. All public utilities and related facilities shall be located underground. In such event that they cannot be installed underground, facilities such as pumping stations or transformers shall be enclosed in buildings or effectively screened with an evergreen hedge and/or fencing as approved by the Board.
- P. Recycling and solid waste disposal areas shall be enclosed. Trash enclosures shall be screened from public streets, pedestrian areas and neighboring properties through the use of landscaping where feasible. Trash enclosures screen shall be designed to be compatible with the architectural character of the development and shall be constructed of durable materials. Locations shall be conveniently accessible for trash collection and maintenance and shall not block access drives during loading operations, to the extent feasible.
- Q. Provisions shall be made for stormwater drainage, sanitary sewage and utilities. All such installations shall be connected with an approved system and shall be adequate for all present

and probable future development and shall be made according to the standard requirements and specifications of the city.

- R. Non-residential development shall also comply with the applicable design standards (e.g., streetscape, off-street parking, landscaping, lighting, signage, etc.) enumerated below.

#### **§400-2.3 Streetscape Design Standards.**

- A. Sidewalks. Sidewalks shall be at least 5 feet wide, except where located in proximity to high pedestrian generators such as schools, places of worship and other community facilities where sidewalks shall be 8 feet in width. Sidewalks shall be at least 12 feet in width in proximity to pedestrian-oriented commercial areas.
1. Concrete sidewalks will be required on all street improvements and shall be constructed in accordance with applicable city specifications.
  2. Sidewalks shall be provided along the frontage of all properties and along both sides of the street.
  3. Sidewalks and sitting areas shall be surfaced so that they will be easily maintained and properly illuminated if in use after sunset. Walks along the frontage of property shall be in accordance with City standards.
  4. Private pedestrian walks shall have a minimum paved width of 4 feet.
  5. Handicap ramps shall be provided at all intersections and points of required pedestrian crossing.
- B. Street Furniture. Street furniture and amenities such as phone booths, benches, bike racks, trash receptacles, bus shelters and landscaping planters shall be provided at regular intervals to create a more comfortable, attractive and convenient environment for pedestrians. Such elements shall be made of the same or similar materials to ensure design continuity and be appropriate to the particular use.
- C. Street Trees. Street trees shall be placed between 25 and 40 feet apart and not closer than 25 feet from any existing or proposed streetlight or street intersection. Trees shall be nursery grown stock of not less than 3 inches in caliper at breast height (dbh), with branches commencing not less than 7 feet above grade when planted and staked in an approved manner. Species that provide shading and aesthetic benefit, conform to prevailing street tree patterns in the City and take branching pattern and hardiness into consideration, are recommended. In higher-density areas with high pedestrian traffic and a preponderance of on-street parking such as commercial zones, street trees shall be planted in planters. In lower density such as in residential neighborhoods, street trees shall be placed within a 2foot wide planting strip located between the sidewalk and the curb.
- D. Street Name Signs. Appropriate street name signs shall be installed at all street intersections.
- E. Street Lights. Appropriate streetlights shall be installed where designated by the Planning Board.

**§400-2.4 Landscape Design**

- A. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped with ground cover, lawn and other landscape materials as approved by the reviewing board. Landscaping shall be provided in public areas, to accentuate buildings, to enhance driveway and building entrances, to screen parking and loading areas, provide buffering between low density residential uses and more intensive land uses, to provide privacy screenings within required side and rear yard areas and to mitigate adverse impacts.
- B. Landscaping shall be of sufficient and appropriate size to accomplish its intended purpose:
  - 1. Deciduous trees shall be at least 3-inch caliper in size. Evergreen trees used for screening purposes shall be at least 5 feet tall upon installation. All trees shall be balled and burlapped and be of specimen quality as established by the American Association of Nurserymen.
  - 2. All deciduous and evergreen shrubbery shall be from a minimum 5-gallon container.
- C. Plants in containers shall be used for enhancement of sidewalk shops, plaza and courtyards.
- D. Plant and other landscaping material shall be selected with regard to aesthetic and functional considerations. With regard to aesthetics, the landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. With regard to functional, the selection of plants shall take into account susceptibility to disease and insect damage, wind and ice damage, habitat (wet site, drought, sun and shade tolerance), soil conditions, growth rate, longevity, root pattern and maintenance requirements. All species selected shall have proven resistance to the urban environment.
- E. Foundation plantings shall be placed around multi-family, commercial or industrial structures and shall be of suitable size in proportion to the building structure and shall be planted in beds not less than 3 feet in width around the structure.
- F. Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be permitted within sight triangles but located 40 feet from the intersecting curblines and pruned up to a seven (7) foot branching height above grade. The placement of plants within sight triangles that will eventually grow to obstruct sight distances shall be avoided. The landscaping of parking areas, such as within landscape islands at the end of parking rows, shall similarly take into consideration sight lines for motorists traversing the parking area.
- G. Natural features such as trees, hilltops and views, natural terrain, open waters, natural drainage ridge lines and natural drainage channels shall be preserved whenever possible in designing any development on a lot containing such features. Existing trees of larger caliper shall be saved to the extent possible.
- H. Except in conservation easements and areas specifically designated to remain in their natural state, the developer shall selectively thin or remove all dead or dying vegetation, either standing or fallen, from the site including grubbing out stumps and all undesirable trees and undergrowth. Tree stumps, portions of tree trunks and/or limbs shall not be buried at any

location on-site. All dead or dying trees, either standing or fallen, shall be removed from the site.

- I. Landscaping of area of cut/fill and terraces in multi-family, commercial or industrial sites shall be sufficient so as to prevent soil erosion. All slopes are to be a maximum one (1) foot vertical for every three (3) horizontal feet and planted with suitable cover plants combined with grasses and/or sodding for the purpose of soil retention.
- J. Any landscaping which dies within two (2) years of planting, for any reason, shall be replaced by the developer(s) at their expense at the beginning of the next immediately following growing season.
- K. The hole in which a tree is to be planted shall be one (1) foot larger in width and six (6) inches larger in depth than the rootball of the tree to be planted, and shall contain proper amounts of top soil and peat moss at a 5:1 ratio. Said material shall be free of acidic marl, sticks, large stones, debris or other material which will interfere with the growth of the tree.
- L. Evergreen and deciduous shrub plantings shall be mulched with wood chips, peat, cedar mulch, or approved material four (4) inches thick, extending to the branch limits.
- M. All trees four (4) feet or greater in height shall be staked for a period of one year.
- N. Reserved
- O. Utility areas, mechanical equipment, transformers and meters shall be screened from adjoining lots and street lines with landscaping. Open access to the equipment shall be maintained.

#### **§400-2.5 Lighting Design**

- A. The style of all light fixtures and light standards within nonresidential and multi family developments shall be consistent with the architectural style of the principal building and, where appropriate, the architectural character of the surrounding area and all light fixtures and light standards within a development shall be consistent in design and appearance.
- B. All lighting shall be designed in accordance with minimum standards of safety and suggested lighting levels as specified herein and in the standards of the Illuminating Engineering Society (I.E.S.).
- C. All fixtures, light sources, standards and lighting levels shall be consistent throughout the site.
- D. Lighting shall be provided within nonresidential and multi family developments at building entrances, parking areas, driveways, sidewalks and loading areas. The following intensity in footcandles shall be maintained:
  - 1. Multi-family residential parking lots: a minimum of 0.25 footcandles throughout, maintained with established depreciation factor calculated into lighting level at a maximum to minimum illumination ratio not to exceed 15:1.

2. Commercial parking lots: a minimum of 0.5 footcandles throughout, maintained with established depreciation factor calculated into lighting level at a maximum to minimum illumination ratio not to exceed 15:1.
  3. Sidewalks: a minimum of one (1) footcandle entire length.
  4. Maximum at property lines: one-tenth (0.1) footcandle.
- E. Lighting Standard (Poles)
1. The maximum height of freestanding lights shall not exceed the height of the principal building or twenty-five (25) feet, whichever is less, except that the maximum height of freestanding lights in the I-1 and I-2 Districts shall be 35 feet.
  2. All poles shall be aesthetically compatible with the lighting fixtures and architectural style of the principal building.
  3. All poles shall be of an approved type, able to withstand wind loads typical to the region and supplied by a reputable manufacturer.
  4. Pole bases shall be designed in accordance with manufacturer's recommendations and approved by a licensed Professional Engineer as to structural stability.
  5. All wiring in association with such lighting shall be underground,
  6. Freestanding lights shall be so located and protected to avoid being damaged by vehicles. Freestanding lights shall be aligned with parking stall striping and located a minimum of 2 1/2 feet from the edge of curb
- F. Lights shall be appropriately placed, shielded and directed so that the lighting, to the extent possible, shall not spill over onto adjacent properties. Lights shall be so arranged and designed so that the direct source of light is not visible off the site. Glare from bright light bulbs shall be eliminated through the use of diffusers or the equivalent.
- G. During non-operating hours, lighting that is not necessary for safety and security shall be extinguished.
- H. Lighting Fixtures:
1. All lighting fixtures, whether affixed to poles or a building, shall utilize maximum 75 degree cutoff luminaire type reflectors so as to minimize glare or shielded to restrict the maximum apex angle of the cone of illumination to seventy-five (75) degrees from vertical.
  2. Where determined to be required by the Board, a house side shield (internal or external) shall be provided to minimize glare and light intrusion onto adjacent properties.
  3. All fixtures shall be aesthetically compatible with the lighting standard (poles), contiguous fixtures, and development on the site and surrounding area.

4. The light lens shall be flush with, or recessed within, the fixture housing and parallel to the ground.
  5. Lights placed under a canopy of gasoline filling stations or under eaves of a building shall be flush or recessed into such canopy or eave. No such light shall protrude below the surface of the canopy of eave.
- I. Plan Submissions. The lighting plan shall include the following information: Fixture manufacturer literature showing fixture type, color, etc.; fixture photometrics as furnished by the manufacturer; lighting standard (poles) literature showing pole type, height, etc.; site lighting plans showing fixture locations and photometric data (isolux diagrams) indicating footcandle intensities along fixture output distribution drawn to plan scale; design criteria containing lighting source utilized, footcandle level, type of light source, wattages of lamps, and all other data deemed necessary to make an informed decision on the application.

#### **§400-2.6 Design Standards for Signs.**

- A. All signs in association with a development shall be in harmony and consistent with the architecture of the building(s) involved in the development and shall relate to the features of the building(s) in terms of location, scale, color, lettering, materials, texture and depth. Signs shall not be dominant but shall be proportionate and shall complement the buildings, existing signs and surroundings.
- B. All signs in association with a development shall convey a consistent sign design (including style of lettering, colors, construction material, size and illumination).
- C. Freestanding signs shall be integrated with the landscaping on site.
- D. Signs that are affixed to buildings (including wall signs, projecting signs and the canopies and awnings onto which signage is placed) shall not obscure, conflict with, or cover any architectural element or window and must be aligned with major building elements such as windows, trim and structure lines.
- E. Canopies or awnings upon which signage is placed shall relate in scale to the facade of the building, shall be placed over doors or windows consistent with the intent of canopies and awnings, and shall not obscure, conflict with, or cover any architectural element of a building or window. Canopies or awnings upon which signage is placed shall be less than 6 feet in vertical dimension (and required in Article V, the signage shall be no greater than 4 feet in vertical dimension). The use of angled awning and canopies shall be encouraged. The use of "waterfall" awnings and canopies, particularly those that run the length of the facade, regardless of window or door locations, shall be discouraged. Storefronts along the same street shall be encouraged to adopt a uniform or compatible color scheme.
- F. No electric wiring associated with a sign shall be visible to public view.
- G. Illuminated Signs

1. Signs lit by external sources shall be allowed but shall be located in such a manner so as to avoid any glare on adjacent property. Sources of sign illumination shall be completely shielded from the view of vehicular traffic using the road or roads abutting the lot on which the sign is located.
  2. External lights used for the illumination of any sign on a building whether or not such light fixtures are attached to or separate from the building, shall not extend above the highest elevation of the front wall of the building.
- H. Lettering on signs shall be simple, legible and well-proportioned for clear communication.

#### **§400-2.7 Off-Street Parking, Loading, Circulation and Access Design Standards.**

- A. There shall be adequate provisions for safe and convenient ingress and egress to all parking areas. Each off-street parking, loading or service area shall be connected to a public street right-of-way by means of a driveway, and each parking space shall connect to an aisle providing access thereto.
- B. To the extent feasible, off-street parking shall be placed to the rear and/or side of buildings. However, where conditions dictate otherwise or where the reviewing board determines that parking in the front yard would be appropriate, off-street parking and/or interior drives associated therewith may be placed in a required front yard provided that such parking and/or interior drives is separated from the front lot line a distance of 3 feet and is screened from the street by a solid natural screen, high decorative wall, or combination thereof, at least 2 feet but no more than 4 feet in height.. As required in Article V, off- street parking areas in association with one and two family dwellings shall not be permitted in the required front yard.
- C. A screen at least 4 feet in height shall be provided along all other property lines, except where superseded by §500-3.12.C.
- D. In parking lots containing more than 25 parking spaces, the interior of any parking area shall contain a curbed landscape island equal to 5 percent of the area of the parking facility. In parking lots containing more than 100 parking spaces, at least 8 percent of the interior parking area shall be so landscaped. Curbed landscape islands at least 6 feet in width shall be placed at the end of each parking bay. Curbed landscape islands at least 8 feet in width shall be provided to separate opposing parking bays exceeding 20 spaces in each row. Such areas shall be distributed throughout the parking area in order to break the view of parked cars in a manner not impairing visibility (e.g., planting with low growing shrubs and trees with a high-branching pattern). Landscaping of such parking areas shall include 1 shade tree, measuring a minimum of 3-inch caliper, for every 10 parking spaces.
- E. All parking and loading areas in association with multi-family or non-residential uses that abut mixed- uses, or public, semi-public or residential uses shall be landscaped about their periphery, shall be set back from the property line separating it from such uses a distance of at least 3 feet and shall be screened in accordance with §500-3.12.



- F. Off-street parking and loading areas shall be coordinated with the public street system serving the area in order to avoid conflicts with through traffic, obstruction to pedestrian walkways and vehicular thoroughfares. Shared parking among mixed-uses shall be encouraged.
- G. All off-street parking areas, interior driveways and loading/unloading areas shall be surfaced with a permanent long-wearing surface which is adequately pitched to provide proper drainage and shall be subject to the approval of the City Engineer.
- H. All parking areas shall be graded for proper drainage and provided with an all-weather surfacing maintained at all times in such a manner as to prevent the release of dust and to be free of dust, trash and debris.
- I. Each entrance or exit driveway (one-way drives) shall have a minimum unobstructed width of not less than 10 feet nor a width greater than 20 feet. Every combined entrance and exit driveway (two-way drives) shall have a minimum unobstructed width of 20 feet nor a width greater than 30 feet with the exception of combined driveways serving one or two-family dwellings, which shall have minimum width of 12 feet and a maximum width of 20 feet.
- J. Driveways shall be located at least 25 feet from a street intersection measured along the property line from the intersection of corner property lines, except that such distance may be increased at the discretion of the Board in the event that local conditions dictate such increased distance.
- K. No driveways shall be closer than 20 feet measured along the curb line to another driveway. No curb cut permit shall be issued unless either a site plan has been previously approved by the local approving agency or the Division of Planning and Zoning determines the use of the driveway is in compliance with the intent of the Ordinance.
- L. All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site, and to minimize conflict with the flow of traffic.
- M. Where uses would involve a significant amount of drop-off and pick-up of persons, sufficient provision for such drop-off and pick-up should be incorporated into the site design of the use.
- N. Adequate lighting shall be provided for parking lots in operation between the hours from dusk until dawn and so designed as to eliminate glare to nearby residents and moving traffic as specified in this Article.
- O. The landscaping of parking areas, such as within landscape islands at the end of parking rows, shall take into consideration sight lines for motorists traversing the parking area. Landscaping within such sight triangles shall not exceed a mature height of 30 inches and shade trees within sight triangles shall be pruned up to a seven (7) foot branching height above grade. The placement of plants within sight triangles that will eventually grow to obstruct sight distances shall be avoided.
- P. Except for one and two family dwellings, all parking spaces within any parking area shall be clearly delineated by means of pavement markings to show the parking arrangement within the

parking areas. Such markings shall be depicted on site plans, with numbered spaces shown as well as handicapped spaces. The stalls shall be clearly marked and so designed, maintained and regulated such that no maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and un-parked without moving another. The Board shall require certain areas to be maintained for firefighting, handicapped or other emergency purposes, pursuant to direction of the appropriate officers of the City.

- Q. Any access/exit driveway or driveway lane shall be so designated in profile and grading and located in such a manner as to provide a sight distance commensurate with the design speed of the road to which it connects.
- R. No entrance or exit driveway shall be located on a rotary, ramp of an interchange or within 20 feet of the beginning of any ramp or other portion of an interchange.
- S. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the site.
- T. The vertical curve of a driveway shall be so designed to prevent the dragging of any vehicle undercarriage.
- U. All parking lots and all loading areas shall have concrete or Belgian block curbing around the perimeter of the parking and loading areas in conjunction with an overall grading and drainage plan. Curbing between vehicular and pedestrian ways shall be designed with periodic ramps from the street or parking grade to the sidewalk.
- V. Sites shall be designed to provide safe and convenient pedestrian access and circulation. Where pedestrians must cross service roads to reach parking areas, crosswalks shall be clearly designated by pavement markings or signs and shall be slightly raised to designate them to drivers. Sidewalks between parking areas and principal structures, along aisles and driveways, and wherever pedestrian traffic would occur shall be raised 6 inches or more above the parking area, except when crossing streets or driveways, guardrails, and wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas, unless an additional sidewalk width of 21/2 feet is provided to accommodate such overhang. Sidewalks shall have a minimum width of 4 feet of passable area, unless such sidewalk is a continuation of an existing sidewalk of greater width in which case the sidewalk shall match the width of such sidewalk. The use of pedestrian pathways, delineated through the use of brick or concrete pavers, within parking lots shall be encouraged.
- W. All required off-street loading areas shall be provided with sufficient turning space and access.
- X. In case of structured parking, the facades of parking structures shall, to the greatest degree possible, incorporate architectural features that diminish its appearance as a parking structure, or otherwise be finished with a decorative open screen of masonry, metal or other appropriate material. When associated with a particular use, the exterior of the parking structure shall incorporate to the greatest degree practicable, the design theme (including building silhouette, architectural style and scale; massing of building form; surface material, finish and texture and

decorative features) of the building(s) associated with it. The incorporation of ground floor retail uses along the perimeter of parking structures shall be encouraged, particularly where such parking decks front on commercial streets.

#### **§400-2.8 Fences, Walls and Screens.**

- A. Fences must compliment the architectural character of the principal building to which it is accessory.
- B. The finished side of all fences shall face out from the property upon which said fence has been erected. All structural supporting members of the fence shall face the interior portion of the lot.
- C. All fences shall be symmetrical in appearance. Posts shall be separated by equal distances and constructed of fencing material conforming to a definite pattern in size.
- D. The use of razor coil on fencing is prohibited. No fencing abutting a residential use shall use barbed wire on any fencing. Fences topped with barbed-wire shall be discouraged elsewhere. However, where provided, all barbed wire shall be faced into property. In lieu of barbed-wire or razor coil topped fences, "Fortifier"-type fences or similar such fences, shall be encouraged.
- E. The following types of fencing are recommended: decorative steel, tubular steel, wrought iron or brick. Such fences are encouraged in lieu of standard chain link fences, particularly forward of the building line facing the street. Such fences are particularly encouraged in residential districts, where the placement of chain-link or board on board fencing in front yards is particularly discouraged.
- F. All gates shall be identical in material, design, type, height and color to the fence they are attached. However, gates may and are encouraged to incorporate a special design feature such as, but not limited to, a convex or concave curve at the top, or a more ornate design.
- G. Gates shall be designed so as not to swing outward into a public right-of-way or onto another property.
- H. Fences that are non-climbable or which discourage climbing shall be encouraged.
- I. Fences located along the front lot line shall align with the predominant fence line on the street.
- J. No fence shall be erected that would create a hazard either by the manner or construction or the materials used or that may cause injury due to jagged end surfaces, spikes or points. Speared or spiked fence tops shall be permitted only when the top of said fencing is more than 6 feet above grade adjacent to the fence.
- K. Solid, perforated, corrugated or flat sheet metal shall be prohibited for use as a fencing material.
- L. Mechanical gates with overhead bars shall be discouraged.
- M. No fence shall be erected of nonstandard materials that may be considered makeshift, create an eyesore or cause an annoyance.
- N. Fences must be maintained and kept in good repair.

**§400-2.9 Public or Common Private Open Space Design.**

- A. All open space shall incorporate elements such as shrubbery, attractive paving materials, street furniture, lighting, low walls, fountains and other architectural and artistic amenities so as to produce and provide a pleasant environment at all levels and to complement the surrounding buildings. All open space shall be designed to invite and attract the public.
- B. Adequate lighting shall be provided to promote a sense of security in the open space.
- C. Open spaces shall be so located as to provide for maximum usability and to create a harmonious relationship between buildings.

**§400-2.10 Recycling Facilities for New Multi-Family Developments**

- A. There shall be included in any new multi-family housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers that are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located.
- B. The recycling area shall be conveniently located for the disposition of source-separated recyclable materials by residents of the multi-family housing development, preferably near, but clearly separated from, a refuse dumpster.
- C. The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.
- D. Any bins or containers that are used for the collection of recyclable paper or cardboard and that are located in an outdoor recycling area shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.
- E. Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- F. Landscaping and/or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

**§400-2.11 Streets.**

- A. The arrangement of streets shall be such as to provide for the appropriate extension of existing streets.
- B. Minor streets shall be so designed as to discourage through traffic
- C. Widths.
  - 1. The right-of-way width shall be measured from lot line to lot line and shall be not less than the following: Arterial/principal streets: sixty (60) feet; Collector/minor streets: fifty (50) feet; Local streets: forty (40) feet.
  - 2. The right-of-way width for internal roads and alleys in multi-family, commercial and industrial developments shall be determined on an individual basis and shall, in all cases, be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for fire-fighting equipment.
  - 3. No street shall have a width greater than sixty (60) feet within the right-of-way lines unless said street constitutes an extension of an existing street of greater width.
- D. No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed under city jurisdiction under conditions approved by the Planning Board.
- E. Subdivisions that adjoin or include existing streets that do not conform to the street width requirements of this chapter shall dedicate additional width along either one (1) or both sides of said road. If subdivision is along one (1) side only, one-half (1/2) of the required extra width shall be dedicated except when the Planning Board determines that existing conditions make it unfeasible.
- F. Grades of arterial, major thoroughfares and collector streets shall not exceed four percent (4%). Grades on other streets shall not exceed ten percent (10%). No streets shall have a minimum grade of less than one-half of one percent (1/2 of 1%). Within fifty (50) feet of an intersection of any street with a collector street, major thoroughfare, arterial street or controlled access highway, the maximum grade shall be limited to two percent (2%).
- G. Street intersections shall be a nearly at right angles as is possible and in no case be less than sixty degrees (60 degree). The block corners at intersections shall be rounded at the curbline with a curve having a radius of not less than twenty (20) feet for collector and arterial streets and fifteen (15) feet for minor and marginal streets.
- H. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be prohibited.
- I. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- J. When connecting street lines deflect from each other at any one (1) point by more than ten degrees (10 degree) and not more than forty-five degrees (45 degree), they shall be connected

by a curve with a radius of not less than one hundred (100) feet for minor streets and three hundred (300) feet for arterial and collector streets.

- K. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
- L. Dead-end streets (culs-de-sac) shall be not longer than six hundred (600) feet and shall provide a turnaround at the end with a radius of not less than fifty (50) feet and tangent, whenever possible, to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions shall be made for future extensions of the street and reversion of the excess right-of-way to the adjoining properties.
- M. No streets shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
- N. All streets shall be paved the full width between the curblines as determined by the Planning Board. The minimum width of pavement will be thirty (30) feet. In residential sections, the pavement type shall be six (6) inches dense graded aggregate, four (4) inches bituminous stabilized base, mix I-2, and two (2) inches bituminous concrete, mix I-5. In commercial and industrial sections, the pavement type shall be eight (8) inches dense graded aggregate, six (6) inches bituminous stabilized base, mix I-2, and three (3) inches bituminous concrete, mix I-5, unless, in the opinion of the City Engineer, local conditions require a more durable pavement.
- O. Straight concrete curb or combined concrete curbs and gutters will be required in all street improvements. They shall be constructed in accordance with the standard plans and specifications of the city and the applicable provisions of this chapter.

#### **§400-2.12 Blocks.**

- A. Block length and width or acreage within bounding roads shall be such as to accommodate the size of the lot required in the area by the Zoning Ordinance of the city and provide for convenient access, circulation, control and safety of street traffic.
- B. For commercial, group housing or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.
- C. In blocks over one thousand (1,000) feet long, pedestrian walkways may be required in locations deemed necessary by the Planning Board. Such walkway shall be ten (10) feet wide and be straight from street to street.

#### **§400-2.13 Lots.**

- A. Lot dimensions and area shall not be less than the requirements of the Zoning Ordinance of the city.

- B. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- C. Each lot must front upon an approved street.
- D. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- E. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions or similar circumstances, the Planning Board may, after investigation, withhold approval of such lots.

**§400-2.14 Public Use and Service Areas.**

- A. Easements for utility installation may be required where no utility lines presently exist. Such easements shall be at least fifteen (15) feet wide and located in consultation with the utility company and the city departments concerned.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.
- C. Natural features such as trees, brooks, hilltops and views shall be preserved whenever possible in designing any subdivision containing such features.

**ARTICLE V ZONING**

**§500-1 ESTABLISHMENT OF ZONING DISTRICTS**

For the purposes of this Ordinance, the City of Paterson is hereby divided into the following zoning districts:

Residential Districts

- R-1 - One Family Residential District
- R-2 - Low Medium Density Residential District
- R-3 - High Medium Density Residential District
- R-4- High Density Residential District

Business Districts

- B-1 - Neighborhood Business District
- B-2 - Community Business District
- B-3 - General Business District
- B-4 - Central Business District

Industrial Districts

- I-1 - Light Industrial District
- I-2 - Heavy Industrial District

Special Purpose Districts

- MU - Mixed Use District
- GFHD - Great Fall Historic District
- H-1 - Hospital Zone-1
- PUID - Planned Unit Industrial Development District
- I-T Industrial Transition District
- R/C-3 High Medium Density Mixed Use District

**§500-1.1 Zoning Map**

The location and boundaries of the above zoning districts are hereby established as shown on the Zoning Map which accompanies this Ordinance and which, with all notations, references, and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein and shall be known as the Zoning Map of the City of Paterson. Such map may be amended periodically by an ordinance duly adopted according to law.



**§500-1.2 District Boundaries**

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

- A. The zone boundary lines are intended generally to follow street center lines, existing lot lines, center lines of railroad right-of-way, waterways, sewer and utility easements or as otherwise shown on Zoning Map. In cases of uncertainty or disagreement as to the true location of any zone boundary line, the determination thereof shall be with the Board of Adjustment.
- B. In all cases where a district boundary is located not farther away than 10 feet from a lot line of record, the boundary shall be construed to be along such line.

**§500-2 ZONING DISTRICT REGULATIONS****§500-2.1 Purpose and Intent of Zoning Districts.**

In addition to the general purposes of this Ordinance as set forth in §100-2, the following specific intent for the establishment of each of the City's zoning districts are set forth below:

- A. R-1 One Family Residential District: The intent of the R-1 One Family Residential District is to provide for low-density single-family residential development, together with other uses such as places of worship, recreational facilities, schools and other such permitted uses that are typically located in residential neighborhoods. Certain accessory uses that are customarily incidental to single-family residences and that are compatible with low density residential surroundings are permitted as well.. All other uses, including higher density residential uses (i.e., townhouses, two family dwellings and all multi-family dwellings), and business, industrial and other non-residential uses are strictly prohibited. No new construction of such prohibited land uses, nor conversion of residential dwellings into such prohibited land uses, is permitted to occur with the R-1 District. In-fill development consisting of single-family homes and/or other permitted uses that preserve the low-rise and low-density character of the existing neighborhood is encouraged.
- B. R-2 Low Medium Density Residential District: The intent of the R-2 Low Medium Density Residential District is to permit single and two family dwellings at the low to medium densities permitted in the district, together with such uses as places of worship, recreational facilities, schools and other such permitted uses that are typically located in residential neighborhoods. Certain accessory uses that are customarily incidental to one and two-family residences and that are compatible with low to medium density residential surroundings are permitted as well. It is the further intent of this district to preserve the existing neighborhood character and the quality of the physical environment in these areas of the City. In keeping with this intent, higher density residential uses (i.e., townhouses and all kinds of multiple-family dwellings), as well as business, industrial and other non-residential uses are strictly prohibited. No new construction of such prohibited land uses, nor conversion of residential dwellings into such prohibited land uses, is

permitted to occur with the R-2 District. In fill development consisting of single-family homes, two-family homes and/or other permitted uses that preserve the existing density, pattern, scale, and building height of the existing neighborhood is encouraged.

- C. R-3 High Medium Density Residential District: The R-3 High Medium Density Residential District is designed to permit more intensive residential use of land than permitted in the R-1 and R-2 Districts, with various types of dwellings being permitted, including townhouses, garden apartment developments and low rise apartment buildings. Population is maintained in the medium range, while building height is kept low enough to be generally compatible with one- and two-family residential development (i.e., high-rise apartment building are strictly prohibited). Certain low-intensity, nonresidential uses that are not permitted in the lower density residential districts, but that are appropriately located in higher density residential area (e.g., funeral homes, long term care facilities, and small scale professional offices) are permitted in the R-3 District. In addition, neighborhood retail and personal service uses that are located on corner lots along major roads are permitted in order to serve the needs of the surrounding neighborhoods. However, all other business, industrial and other non-residential uses are strictly prohibited from this district. No new construction of such prohibited land uses, nor conversion of existing buildings into such prohibited land uses, is permitted to occur with the R-3 District. In-fill development consisting of the permitted residential and non-residential uses and that preserve the character, density and scale of the existing neighborhood is encouraged.
- D. R-4 High Density Residential District: The R-4 High Density Residential District is designed to permit high-rise apartment buildings as well as the residential uses permitted in the R-3 District. Various types and sizes of residential accommodations, for ownership or rental, would thereby be provided to meet the needs of the different age and family groups in the City. This district should be located near major thoroughfares for good accessibility. Like the R-3 District, certain low-intensity, non-residential uses that are not permitted in the lower density residential districts, but that are appropriately located in higher density residential area (e.g., funeral homes, long-term care facilities, and small-scale professional offices) are permitted in the R-4 District. However, all other business, industrial and other non-residential uses are strictly prohibited. No new construction of such prohibited land uses, nor conversion of existing buildings into such prohibited land uses, is permitted to occur with the R-4 District. However, in-fill development consisting of the permitted residential and non-residential uses that preserves and/or improves the character, density and scale of existing development is encouraged.
- E. B-1 Neighborhood Business District: The intent of the B-1 Neighborhood Business District is to provide low-intensity, neighborhood scale retail and personal service businesses that supply the everyday needs of residents in immediately surrounding neighborhoods. The district permits operations that provide a convenience to area residents, such as neighborhood-scale food stores, personal service businesses, delicatessens, pharmacies and similar retail establishments designed to sell goods to patrons primarily residing in immediately surrounding neighborhoods, as opposed to larger-scale businesses and industrial uses that are prohibited in this district, in order to maintain a neighborhood atmosphere and prevent traffic congestion.

- F. B-2 Community Business District: The intent of the B-2 Community Business District is to provide sufficient space in appropriate locations for a wide variety of commercial and service activities, serving a wider area than the B-1 District. The district is intended to consist primarily of businesses involved in the rendering of services or selling of goods or merchandise primarily oriented towards residents of the City of Paterson as a whole (i.e., generally larger scale and more specialized retail establishments than permitted in the B-1 District such as auto supply stores, book stores, clothing and shoe stores, sporting goods stores and supermarkets), as well as other commercial uses that are not permitted in the B-1 District, including gasoline filling stations, automobile repair, hotels and motels, car washes and drive-through restaurants. However, more intensive and larger scale commercial uses (e.g., motor vehicle sales establishments, boat and marine showrooms and sales, building supply stores and home maintenance supply centers), businesses that are primarily involved in the rendering of sales or service to other businesses (e.g., business services and wholesale establishments), as well as warehousing and light industrial uses are not permitted in the B-2 District. This district is located normally at the conveyance of or along major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing or frequent heavy truck activity.
- G. B-3 General Business District: The intent of the B-3 General Business District is to provide a wider and more intensive range of business and service activities than permitted in the B-1 and B-2 districts. The permitted uses would generate larger volumes of vehicular traffic, would need more off-street parking and loading, and would require more planning to integrate such districts with adjacent residential areas. Commercial uses engaged in the selling of goods, merchandise or services to patrons from a wider region (e.g., boat and marine showrooms and sales, building supply stores and home maintenance supply centers) are permitted in the B-3 District, as are motor vehicle sales establishments and businesses that are primarily involved in the rendering of sales or service to other businesses (e.g., business services and wholesale establishments). However, with the exception of indoor warehousing, industrial uses are prohibited from this district. Since the district is intended to encourage economic development and since the intensity and types of land uses permitted in the B-3 District are not as compatible with residential areas as the preceding commercial zones, residential uses are prohibited from the B-3 District (with the exception of apartments above stores and artist live-work quarters).
- H. B-4 Central Business District: The purpose of this district is to foster the development of a vibrant, pedestrian-friendly, and accessible downtown that is the center of commerce and civic activity. The Central Business District is intended to function as a local and regional destination for business, retail, education, governmental services, entertainment, and transportation. The B-4 Central Business District is intended to encompass the retail, service, educational, governmental and office core of the City's historic downtown area, and permits a wide variety of such uses in a high intensity urban context. Uses that are not consistent with the intent of the Central Business District (e.g., industrial uses, warehousing, low density residential development) are prohibited. However, infill development and redevelopment consisting of uses permitted in the district, that are consistent with the intended character, density and scale

of development, and that otherwise add to the Central Business District's role as a local and regional destination for business, retail, education, governmental services, entertainment, and transportation are encouraged. The B-4 district includes the designated Downtown Commercial Historic District within its boundaries as well.

- I. MU Mixed Use District: The MU Mixed Use District is intended to permit a mixture of commercial and industrial uses in appropriate locations in accordance with the City's Master Plan. This district is intended to create an environment for effective integration and mutual support among the nonresidential activities and to promote more viable economic development and higher land values. Further development of residences is prohibited in this district to protect homes from the adverse effects of the light industrial and intensive commercial uses permitted in the district and to conserve the supply of land for such uses.
- J. I-1 Light Industrial District: The intent of the I-1 Light Industrial District is to provide for a wide variety of light manufacturing, fabricating, processing, wholesale, distribution and warehousing uses in a setting conducive to public health, economic stability and growth, and protection from blight and nonindustrial encroachment. The regulations are designed to permit operations in a clean and quiet manner and to protect adjacent district uses and industries within the district. Further development of residences is prohibited in this district to protect homes from the adverse effects of industries and to conserve the supply of industrial land for industrial uses. Further, in order to avoid bringing the general public into the district, to protect commercial establishments from the adverse effects of industry and to conserve the supply of land for industrial uses, most commercial uses are prohibited from the I-1 District.
- K. I-2 Heavy Industrial District: The intent of the I-2 Heavy Industrial District is to provide land for more intense types of industrial and manufacturing uses excluding those with nuisance characteristics. While the mapping of this district unavoidably includes some residential buildings, future construction of dwellings in such districts is prohibited in order to protect homes from the adverse effects of industries and to conserve the supply of industrial land for industrial uses. Further, in order to avoid bringing the general public into the district and in order to protect commercial establishments from the adverse effects of industry, most commercial uses are prohibited from the I-2 District.
- L. GFHD Great Fall Historic District: The intent of the GFHD Great Falls Historic District is to safeguard the heritage and history of the City of Paterson by preserving the cultural, social, economic, and architectural elements of this historic area of the City; to maintain and develop an appropriate and harmonious setting for the architecturally and historically significant buildings, structures and places in the City; to improve property values and strengthen the City's economy; to foster civic beauty and appreciation for the City's heritage; and to promote the use of historically and architecturally significant sites primarily for the education, pleasure and general enhancement of the citizens of Paterson and its visitors. The District was created to stop the demolition of the historic mill buildings in the area and to highlight elements of Paterson's industrial past and encourage rehabilitation. The Great Falls Historic District still has numerous attractive mill buildings that could be converted to market rate housing that attract a variety of

income groups to the area special emphasis should be made for market rate housing in this area (in addition to existing income-regulated housing). In addition, the District encourages restaurants, stores and other uses and attractions that highlight the natural resource of the Great Falls, the architectural and historic character of the area and that encourage more tourism and activity in the area. Specific design requirements are intended to preserve the architectural integrity of the buildings and layout.

- M. H-1 Hospital Zone-1: The H-1 Hospital Zone-1 is specifically designed to meet the needs of the hospital for future expansion. In this zone, the existing land use types of one and two family homes are permitted uses and the existing hospital, its expansion and related medical uses to support a public purpose institution, are permitted by conditional use/site plan approval procedures. Under this zoning, the existing R-2, one and two-family residential character is retained and reinforced while encouraging the orderly development of land uses which support the hospital in rendering an important institutional service under specific conditions and requirements designed to be harmonious with the existing physical character. The boundaries of the zoning district have been drawn to allow the reasonable future expansion of the hospital and the development of related medical uses around the hospital. Any future expansion or development of such uses should therefore be conducted within the confines of the hospital zone, not within adjoining residential districts.
- N. PUID Planned Unit Industrial Development District: The PUID Planned Unit Industrial Development District is intended to encourage the development of industrial acreage under an overall development plan, to encourage imagination and innovation in such development planning to the end that Paterson will have industrial areas offering a variety of structural types, site arrangements with well integrated facilities and services. It is further intended to permit greater flexibility in the design than would be required through the strict application of standard zoning and subdivision regulations.
- O. I-T Industrial Transition District: The intent of the IT Industrial Transition District is to provide flexible and expanded opportunities for the future re-use and redevelopment of existing industrial buildings and sites previously designated in the industrial zoning districts to promote the transition of existing industrial areas which are in a state of decline or flux as a result of the changes in the economic industrial base to a broader based, mixed use zoning district. Industrial uses will be permitted to continue and expand, but other new non-industrial uses will be permitted under certain conditions to allow the resurgence of formerly zoned industrial areas into viable and vibrant areas through redevelopment and integrated design measures.
- P. R/C-3 High Medium Density Mixed Use District: The R/C-3 District is intended to permit more intensive residential use than the R-1 or R-2 districts while also allowing neighborhood retail and professional offices in a mixed use setting. Neighborhood retail uses are allowed in this district to serve the residents of the surrounding neighborhood. The R/C-3 District is designed to permit these types of uses together in a scale that is consistent with the R-2 District.

**§500-2.2 Schedules of Permitted Principal, Accessory and Conditional Uses.**

- A. The Schedule of Permitted Principal, Accessory and Conditional Uses - Residential Districts is contained at the end of this Article and is hereby made part of this Ordinance.
- B. The Schedule of Permitted Principal, Accessory and Conditional Uses - Non-Residential Districts is contained at the end of this Article and is hereby made part of this Ordinance.
- C. This Article shall be viewed as permissive. Any use not listed as a principal permitted use, conditional use, and/or accessory use within the district in question shall be deemed to be prohibited within such district.
- D. Notwithstanding compliance with specific conditional use standards hereinafter set forth, conditional uses shall require site plan approval by the appropriate Board.
- E. Any use that produces hazardous materials as defined in Article I is prohibited in all districts, unless otherwise permitted by applicable ordinances after approval by the appropriate approving authority.

**§500-2.3 Schedule of Bulk and Dimensional Requirements**

The Schedule of Bulk and Dimensional Requirements is contained at the end of this Article and is hereby made part of this Ordinance. Except as otherwise provided in this ordinance, all proposed structures and uses of land, buildings or structures shall comply with the regulations set forth therein.

**§500-2.4 Relation to Redevelopment/Urban Renewal Plans**

Where in a Redevelopment / Urban Renewal Area, as illustrated on the Zoning Map, the provisions of the Redevelopment/ Urban Renewal Plan shall prevail. The Redevelopment/Urban Renewal Plan may supersede the zoning in the area or create an overlay to the existing zoning depending upon the specific language in the Redevelopment/ Urban Renewal Plan.

**§500-2.5 Design Standards for the IT Industrial Transition District**

- A. Building Frontages and Lot Frontages
  - 1. Building frontage is the length of a building façade that faces any public street. All buildings that face a street shall be treated like a front regardless of garage or loading needs.
  - 2. All building setbacks and recesses along any street shall be appropriately landscaped. Low fences, walls, and gates may be provided along the landscape area but shall not exceed three (3) feet in height.

3. Buildings shall incorporate architectural and design details in accordance with Subsection 400-2.2.f of the Zoning and Land Development Ordinance to create architectural interest, and avoid blank street level walls.
- B. Building Placement
1. Build to lines for all streets are zero feet (0') to ten feet (10') from front property lines, except where insufficient right-of-way exists to provide a required sidewalk width of a minimum of ten feet (10') and/or where a recessed entranceway is provided.
  2. Adjustments to build-to lines to maintain visibility do not apply
    - a. To buildings fronting a Public Plaza or Park space; or
    - b. To building fronts where wide sidewalks and on-street parking lanes allow the necessary visibility.
- C. Building Size and Height Limitations
1. Building Frontage
    - a. All buildings fronting any street shall be considered building fronts.
    - b. For multiple adjoining lots under single control, or for a single lot with multiple buildings, all standards apply to the combination of lot(s) and building(s).
  2. Building Coverage
    - a. The maximum permitted building coverage shall be 70% in aggregate.
  3. Building Height. Building heights are regulated for the IT District in the Schedule of Bulk and Dimensional Requirements. Additional requirements are as follows:
    - a. No building may have an unbroken width greater than one hundred fifty feet (150') wide. Vertical architectural treatments shall be applied to minimize unbroken widths.
    - b. Roof appurtenances such as chimneys and flues, elevator or stair bulkheads, water tanks and mechanical equipment; may penetrate the maximum height limit by no more than twenty-five feet (25') so long as the appurtenances do not occupy more than 10% of the topmost roof. Such appurtenances shall be screened and /or treated as part of the buildings architecture.
- D. General Architectural Design Standards. See Subsections 400-2.1 and 400-2.2 of the Zoning and Land Development Ordinance for general residential and non-residential design standards.
- E. Streetscape Design Standards. See Subsection 400-2.3 of the Zoning and Land Development Ordinance for streetscape design standards.
- F. Landscaping Design Standards. See Subsection 400-2.4 of the Zoning and Land Development Ordinance for landscaping design standards.
- G. Lighting Design Standards. See Subsection 400-2.5 of the Zoning and Land Development Ordinance for lighting design standards.

- H. Sign Design Standards. See Subsection 400-2.6 of the Zoning and Land Development Ordinance for sign design standards.
- I. Parking & Loading Requirements
  - 1. Off-Street Parking. See Subsection 500-7.3 of the Zoning and Land Development Ordinance for off-street parking requirements, except for Mixed Use Community Developments see Subsection 500-4.17.
  - 2. Loading Requirements. See Subsection 500-7.4 of the Zoning and Land Development Ordinance for the applicable loading requirements.

### **§500-3 GENERAL REGULATIONS**

#### **§500-3.1 Conformity Required.**

- A. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses listed as permitted, accessory or conditional in the district in which such building or land is located.
- B. No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit designated in the district in which such building or structure is located, unless otherwise permitted by this Ordinance.
- C. No building or structure shall be erected, no existing buildings or structures shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the lot, yard and building requirements regulations hereinafter designated for the district in which such building, structure or open space is located.
- D. The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Article; and if, already less than the minimum required by this Ordinance, said area or dimension shall not be further reduced.
- E. The provisions and restrictions contained in this Article shall not apply to or be binding upon the City of Paterson.
- F. For areas subject of a Redevelopment Plan or Urban Renewal Plan refer to such Redevelopment Plan or Urban Renewal Plan for applicable requirements.

#### **§500-3.2 Yard Regulations**

- A. Required Yards.
  - 1. The depth of required yards shall be measured parallel to the street line and lot lines.



2. No part of a yard or other open space required for any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for another building.
  3. No land in a residential zone shall be used to fulfill open space, minimum areas, minimum yard and setback requirements, or other similar requirements for a use in a nonresidential zone.
- B. Average Front Yard Setback.
1. In all zoning districts, where the average of the front yards existing on all lots within 200 feet of either side of the lot is less than the minimum required front yard, the required front setback line may be reduced to this lesser average depth and constitute the required minimum front yard setback, but not less than ten (10) feet
  2. In the GFH District, no building shall be set back more than 10 feet further from the street line than the average front yard setback on the street.
  3. In business districts, no building shall be set back more than 20 feet further from the street line than the average front yard setback on the street.
- C. Front Yards on Corner Lots. Every yard of a corner lot that abuts a street shall be considered a front yard, and the front yard setback requirements for the zone in which the lot is situated shall be complied with on every street frontage.
- D. Front Yards of Through Lots. A through lot shall have a front yard, as provided for its particular district, along each street.
- E. Side and Rear Yard Modifications for Lots in Residential Districts.
1. For each foot that a lot is less than 37 1/2 feet in width, each required side yard may be reduced by 3 inches. However, in no event shall a side yard be less than 3 feet. The required side yard for lots 37 1/2 feet in width shall each be 5 feet (for a total side yard of 10 feet). When such lots are 37 1/2 feet or more in width, the side yards shall meet the normally applicable side yard requirement of the district in which the lot is located.
  2. For any platted and recorded lot in a residential district having a depth of less than (100) feet, the required rear yard may be reduced by three (3) inches for each foot that the lot is less than 100 feet deep; provided that no rear yard shall be less than ten (10) feet.
- F. Yard Modifications for Lots in Non-Residential Districts. When an industrial parcel abuts a railroad siding, the structure may be built on the property line adjoining the railroad siding.
- G. Projections and Encroachments into Required Yards. Yards required by this Ordinance shall be free of buildings, structures or parts thereof, and no building or structure shall project into any front, side or rear yard required by this Article, nor shall use be made of such yard, except as follows:
1. Uncovered steps may project not more than 4 feet into any required yard.

2. Window wells affording light and air to basement and cellar areas, provided such window wells are constructed in a way that would preclude an accidental fall into it.
3. Cornices and eaves may project not more than 2 feet into any required yard.
4. Chimneys may project not more than 2 feet into any required yard.
5. Driveways providing access to permitted garages or parking areas: provided, however, that in residential zones driveways used to provide access to private garages shall not be narrower than 8.5 feet or wider than 20 feet.
6. Sills, leaders and similar ornamental or structural features may project not more than 6 inches into any required yard.
7. Fences and retaining walls, where specifically permitted in this Ordinance.
8. Freestanding flagpoles, television antennas and radio aerial masts, children's playground equipment, outdoor fireplaces and yard clothes lines and posts but must be set back at least 3 feet from any property line. Except for freestanding flagpoles, such structures shall not be located in the front yard.
9. Residential heating and cooling units may no more than 3 feet into a required side or rear yard and shall not be located in a required front yard. If located in a required yard, it shall be screened from adjacent neighbors.

### **§500-3.3 Lot Frontage**

Every building or structure hereafter erected or moved shall be on a lot having the minimum required frontage upon a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing and fire protection.

### **§500-3.4 Principal Buildings**

Unless specifically permitted, no lot in a R-1, R-2 zone shall contain more than one principal building or use. No building to be used as a one or two family dwelling shall be constructed, altered, or moved in the rear of any building situated on the same lot.

### **§500-3.5 Height Exceptions**

The height limitations contained in the Schedule of Lot, Yard and Building Requirements shall not apply to spires, bulk heads, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy, provided such features do not exceed 20 percent of the total roof area and provided no such feature is greater than 20 feet above the height of the building.

**§500-3.6 Accessory Structures and Uses**

- A. General requirements.
1. No accessory building or structure shall be constructed on any lot on which there is no principal building or structure.
  2. Any accessory building or structure attached to the principal building shall be considered part of the principal building or structure.
  3. On through lots, no accessory structure erected in the rear yard shall be nearer to the "rear" street line than the minimum front yard setback for the zone in which such lot is located.
- B. The following requirements shall be complied with in all residential zones:
1. No accessory building or structure shall be used for human habitation.
  2. Except as otherwise specifically outlined in this ordinance, accessory buildings or structures shall not exceed 15 feet in height.
  3. No accessory building shall have a floor or ground area in excess of 500 square feet or 1/3 of the first floor ground area of the principal building, whichever is lesser.
  4. No accessory building or structure shall be permitted in any front yard.
  5. An accessory building or structure may occupy a required side yard, provided that such building or structure is more distant from the street than any part of the principal building and provided further that such accessory building or structure is not closer than 3 feet to any side or rear lot line.
  6. An accessory building or structure may occupy a required rear yard, provided that such building or structure is not located closer than 3 feet to any side or rear lot line.
  7. On corner lots, accessory buildings or structures shall be set back from the street a distance at least equal to the front setback of the principal building on the lot.
- C. The following requirements shall be complied with in all nonresidential zones:
1. Uses that are customary and incidental uses to the related principal permitted use (e.g., office operations in association with industrial uses, cafeterias in association with places of employment) shall be permitted as accessory uses in nonresidential zones provided that the floor area occupied by such accessory uses shall not exceed more than 20% of the total floor area of the principal permitted use.
  2. No accessory building or structure shall have a ground area greater than the ground area of the principal building on the same lot.
  3. No accessory building or structure shall be permitted in a required front yard and shall not be located closer than 3 feet to any side or rear lot line.

4. No accessory building shall be used for dwelling purposes except for watchmen, caretakers, or other domestic employees, whose employment functions are directly related to the function of the principal building.
  5. Accessory structures or uses in the GFH, MU, I-1 and I-2 Districts, such as restaurants, cafeterias, offices, etc. shall be permitted provided such uses are customarily incidental to the principal use.
  6. Off-street parking facilities intended to meet parking requirements for the use shall be considered an accessory use.
- D. Requirements for specific accessory structures and uses.
1. Family Day Care Homes. Family day care homes are permitted as accessory uses in all residential zones and shall be subject to the same requirements applicable to a one-family dwelling in the district in which it is located.
  2. Private Garage Parking in Residence Districts. Private garage parking for two-family dwellings in the R-2 District shall not accommodate more than 3 automobiles.
  3. Swimming Pools.
    - a. A private swimming pool of permanent or temporary construction is permitted as an accessory use to a dwelling if such pool is in conformity with these requirements, provided, however, that these regulations shall not apply to any such pool less than 24 inches deep and having a surface area less than 100 square feet for multiple family dwellings, except when such pools are permanently equipped with a water recirculating system or involve structural materials.
    - b. For All Types of Dwellings.
      - i. Appurtenant Structures. All appurtenant, permanent or temporary structures, installations and equipment such as showers, dressing rooms, equipment houses or other buildings and structures, including plumbing, heating, air conditioners, and recirculating pumps appurtenant to a swimming pool, shall comply with all applicable requirements of the Paterson Board of Health and Building Code. All such structures, installations or equipment shall be set back at least 3 feet from side and rear property lines. However, any apparatus such as diving boards, recirculating pumps, or mechanical devices that may cause noise shall not be closer than 10 feet to any property line. All such structures, installations or equipment shall be set back from the street a distance equal to the required front yard setback or the existing setback of the principal buildings on the premises and surrounding properties, whichever is greater.

- ii. Lighting. Installation of any lighting in connection with said pool shall be such that there shall be no glare or direct lighting into adjoining properties.
    - iii. Enclosure. Every person owning land on which there is situated a swimming pool, fish pond or other body of water that contains 24 inches or more of water in depth at any point, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates, must be not less than 5 feet above the underlying ground or otherwise made inaccessible from the outside to small children.
    - iv. Drainage System. The swimming pool and equipment shall be equipped to be completely emptied and the discharged water from the swimming pool, including a portable swimming pool, shall be disposed of in an approved manner that will not create a nuisance to adjoining property.
    - v. Distance Measurement. The measurement of required swimming pool setback shall be taken from the property line to the edge of the water area of the pool.
  - c. For One and Two-Family Dwellings
    - i. Front Yard. Pools shall be set back from the street a distance equal to the required front yard setback or the existing setback of the principal buildings on the premises, whichever is greater.
    - ii. Side Yard. All pools on lots 35 feet or more in width shall have a side yard setback not less than 6 feet from all side lot lines. For all pools on lots of 35 feet or less in width, each required side yard may be reduced by three 3 inches for each foot that a lot is less than 37 1/2 feet in width, but in no event shall there be a side yard less than 3 feet.
    - iii. Rear Yard. Pools shall be set back not less than 6 feet from the rear lot line.
  - d. For Multiple Family Dwellings. All pools for multiple family dwellings shall be no closer than 10 feet to any property line. No pool shall encroach on any front yard required by the Zoning Ordinance.
- 4. Reserved.
- 5. Private Greenhouses and Agricultural or Horticultural Activities in Residential Districts. Private greenhouses and agricultural or horticultural activities in residential districts incidental to residential use and not for business purposes shall be permitted in residential districts provided that any storage of fertilizer shall be distant at least 50 feet from a property line.

6. Small Dish Antennae and TV Antennae. Consistent with the Federal Communications Commission's rules implementing Section 207 of the Telecommunications Act of 1996, the following satellite dishes and antennas shall be exempt from the requirements of this Ordinance: A "dish" antenna that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite; an antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via MMDS (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; and, an antenna that is designed to receive local television broadcast signals for the purpose of providing service to customers at that location. Such antennae may be placed on masts no higher than 12 feet above the roofline.
7. Garbage Dumpsters
  - a. Structures to House Garbage Dumpsters.
    - i. Garbage dumpsters shall be housed within a solid structure consisting of a concrete base or pad and four (4) solid walls of which one (1) will be movable so as to permit access to the dumpster. The walls of said structure shall be at least five (5) feet in height and no greater than eight (8) feet in height.
    - ii. Location of Structure Housing Garbage Dumpsters. The location of any structure housing a garbage dumpster shall comply with the following requirements:
      - a) No structure housing a garbage dumpster shall be located within any front yard except where the front yard is used as the primary parking area. Any such structure permitted within the front yard shall be at least twenty (20) feet from the front lot line
      - b) A side yard setback of at least 5 feet.
      - c) A rear yard setback of at least 5 feet.
      - d) Garbage dumpsters shall be situated at least ten (10) feet from the primary structure on the premises upon which it is located. In any case, no such structure shall be located within ten (10) feet of any residential structure.
      - e) Garbage dumpsters shall be located so as to permit access by the collection vehicle without the vehicle extending onto the public right-of-way.

- f) Garbage dumpsters shall have effective year-round landscaping screening of at least three (3) feet in height on all sides of the structure with the exception of the movable side.
8. Boarders and Roomers. In any residential structure, as an accessory use, not more than 2 persons shall be permitted to occupy any dwelling unit as boarders or roomers in accordance with the following requirements:
  - a. Not more than 1 roomer or boarder may occupy a sleeping room.
  - b. Each sleeping room shall be at least 125 square feet in area.
  - c. There shall be no cooking facilities in any sleeping room.
9. Warehousing and Storage in Business Districts. Warehousing and storage shall be permitted only as an accessory use in the B-1, B-2, and B-4 Districts. The space dedicated to such warehousing or storage shall be conducted completely within a building located upon the same lot as the principal use and shall not exceed 35% of the total floor area of the use.
10. Home Offices. An office activity carried on for gain by a permanent full-time resident in a dwelling unit and involving no non-resident employees, customers, or business invitees or guests, shall be a permitted accessory use in residential districts requiring no zoning approvals from the City, provided:
  - a. The use is limited solely to office use;
  - b. The use is operated in the residence only by a resident or residents who are permanent full-time residents of the dwelling unit, and no other persons;
  - c. No non-resident employees, customers, or business invitees or guests shall visit the dwelling unit for business purposes;
  - d. The use shall be located in only one room of the dwelling unit, which shall not be served by an entrance separate from the household;
  - e. Interior storage of materials shall only consist of office supplies;
  - f. There shall be no change to the exterior of buildings or structures because of the use, and no outside appearance of a business use, including, but not limited to, parking, storage, signs, or lights;
  - g. The use operates no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference, including interference with telephone, radio or television reception, detectable by neighboring residents;
  - h. The use does not require any increased or enhanced electrical or water supply;
  - i. The quantity and type of solid waste disposal is the same as other residential uses in the zone district;

- j. The capacity and quality of effluent is typical of normal residential use, and creates no potential or actual detriment to the sanitary sewer system or its components;
- k. Delivery trucks shall be limited to U.S. Postal Service, United Parcel Service, Federal Express, and other delivery services providing regular service to residential uses in the zone district; and
- l. All vehicular traffic to and from the home office use shall be limited in volume, type and frequency to what is normally associated with other residential uses in the zone district.

#### **§500-3.7 Structures Above Roof Line.**

Where structures such as air conditioning machinery or elevator housings are installed above the roof line of a building, such structures shall be adequately screened or designed to blend with the appearance of the buildings, as determined by the Board having jurisdiction, except that this requirement shall not apply to television antennas, chimneys, ventilators and spires or towers forming an integral architectural part of the building.

#### **§500-3.8 Usable Open Space.**

All multiple family dwellings in the R-3 and R-4 districts shall comply with the following requirements for minimum usable open space per dwelling for the purposes of providing light, air, and recreational space for occupants and other persons coming onto the property: efficiencies - 150 square feet; one bedroom - 200 square feet; two bedroom - 250 square feet; three bedroom - 300 square feet; and, four bedroom - 350 square feet. Parking lots or areas shall not be credited toward "usable open space."

#### **§500-3.9 Minimum Floor Area per Dwelling Unit.**

The following minimum floor area per dwelling unit shall be provided for all apartments in addition to federal, state and county laws and regulations governing multifamily dwellings: efficiencies - 300 square feet; one bedroom - 600 square feet; two bedroom - 900 square feet; three bedroom - 1,100 square feet; and, four bedroom - 1,300 square feet.

#### **§500-3.10 Distance Between Buildings.**

- A. The following minimum distances shall be required for townhouses and garden apartments:
  - 1. 50 feet where situated face to face;



- 2. 10 feet for adjacent sides;
  - 3. 25 feet where situated rear to rear, or 35 feet where there is parking between; and
  - 4. Where front faces rear, a distance equal to the height of the taller building.
- B. Low and high-rise apartment buildings shall be separated a distance at least equal to the taller building height except that this may be reduced by 50 percent between the ends of buildings not over 50 feet in width.

**§500-3.11 Building Length.**

All buildings for multiple family dwellings shall not exceed a maximum length of 200 feet. In addition, in the case of garden apartment buildings, a building offset of at least five (5) feet for each building section containing over twelve (12) units is required.

**§500-3.12 Floor Area Premiums.**

- A. Intent. A premium is a legal authorization to exceed the normal maximum usable floor area ratios established by this Ordinance for structures in the R-4, B-2, B-4 and GFH Districts. A premium is not available unless a structure and its surrounding building site incorporate certain architectural features. Premiums are intended to encourage developments that allow for ample public open space, free flow of pedestrian traffic, abundant light and air, and other related elements that protect and promote the health safety and welfare of the community.
- B. Premium Specifications. In the R-4, B-2, B-4 and GFH Districts, normal maximum floor area ratios set forth in the Schedule of Lot, Yard and Building Requirements may be exceeded to the extent indicated below provided that specific design standards as prescribed are met.

Permitted Additional Floor Area Per Square Foot of Improvement				
	R-4*	B-2	B-4	GFH
Open or Inner Plaza	6	6	10	10
Arcade	3	3	5	5
Roof Plaza	3	-	5	5
*Also includes low-rise apartment buildings in the R-3 District. Floor area premium is allowed up to 15% increase in density.				

- C. Design Requirements. For the purposes of this section, a "plaza" shall be defined as a non-publicly owned open area accessible to the public at all times, an "arcade" shall be defined as a non-publicly owned continuous area open to a street or plaza, and a "roof plaza" shall be defined as a plaza located on a roof of a non-publicly owned building or structure. The following requirements shall be met in order to qualify for a floor area premium.

1. Open Plaza:
  - a. Shall not be bounded on more than one side by a building or structure.
  - b. Shall be open from plaza level to the sky.
  - c. Shall be open for its entire width and accessible from a public sidewalk.
  - d. Shall be not less than 10 feet in depth.
  - e. Shall be not less than 40 feet in width.
  - f. Shall be not more than 4 feet above or below the elevation of the public sidewalk upon which it fronts.
2. Inner Plaza:
  - a. Shall be accessible to a public sidewalk directly with a minimum opening of at least 25 feet, or through an arcade or open plaza by an entrance not less than 8 feet in width.
  - b. Shall be not less than 20 feet in depth, 20 feet in width, nor 12 feet in height.
  - c. Shall be not more than 4 feet or below the elevation of the public sidewalk from which it is accessible.
3. Arcade:
  - a. Shall be open and unobstructed to a height of not less than 12 feet and accessible to the public at all times.
  - b. Shall be not less than 8 feet wide.
  - c. Shall be not less than 20 feet in depth along its entire length.
4. Roof Plaza:
  - a. Shall not be bounded on more than two sides by a building wall, or structure.
  - b. Shall be open from roof plaza level to the sky. However, canopy or other covered areas may be included provided they do not exceed 25% of the total plaza area.
  - c. Shall be accessible by a stairway for plazas situated on top of buildings or structures 3 stories or lower. Such stairway must be open to the public during normal operating hours of the building.
  - d. Shall be accessible by an elevator at least 24 square feet in area for plazas situated on top of buildings or structures greater than 3 stories in height. Such elevation must be open to the public during normal operating hours of the building.
  - e. Shall not be less than 20 feet in depth.
  - f. Shall not be less than 20 feet in width.

- g. Shall be bounded by a railing and/or parapet wall at least four (4) feet in height.
- h. Shall be structurally designed or certified by the BOCA Code or other applicable law to be capable of supporting all necessary additional loads regarding its use.

### **§500-3.13 Fences, Walls and Screens.**

Except as otherwise provided in this ordinance, fences, walls other than retaining walls, or other screening structures above grade may be permitted anywhere on the lot subject to the following requirements:

- A. No fence shall be in excess of 4 feet in height in the front yard and a maximum of 6 feet in height in the side and rear yard in any district, except as hereinafter provided.
- B. No solid fence shall be erected in the front yard setback area as established by this Ordinance. Solid, perforated, corrugated or flat sheet metal shall be prohibited for use as a fencing material. Fences in the front yard setback area shall have a minimum of 60% open construction.
- C. Where a non-residential use adjoins a semi-public, public or residentially-used property, or where a multi-family development adjoins a one or two-family residence, a fence, wall or other such permanent screen shall be placed along the property line separating the non-residential use from the adjoining residential use. Such fence, wall or screen shall be at least 6 feet in height, but shall not exceed 10 feet.
- D. Any fence in excess of 4 feet in the front yard and in excess of 6 feet in the side and rear yard existing as of the effective date of this ordinance may be so maintained or repaired in the event of partial destruction, but, in the event that such fence is completely destroyed or removed, any fence thereafter constructed to replace it shall conform to the height requirements of this section.
- E. These regulations shall not apply to fences erected in connection with schoolyards, playgrounds, public buildings or athletic or recreation fields.
- F. No fence shall be erected that encroaches upon the public right-of-way.
- G. On any corner lot, no fence, structure, planting or shrubbery over 30 inches in height above the level of the pavement shall be erected or maintained within the triangle formed by the intersecting street lines and a straight line adjoining said street lines at points which are 20 feet distant from their point of intersection, measures along such street lines. This does not apply to intersecting street lines whose angle is more than 135 degrees.
- H. The use of razor coil on fencing is prohibited.
  - 1. No fence shall be erected of nonstandard materials that may be considered makeshift, create an eyesore or cause an annoyance.

**§500-3.14 Temporary Use.**

- A. Nothing in this ordinance shall prevent the use of a travel trailer, a mobile home, or other similar structure, in any district as a temporary construction field office for a period not to exceed the period of construction; provided, however, such structure is not used for overnight sleeping accommodations, adequate arrangements for sanitary facilities are made and the temporary field office has been certified by the Zoning Officer.
- B. Nothing in this Ordinance shall prevent the use of a travel trailer(s) in any district as a temporary facility to be used as a public health service or for a public works purpose for a period not to exceed one year. One six-month extension may be granted for good cause. Such structure shall not be used for overnight sleeping accommodations and shall have adequate arrangements for sanitary facilities. Adequate security of the trailer(s), during the use period, as determined by the Zoning Officer, may be required. Such structure must be certified by the Zoning Officer.

**§500-3.15 Basement and Cellar Apartments.**

No cellar shall be used or occupied for dwelling purposes at any time. Basement apartments may be permitted provided that the floor level of said basement is not more than three (3) feet below grade and otherwise complies with State standards.

**§500-3.16 Subdivision of Lots.**

Whenever a new lot(s) is or are formed from a part of any other lot(s), the assembly or separation shall be effected in such a manner as not to impair any of the requirements of this Ordinance and shall be in accordance with the City's Subdivision Ordinance.

**§500-3.17 Continuance.**

Nothing contained in this Ordinance shall require any change in the plans, construction or designated use of a building for which a valid construction permit has been heretofore issued or plans for which are on file with the Construction official at the time of the passage of this ordinance, and a permit for the erection of which is issued within thirty (30) days after the passage of this Ordinance and the construction of which, in either case, shall have been diligently prosecuted within six (6) month of the date of such permit, and the ground story framework of which, including the second tier of beams, shall be completed within such six (6) months, and which entire building shall have been completed according to such plans as filed within two (2) years from the date of the passage of this Ordinance.

**§500-3.18 Requirements Applicable to All Development in the GFH District.**

- A. To the greatest degree possible, buildings shall be constructed to match the existing character and scale of surrounding development in terms of architecture, building setback and site layout.
- B. Accessory parking facilities shall be prohibited from the front yard and shall be located only to the side or rear of principal buildings.
- C. Buildings shall be setback in accordance with the requirements of §500-3.2
- D. The minimum building height shall be three (3) stories.

**§500-3.19 Access Requirement for Two-Family Dwellings.**

All new two-family dwellings shall have a rear exterior access stairwell.

**§500-3.20 Outdoor Storage.**

- A. Residential Districts. Outdoor storage of any items, materials and equipment of any kind or nature, except storage of those items customarily used in conjunction with a residential use and occupancy, are prohibited in all residential districts. Permitted outdoor storage (i.e., that customarily used in conjunction with a residential use) shall not occur within the front yard.
- B. Non-Residential Districts
  - 1. No article, equipment, vehicle supplies or materials shall be kept or stored outside the confines of any building unless and until the same is screened from view of street and abutting properties by a fence or wall at least 8 feet in height, except for temporary storage during the business day of goods and products awaiting shipment received by delivery on the same day and the display for retail sale or rental of new or used motor vehicles, trailers, boats and mobile homes in association with a permitted motor vehicle sales establishment or vehicle rental establishment.
  - 2. No materials or wastes which might cause fumes or dust or which constitute a fire, explosive or other physical hazard shall be permitted for outdoor storage, unless all applicable federal, state and municipal approvals are obtained and kept in force. All materials or wastes which might cause fumes or dust or which constitute a fire hazard, or which may be edible by or otherwise attractive to rodents or insects, shall be stored outdoors only in closed containers.
  - 3. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property and shall meet all required accessory building setbacks for the zone in which located. This provision shall not apply to outdoor storage of new cars or other vehicles on the premises of a motor vehicle sales dealer.

4. No materials or wastes shall be stored on any premises in such form or manner that they may be transferred off such premises by natural causes or forces such as wind or water.
  5. The area of all driveways and other areas over which motor vehicles are intended to be driven or parked shall be paved with bituminous or concrete surface, whose specifications meet or exceed those established by the City for streets and roadways.
- C. Exception in All Districts. Equipment and machinery used in connection with the construction, alteration, removal, or demolition of any buildings or structure or the excavation of any land may be permitted to stand upon the premises where such work is being undertaken while the same is in progress.
- D. Storage Trailers. Storage Trailers shall be permitted to be located only within an Industrial District, or the Mixed-Use District of the City, subject to the following conditions:
1. Storage Trailers must be located in the rear yard of a property.
  2. The rear yard of a property used for storage trailers must be enclosed by a fence.
- E. Portable Storage Containers. Portable storage containers shall be permitted in any district in the City under the following conditions:
1. The maximum allowable size of a portable storage container shall be one-hundred and sixty (160) square feet, with a length not to exceed twenty (20) feet, and a height not to exceed ten (10) feet.
  2. Portable storage containers shall be located no closer than ten (10) feet to any property line.
  3. No portable storage container shall remain on any property, except that of its intended permanent storage location, for any period of time longer than fourteen (14) days.

#### **§500-4 CERTAIN PERMITTED USES**

##### **§500-4.1 Mixed Residential and Commercial Uses**

- A. In mixed residential and commercial uses, business uses shall be located on the ground floor with office and residential uses located only above and/or behind the business use(s) in the same building. Conversion of ground floor commercial space into residential space shall be prohibited in Business Districts.
- B. The residential and commercial portions of the use shall each independently satisfy the minimum requirements (e.g., lot area, parking, etc.) of this ordinance.

**§500-4.2 Community Residences and Community Shelters Housing not More than 15 Residents .**

Pursuant to N.J.S.A. 40:55D-66.1, community residences for the developmentally disabled and mentally ill, community shelters for victims of domestic violence, community residences for the terminally ill and community residences for persons with head injuries housing not more than 15 residents exclusive of resident staff, which terms shall have meaning as set forth in N.J.S.A. 40:55D-66.2 and as defined herein, shall be permitted uses in residential districts R-1 through R-4 and shall be subject to the same requirements applicable to a one-family dwelling in the district in which it is located.

**§500-4.3 Cemeteries.**

- A. Existing Cemeteries. Existing cemeteries shall be considered as uses allowed by right in all zoning districts.
- B. Site Plan Review. New construction, addition or alteration to existing cemetery uses shall require site plan review and approval only if the proposed change in existing use involves one or more of the following:
  - 1. The proposed total building floor area exceeds 1,000 square feet.
  - 2. The total increase in amount of paved area (such as access drives and parking areas) is more than 10% percent of the existing paved area.
  - 3. The proposed improvement is situated closer than 50 feet from adjoining properties or street.
  - 4. The structure involved is more than 25 feet in height.
  - 5. Fencing and screening improvements involve more than 100 linear feet.

**§500-4.4 Residential Uses in the B-1 and B-2 Districts.**

Reserved.

**§500-4.5 Tailoring Related Uses.**

Custom dress fabrication, millinery, tailoring and similar trades occupying not more than 2,000 square feet of floor area shall be permitted in Business Districts. Any such establishment that occupies more than 2,000 square feet shall be considered a manufacturing establishment and shall be prohibited in such districts.

**§500-4.6 Dry Cleaning Establishments and Laundromats.**

Dry cleaning establishments and Laundromats occupying not more than 2,000 square feet of floor area shall be permitted in Business Districts provided that no central plant servicing more than 1 retail outlet shall be provided. Any establishment of this nature that occupies more than 2,000 square feet shall be considered an industrial establishment and shall be prohibited in such districts. For the purposes of this section, waiting areas, child play areas and other such areas not utilized for the washing or other treatment of clothing shall not be counted towards the 2,000 square foot floor area maximum.

**§500-4.7 Drive-Through Banks.**

Drive-through banks shall provide off-street driveway space for 5 or more vehicles waiting to use the drive-through services.

**§500-4.8 Wholesaling Establishments.**

All storage in association with wholesaling establishments in the B-3 and M-U Districts shall occur completely within buildings. All storage in association with wholesaling establishments in the I-1 and I-2 Districts shall comply with §500-3.6.D.4.

**§500-4.9 Warehousing and Storage.**

All storage in association with warehousing establishments in the B-3 and M-U Districts shall occur completely within buildings. All storage in association with warehousing establishments in the I-1 and I-2 Districts shall comply with §500-3.20.B.

**§500-4.10 Public Utility Distribution Systems.**

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



**§500-4.11 Temporary Offices.**

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

**§500-4.12 Loft Dwellings and Joint Living-Working Quarters for Artists.**

- A. Such uses shall be located on or above the second story of a commercial building.
- B. Loft dwellings shall not be located on or below a story occupied by a commercial use.
- C. Joint living working quarters for artists shall have a minimum floor area of 900 square feet. No separation shall be required between the working and living portions of joint living-working quarters for artists.

**§500-4.13 Light Industrial Uses.**

- A. Light industrial uses in the MU and GFHD zones, including storage of materials of equipment and storage in association therewith, shall be conducted entirely within an enclosed building and shall comply with the performance standards required in this Article.
- B. Light industrial uses in the I-1 and I-2 Districts, shall comply with the requirements of §500-3.6.D.3.b with respect to outdoor storage and the performance standards required in this Article.
- C. Light industrial uses in any district that manufacture or process foods may be permitted to include retail sales as an accessory use under the following conditions:
  - a. Retail sales shall be limited to only the food products manufactured or processed on site.
  - b. The area of retail sales shall be limited to no greater than ten percent (10%) of the gross floor area of the building in which the manufacturing or processing takes place.
  - c. Additional off-street parking shall be provided for the retail space.

**§500-4.14 Low and High-Rise Apartment Buildings in the GFH District .**

- A. The construction of new low-rise apartment buildings shall be permitted in the GFH District provided the building does not exceed a height of four (4) stories and fifty (50) feet and shall satisfy the requirements of §500-3.18.
- B. The construction of new high-rise apartment buildings shall be prohibited.

- C. Low or high-rise apartments shall be permitted in the GFH District where an existing industrial mill building is proposed to be converted partially or totally to such residential use and where no additional stories are added thereto and which further complies with all applicable ordinances pertinent to this type of development.

**§500-4.15 Certain Community Retail Businesses Permitted in the Great Falls Historic District.**

In order to help achieve the cultural, social and economic objectives of the GFHD, retail businesses are permitted in the GFHD. Such uses are encouraged to be located in mixed use buildings with residential uses above and shall satisfy the requirements of §500-3.18, Requirements Applicable to All Development in the GFHD.

**§500-4.16 Commercial Establishments in the B-1 and B-2 Districts.**

- A. In the B-1 District, a single business establishment shall occupy no more than 5,000 square feet of floor area, and shall not be located above the first floor, excluding business and professional offices.
- B. In the B-2 District, a single business establishment shall occupy no more than 10,000 square feet of floor area, and shall not- be located above the first floor, excluding business and professional offices.

**§500-4.17 Mixed Use Community Developments.**

- A. Mixed Use Community Developments shall be permitted on properties within the IT Industrial Transition District at least 1.0 acre in aggregate area, provided that the subject property has road frontages on at least two (2) existing public streets.
- B. A "Mixed Use Community Development" shall include at least two of the currently permitted uses within the IT District plus a Recreational Community Center. Furthermore, residential units/apartments for sale or rent shall be located within mixed residential buildings, provided that at least ten percent (10%) of the building's gross floor square footage, located primarily on the first two (2) floors, is devoted to commercial uses.
  - 1. Law Against Discrimination. The New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., shall apply to any structure or use created under the terms of this ordinance.
  - 2. Housing. Sales or rentals of housing for buildings constructed pursuant to this ordinance shall be subject to the explicit housing protections set forth in the Law Against Discrimination, N.J.S.A. 10:5-1 et seq.
  - 3. Recreational Community Center. Subject to reasonable rules and regulations, the use of a Recreational Community Center constructed pursuant to the terms of this Ordinance

shall provide reasonable access and services to all members of the community without discrimination, as set forth in the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., including but not limited to discrimination of the basis of race, creed, religion, color, national origin, ancestry, age, sex, or marital status. Any such Recreational Community Center shall be operated as a public accommodation and shall be subject to all federal and state laws against discrimination. Nothing herein is intended to supersede the limitations contained in N.J.S.A. 10:5-1.I.

4. Developer's Agreement. In order to establish terms of construction, use, and occupancy, any project approved pursuant to this Ordinance shall require the property owner to execute a Developer's Agreement satisfactory to the municipality. Said Developer's Agreement shall provide for, among other things, a plan to assure reasonable community access to the facilities of the Recreational Community Center that will guarantee the rights of public accommodation as set forth in federal and state statutes, including but not limited to the Law Against Discrimination N.J.S.A. 10:5-1 et seq. Nothing herein is intended to supersede N.J.S.A. 10:5-1.I.
- C. Underground parking shall be permitted as part of a Mixed Use Community Development and the underground parking structure shall not be included in the calculation of floor/area ratio (FAR)
  - D. Buildings within a Mixed Use Community Development may be as high as six (6) stories and eighty feet (80'), provided that balconies and terraces are included in the design for the floors above the 5<sup>th</sup> floor to serve as setbacks.
  - E. In accordance with the land use law, the Planning Board may modify the special height set forth for any development during the course of site plan review. As a condition for such modifications, the Board shall find that:
    1. All other provisions of the Mixed Use Community are met;
    2. The project is providing additional common open space and public gathering spaces; and
    3. The modified proposal provides adequate access of light and air to surrounding streets and properties.
  - F. The lot coverage of a Mixed Use Community Development may be one hundred percent (100%) provided that pedestrian amenities such as a central court plaza, a playground, and roof-top open space/garden areas, are included in the design. Furthermore, pedestrian amenities shall be accessible at the street level and shall calculate to at least ten percent (10%) of the total lot coverage. Central court plaza should be designed to enhance the functionality of the businesses in the development and be accessible to patrons.
  - G. No perimeter setbacks from street rights-of-way and other lot lines shall be required, provided that pedestrian oriented areas, such as open space, public plaza or playground, are included within the Mixed Use Community Development.

- H. Off-Street parking for the total combination of uses within a Mixed Use Community Development shall be as follows:
1. For non-residential uses, off-street parking spaces shall be provided at the ratio of one (1) parking space per four hundred fifty (450) square feet of gross floor area.
  2. For residential dwellings units, off-street parking spaces shall be provided in accordance with the Residential Site Improvement Standards (RSIS) for high rise apartments.
  3. The minimum number of parking spaces for a mixed use development shall be determined by a shared parking analysis prepared in accordance with procedures recommended with the “Shared Parking Report” of the Urban Land Institute (ULI) or in accordance with the procedures recommended in the “Shared Parking Guidelines” of the Institute of Transportation Engineers (ITE) or in accordance with other approved procedures.
  4. However, the off-street parking spaces may be reduced by the Planning Board based upon any combination of the following:
    - a. A joint parking arrangement; and/or
    - b. Any other off-street parking opportunity approved by the Planning Board.
- I. The construction of a Mixed Use Community Development can be phased in accordance with an approved site plan.
- J. Apartment units within a Mixed Use Community Development, if desired by the City of Paterson, will be affordable units intended to be credited against Paterson City’s affordable housing obligations as determined by the New Jersey Council on Affordable Housing (COAH).
- K. Once an overall plan for the Mixed Use Community Development is approved by the City of Paterson, subdivision of the property will be permitted for financial purposes, provided that the development of individual lots shall only be permitted in accordance with the approved overall plan.
- L. Notwithstanding any other provisions of the City’s Zoning and Land Development Ordinance to the contrary, the distances between buildings within a Mixed Use Community Development shall be as specifically approved by the City’s Planning Board in consideration of promoting an optimum site plan design.
- M. Notwithstanding any other provisions of the City’s Zoning and Land Development Ordinance to the contrary, buildings and uses within a Mixed Use Community Development may have pedestrian access from a building side facing an abutting street and/or from a building side facing an interior plaza.
- N. Notwithstanding any other provisions of the City’s Zoning and Land Development Ordinance to the contrary, no driveways shall be located closer than ten (10) feet measured along the curb line to another driveway.

- O. The provisions relating to Mixed Use Community Developments supersede the use, bulk, and design standard provisions of the Paterson Zoning Ordinance unless specifically referenced. Other standards and submission requirements relating to all zones in Paterson not specifically enumerated within as detailed in the Zoning Ordinance shall apply. All developments must be approved by the Planning Board and shall be submitted through the normal site plan and subdivision procedures as identified by N.J.S.A. 40:55D-1, et seq.
- P. Any Mixed Use Community Development and/or Recreational Community Center purchased, constructed, or improved with public funding, whether that funding is from federal, state, or local sources, shall comply with any and all Federal, State, or Municipal Statutes, Ordinances, Rules or Regulations that prohibit discrimination in public accommodations, including but not limited to race, ethnicity or gender, currently in effect or subsequently imposed by the Federal, State, or Municipal government.

#### **§500-4.18 Child Care Centers in Non-Residential Districts.**

- A. Such use shall meet the applicable lot area, setback requirements and other applicable requirements of §500-2.3 except that the minimum lot area shall be 5,000 square feet in the B-1 District, lot coverage shall not exceed 40%, and in accordance with N.J.S.A. 40:55D-66.6 the floor area occupied in any building or structure as a child care center shall be excluded in calculating: (1) any parking requirement otherwise applicable to that number of units or amount of floor space, as appropriate, under State or local laws or regulations adopted there under; and, (2) the permitted density allowable for that building or structure.
- B. There shall be provided a recreation/play space equal to at least 100 square feet per child, which area shall be completely fenced in.
- C. There shall be provided an off-street area for the drop off and pick up of children sufficient to prevent the queuing of cars within the public right-of-way.
- D. Where permitted in the B-1 or B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

#### **§500-5 CONDITIONAL USES**

##### **§500-5.1 General Requirements.**

In reviewing an application for a conditional use, the Planning Board shall not approve a conditional use unless it finds that the use and its operation; meets all the requirements of this Ordinance; would not substantially impair the use and enjoyment of surrounding properties; is particularly appropriate for the location proposed; would be consistent with the goals and objectives of the City of Paterson Master Plan; conforms as much as possible to the existing character of the neighborhood and does not substantially impair the character of the surrounding area; does not have any adverse effect on

surrounding properties; and complies with any and all applicable ordinances, statutes and conditional use standards applicable to the particular use; and that all applicable materials shall have been submitted in complete conformance with this ordinance. No taxes or assessments for local improvements shall be due on the property or any part thereof; provided, however, that the approving agency may condition its approval on the prompt payment of the total amount due. All the criteria for site plan approval contained in this ordinance are hereby made criteria for conditional use approval and are incorporated herein by reference as if they have been fully set forth. Unless specifically superseded by a specific conditional use requirement below, conditional uses shall satisfy the most restrictive bulk and dimensional requirements specified in §500-2.3, Schedule of Dimensional Requirements for the district in which the use is located. Where such uses are required to be located a certain distance from certain uses, zones or other features, such distances shall be measured in a straight-line radial distance from the edge of the property lines.

#### **§500-5.2 Hospitals in Residential Districts.**

- A. Hospitals shall be permitted on principal arterial, secondary arterial and collector roadways as shown on the Street Functional Classification Map in Appendix B attached to this Ordinance.
- B. The minimum lot area shall be 2 acres.
- C. Lot coverage shall not exceed 80%.
- D. All yard setbacks shall not be less than 10 feet.
- E. Floor ratio area shall not exceed 1.0.
- F. Building height shall not exceed 3 stories.
- G. Screening and buffers to adjacent residences shall be provided consistent with the design standards in Article IV as required by the approving board.
- H. Entrances and exits shall be located at least 50 feet from any street intersection.

#### **§500-5.3 Places of Worship in Residential Districts.**

- A. The lot area shall be no less than one-half (1/2) acre.
- B. Lot coverage shall not exceed 60%.
- C. Front and side yard setbacks shall not be less than 10 feet; the rear yard setback shall not be less than 20 feet.
- D. Floor area ratio shall not exceed 0.75.
- E. Building height shall not exceed 2 and 1/2 stories, exclusive of steeples or other building appurtenances.
- F. Driveway entrances and exits shall be located at least 75 feet from any street intersection.

- G. Landscaping/screening shall be provided consistent with the design standards in Article IV as required the approving board.

**§500-5.4 Charitable Institutions in Residential Districts.**

- A. The lot area shall be no less than 5,000 square feet.
- B. Floor area ratio shall not exceed 0.75.
- C. Lot coverage shall not exceed 40%.

**§500-5.5 Public Recreation Establishments, Public Parks and Playgrounds in Residential Districts.**

- A. The lot area shall be no less than 10,000 square feet.
- B. Lot coverage shall not exceed 50%
- C. Floor area ratio shall not exceed 1.0.
- D. Front, side and rear yard setbacks shall not be less than 10 feet.

**§500-5.6 Libraries, Museums or Art Galleries in Residential Districts.**

- A. The lot area shall be no less than 10,000 square feet.
- B. Lot coverage shall not exceed 50%.
- C. Floor area ratio shall not exceed 1.0.
- D. Front, side and rear yard setbacks shall not be less than 10 feet.

**§500-5.7 Schools in Residential Districts.**

- A. Schools shall be permitted on principal arteries, minor arterial and collector roadways as shown on the Street Functional Classification Map in Appendix B attached to this Ordinance.
- B. The minimum lot area shall be 2 acres.
- C. Lot coverage shall not exceed 80%.
- D. All yard setbacks shall not be less than 10 feet.
- E. Floor ratio area shall not exceed 1.0.
- F. Building height shall not exceed 3 stories.
- G. Screening and buffers to adjacent residences shall be provided consistent with the design standards in Article IV as required by the approving board

- H. Entrances and exits shall be located at least 50 feet from any street intersection.

#### **§500-5.8 Community Residences and Community Shelters Housing Greater than 15 Persons.**

Community residences and community shelters that house more than 15 persons, excluding residence staff, may be permitted upon the issuance of a conditional use permit, provided that:

- A. No permit will be issued to a proposed residence or shelter located within 1,500 feet of an existing residence or shelter housing greater than 15 persons. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.
- B. Such a residence or shelter shall be located only abutting an arterial or collector street as depicted on the Street Functional Classification Map in Appendix B attached to this Ordinance.
- C. The lot area shall be no less than 5,000 square feet.
- D. If a residence houses mentally ill or developmentally disabled persons, such residence must have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures established by regulation of the New Jersey Division of Mental Health and Hospital of the Department of Human Services.
- E. All such residences or shelters shall comply with all applicable standards of the New Jersey Uniform Construction Code, the Paterson Fire Code, the City of Paterson Health Code, and all other applicable state, county and local laws statutes, ordinances and regulations.
- F. All such community residences and shelters shall comply with the Paterson Zoning and Land Development Ordinance requirements in the district in which they are located, and for the type of structure in which the residence or shelter is to be housed (single family, two family or multiple family). Existing housing which does not conform to this ordinance shall not be used for community residences or shelters.
- G. The design of the facility shall conform to the general character of the area.
- H. One (1) on-site parking space shall be provided for each 2 beds, plus one space for each staff member on the maximum shift, whether or not a resident. One of the non-staff spaces shall conform to the dimensional requirements for handicapped parking.

#### **§500-5.9 Child Care Centers in Residential Districts.**

- A. The minimum lot area shall be 5,000 square feet.
- B. Lot coverage shall not exceed 40%.
- C. There shall be provided a recreation/play space equal to at least 100 square feet per child, which area shall be completely fenced in.



- D. There shall be provided an off-street area for the drop off and pick up of children sufficient to prevent the queuing of cars within the public right-of-way.

#### **§500-5.10 Satellite Dishes Over 1 Meter in Diameter**

- A. Applicability. Satellite dishes that are over one meter (39.37 inches) in diameter shall require conditional use approval and shall be subject to the provisions outlined below. All such satellite dishes shall be deemed accessory structures to principal buildings on a lot. No such apparatus shall be located on a lot without a principal structure or building.
- B. Procedure and Submission of Site Plan.
  - 1. Any applicant defined herein as a person, corporation, association and/or other legal entity, shall, prior to the placement of a satellite dishes over one meter (39.37 inches) in diameter shall submit to the board having jurisdiction , prior to its regular meeting, 9 copies of a site plan together with two completed application forms and other information as required by the board having jurisdiction and the Paterson Zoning and Land Development Ordinance.
  - 2. The site plan shall contain the following data: Name and address of applicant and owner; name, address and title of professional license preparing the plan and related data; date of plan; drawing of appropriate and legible scale; address, block and number and lot number of site on which antenna is to be erected; all existing buildings and structures on the lot with dimensions showing distances to property lines; finished and existing grade elevations in immediate area of the placement of the antenna; all abutting rights-of-way and property lines; the proposed locations of the antenna with the actual dimensions of the antenna and supports including the overall height of the structure; landscaping and screening as required herein; setback dimensions of antenna from property line; any and all other information necessary to meet the requirements and intent of this Ordinance as required by the City of Paterson.
- C. Design and Performance Standards. The following design and performance shall apply to satellite dish antennae over one meter (39.37 inches) in diameter:
  - 1. All antennas shall be designed in conformance with the American National Standards Institute Standard A58.1, American National Building Code requirements for minimum design loads in buildings and other structures, Electronics Industry Association standards RS-411, Electrical and Mechanical Characteristics of Antennas for Satellite Earth Stations and the New Jersey Uniform Construction Code, as well as any other modifications or successors to said standards and shall further satisfy the rules and regulations of any other governmental entity having jurisdiction over such antennas, including, without limitation, the Federal Communications Commission. A certificate of conformance to any and all of the aforesaid standards by the manufacturers or

professional shall be required by the Construction Official as a condition of the construction permit.

2. All cables and wiring for delivery of signals received by the antenna to the principal building(s) shall be located underground.
3. Maximum overall height of freestanding antennas and supporting apparatus measured vertically from the main ground level to the highest point of the structure or extension thereof for reception shall not exceed 10 feet in residential districts.
4. Maximum overall height of roof-mounted antennas measured from the base of the antenna to the highest point of the antenna or extension thereof for reception shall not exceed 15 feet or 25% of the existing height of the building, whichever the lesser.
5. No lot shall contain more than one such antenna.
6. The maximum surface area of any reflective parabolic dish antenna shall not exceed 9 feet in any direction.
7. The antenna shall be designed and shall be used only by the occupants of the principal building(s) on the lot. Any connection, electrical or otherwise, to adjacent properties shall be deemed a violation of this Section including the setback provision.
8. The antenna should be of a color that is compatible with surrounding building(s) and terrain and should be designed and located to make the antenna as inconspicuous as possible.
9. No antenna shall be placed in the required front yard.
10. In residential districts, an antenna shall only be permitted as a freestanding structure and shall not be mounted on the roof of any part of the principal or other accessory structures on the lot. In non-residential districts, roof-mounted dish antennas shall be permitted, provided the installation is certified by a licensed engineer to comply with all applicable building codes, and further that written documentation of such compliance is provided, including load distributions within the building support structure.
11. The antenna shall not be located closer to any side or rear property than the minimum side yard requirement for the principal building or the height of said antenna, whichever results in the greatest setback. A corner lot shall respect the front yard setback with regard to calculating the side yard requirement.
12. Every freestanding antenna apparatus shall be effectively screened by planting and/or appropriate fencing as approved by the approving board that shall be maintained in good condition and same shall be the responsibility of the property owner in order that the apparatus shall not be visible from any adjacent property or public street.
13. Screening may consist of trellis, latticework, decorative block or similar materials at least 4 feet in height, or as approved by the approving board depending on the height of the apparatus. If the screening, including planting, is not maintained as originally approved,

any permit granted in connection with the satellite is subject to revocation by the Construction Official.

14. The ability of the applicant to install the antenna in an unobtrusive location and to limit impact on adjacent properties shall be a major factor in determining whether the application will be favorably considered.
15. An applicant, after receiving final approval for the construction, placement and operation of an antenna, shall not subsequently modify or alter the structure of the antenna, except to change the direction of its main reflector/receiver, without the approval of the appropriate board.

**§500-5.11 Health Centers, Clinics, Assisted Living Facilities, Nursing Homes, Long-Term Care Facilities, and Adult Medical Day Care in the R-3 and R-4 Districts.**

- A. The minimum lot area shall be 15,000 square feet.
- B. Lot coverage shall not exceed 60%.
- C. Front and side yard setbacks shall not be less than 10 feet; the rear yard setback shall not be less than 20 feet.
- D. Floor area ratio shall not exceed 0.65.
- E. Building height shall not exceed 3 stories.
- F. Entrances and exits shall be located at least 50 feet from any street intersection.
- G. Landscaping/screening as required by the approving board.

**§500-5.12 Mortuaries and Funeral Homes.**

- A. The minimum lot area shall be 20,000 square feet.
- B. Lot coverage shall not exceed 25%.
- C. Screening at least 6 feet in height, in the form of a fence, wall or hedge, shall be provided along adjacent side and rear lot lines and as otherwise required in the design standards in Article IV.
- D. Entrances and exits shall be at least 75 feet from any street intersection.
- E. Where permitted in the B-1 or B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

**§500-5.13 Child Care Centers in Non-Residential Districts.**

Reserved.

**§500-5.14 Professional Offices in the R-3 and R-4 Districts.**

Office or studio of a physician, surgeon, chiropractor, psychotherapist, dentist, osteopath, engineer, teacher, artist, musician, lawyer, architect or other profession as determined by the approving authority to be similar in character, and which is not a home business as defined and regulated in this Ordinance, shall be permitted in the R-3 and R-4 districts provided that the following requirements are met.

- A. The lot area shall be no less than 20,000 square feet.
- B. Lot coverage shall not exceed 60%.
- C. Front and side yard setbacks shall not be less than 10 feet; the rear yard setback shall not be less than 20 feet.
- D. Floor area ratio shall not exceed 0.65.
- E. Building height shall not exceed 2 1/2 stories.
- F. Entrances and exits shall be located at least 50 feet from any street intersection.
- G. Landscaping/screening as required by the approving board.

**§500-5.15 Governmental Offices in the R-3 and R-4 Districts.**

- A. The lot area shall be no less than 1 acre.
- B. Lot coverage shall not exceed 60%.
- C. Front and side yard setbacks shall not be less than 10 feet; the rear yard setback shall not be less than 20 feet.
- D. Floor area ratio shall not exceed 0.65.
- E. Building height shall not exceed 2 1/2 stories.
- F. Entrances and exits shall be located at least 50 feet from any street intersection.
- G. Landscaping/screening as required by the approving board.

**§500-5.16 Store Front Social Club or Fraternal Lodges.**

- A. Shall be conducted at ground or street level within premises fully or partially converted from business or commercial use.
- B. Shall consist of less than 1,000 square feet of floor area.

**§500-5.17 Private Clubs.**

- A. Shall be conducted at ground or street level.

- B. Shall have direct access and visibility to an adjacent street.
- C. Shall consist of less than 5,000 square feet of floor area.
- D. Shall be located at a minimum distance of 1,500 feet from other such uses or other private clubs, lodges, recreational clubs, and storefront clubs, as measured in a straight-line radial distance from the edge of the property lines.
- E. Sleeping accommodations shall be prohibited.

**§500-5.18 Lodges.**

- A. Shall be located at a minimum of 1,500 feet from other such uses or other private clubs, lodges, recreational clubs, and storefront clubs, as measured in a straight-line radial distance from the edge of the property lines.
- B. Shall be located on a lot not less than 20,000 square feet, with a lot frontage of not less than 100 feet and a lot coverage of not more than 40%.
- C. Landscaping as required by the approving authority for screening of adjacent residences.

**§500-5.19 Recreational Clubs.**

- A. Shall be conducted at ground or street level.
- B. Shall have direct access and visibility to an adjacent street.
- C. The use of such premises shall be restricted primarily to the principal use, which is a generally recognized sport or recreational activity.
- D. Shall consist of no more than 2,500 square feet of floor area.
- E. Shall be located at a minimum distance of 1,000 feet from other such uses or other places of assembly, as measured in a straight-line radial distance from the edge of the property lines.

**§500-5.20 Stand-Alone Convenience Stores.**

- A. Maximum lot area shall be 100 feet by 100 feet.
- B. Building coverage shall not exceed 50%.
- C. Floor area ratio shall not exceed 0.50%.
- D. Side yards and rear yard shall not be less than 10 feet.
- E. Front building setback shall be not less than 65 feet.
- F. Required loading/unloading space shall be 10 feet by 40 feet.

- G. Where permitted in the B-2 District, such establishments shall be subject to the requirements of §500-4.16.
  - 1. Gasoline filling stations may be operated in conjunction with a convenience store provided that both the convenience store and the gasoline filling station are considered as separate but joint uses wherein each use must satisfy the lot area and other bulk requirements of the Zoning Ordinance.

#### **§500-5.21 Drive-Through Restaurants.**

- A. Lot area shall not be less than 15,000 square feet.
- B. Lot coverage shall not exceed 50%.
- C. Floor area ratio shall not exceed 0.75.
- D. Building height shall not exceed 25 feet.
- E. When adjacent to a residential structure, screening shall be provided as required by the approving board.
- F. For cars waiting to use the drive-through services such establishments shall provide off-street driveway area sufficient to prevent the queuing of cars within the public right-of-way as determined by the anticipated operation of the facility, but no less than enough space for 5 or more vehicles.
- G. Where permitted in the B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

#### **§500-5.22 Commercial Recreational and Amusement Establishments.**

- A. Lot area shall not be less than 5,000 square feet.
- B. Lot coverage shall not exceed 60%.
- C. Floor area ratio shall not exceed 1.0.
- D. When adjacent to a residential structure, screening shall be provided consistent with the design standards in Article IV and as required by the approving board.
- E. Where permitted in the B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

#### **§500-5.23 Car Washing Establishments.**

- A. Any property line of a lot used for a car washing establishment is at least: 100 feet, measured in a straight line, from any boundary of any residential district; and 200 feet from the nearest

property line of any lot used for a theater, auditorium, or other place of public assembly capable of seating over 300 persons or used for a church, hospital for humans, college, school, public library or institution for dependents or children, or any public playground or athletic field. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.

- B. Any building or structure used for a car washing establishment shall have a front setback of 15 feet, side setbacks of 10 feet each, and a rear setback of 30 feet.
- C. Such establishments shall provide off-street driveway area sufficient to allow the on-site queuing of all vehicles waiting to use the drive-through services (and the prevention of queuing within the public right-of-way), as shall be determined by the reviewing Board based upon the anticipated size and operation of the facility. In no case, however, shall any such establishment provide on-site queuing for less than 10 vehicles..
- D. Separate entrance and exit driveways shall be provided. Such driveways shall have an unrestricted width of not less than 16 feet nor more than 24 feet, and shall be located not nearer than 10 feet from any lot line, and shall be so laid out as to avoid the necessity of any vehicle leaving the property by backing out across any public sidewalk, street, right-of-way or portion thereof.
- E. The area of all driveways and other areas over which motor vehicles are intended to be driven or parked shall be paved with a bituminous or concrete surface sufficient to meet City paving specifications applicable to streets and roadways.

#### **§500-5.24 Gasoline Filling Stations.**

- A. The size of any lot upon which any gasoline filling station is located shall be not less than 15,000 square feet, and the street frontage of such lot on any street shall be not less than 75 feet, except on lots fronting on two or more intersecting streets, in which case the frontage shall not be less than 100 feet on each street.
- B. Unless separated by a public street, no part of any gasoline filling station, nor any driveway entrance or exit to and from the same, shall be located within 300 feet of any lot upon which another gasoline filling station is located or for which a building permit for a gasoline filling station has been issued. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.
- C. The nearest lot line of the lot or parcel of land to be used as a gasoline filling station shall be at least 200 feet, measured in a straight line, from the nearest lot line of any lot upon which is located any building used as a theater, auditorium, church, hospital for humans, college, school, public library, any public playground or athletic field, or other place of public assembly. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.
- D. On any lot that is used for a gasoline filling station, the only other uses permitted shall be the following accessory uses: vending machines, parking spaces and the rental of trailers and parking spaces. No accessory use shall be located within 20 feet of any street line or occupy

more than 50% of the open area of the lot. In the case of any existing gasoline filling station, the addition of any of the above permitted accessory uses shall be subject to the same regulations. No accessory use shall be located on a different lot than that containing a gasoline filling station.

- E. Combined entrance and exit driveways to and from any lot upon which a gasoline filling station is located shall have an unrestricted width of not less than 16 feet nor more than 24 feet. The Planning Board shall determine that said driveways are designed for maximum safety to persons and property.
- F. The area of all driveways and other areas over which motor vehicles are intended to be driven or parked on any lot on which is located a gasoline filling station shall be paved with a bituminous or concrete surface sufficient to meet City paving specifications applicable to streets and roadways.
- G. On any premises upon which a gasoline filling station is located, all motor vehicles servicing or repairs, other than such minor items as the changing and filling of tires or the sale of gasoline or oil, shall be conducted within a completely enclosed building.
- H. No vehicle or part thereof shall be permitted to be left outdoors on any premises upon which a gasoline filling station is located, which is unregistered, unlicensed or is in such condition as to constitute a menace to public health and safety.
- I. Any building used as a gasoline filling station and any filling pump or other service appliance, whether for gasoline, oil or any other combustible liquid or material, shall not be erected within 10 feet of any side or rear lot line and the 10 foot free area required hereunder shall be at all times kept free and unobstructed for the purposes of ready access by emergency fire and police equipment. No gasoline or oil pumps, oil or greasing mechanism or other service appliance installed for use at such premises shall be located within 15 feet of any street line.
- J. At any gasoline filling station, storage facilities for gasoline, oil, or other flammable materials in bulk shall be located wholly underground and no nearer than 35 feet from any lot line other than a street line. No gasoline pump shall be located or permitted within any enclosed or semi-enclosed building.
- K. No part of any building or structure used in whole or in part as a gasoline filling station shall be located within 250 feet of any boundary line of any residential district. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.
- L. In addition to the foregoing, all gasoline filling stations and facilities shall comply with relevant federal, state and municipal laws, statutes, ordinances, regulations and codes.
- M. Gasoline filling stations may be operated in conjunction with a convenience store provided that both the convenience store and the gasoline filling station are considered as separate but joint uses wherein each use must satisfy the lot area and other bulk requirements of the Zoning Ordinance.
- N. Where permitted in the B-1 or B-2 District, such establishments shall be subject to the requirements of §500-4.16.



**§500-5.25 Automobile Body Repair Facilities and Automobile Repair Service Facilities .**

- A. The minimum lot area required for automobile body repair facilities shall be 30,000 square feet and street frontage shall not be less than 100 feet. The minimum lot area required for automobile repair- specialized service facilities shall not be less than 20,000 square feet, and street frontage shall not be less than 100 feet.
- B. On any lot that is used for an automobile repair-specialized service facility, the following accessory uses are permitted: food and beverage vending machines and the rental of trailers within the Ordinance requirements for setbacks and off-street parking. On any lot that is used for automobile body repair facilities, food and beverage vending machines are permissible as accessory uses but not the rental of trailers.
- C. Combined entrance and exit driveways to and from any lot upon which an automobile body repair facility or an automobile repair-specialized service facility is located shall have an unrestricted width of not less than 16 feet nor more than 24 feet. The Board having jurisdiction shall determine that said driveways are designed and located for maximum safety to persons and property.
- D. The area of all driveways and other areas over which motor vehicles are intended to be driven or parked on any lot on which is located an automobile body repair facility or automobile repair-specialized service facility shall be paved with a bituminous or concrete surface sufficient to meet City paving specifications applicable to streets and roadways.
- E. On any lot, other than a lot in an industrial district, upon which an automobile body repair facility or automobile repair-specialized service facility is located, all such services shall be conducted within a fully enclosed building.
- F. On lots outside of an industrial district, no vehicle or part thereof which is unregistered, unlicensed or is substantially damaged or dismantled shall be stored shall be left outside an enclosed building on any lot upon which an automobile body repair facility or automobile repair service facility is located for more than 48 hours. Irreparably damaged vehicles shall not be stored for more than 30 days. Automobile body repair facilities or automobile repair-specialized service facilities in the I-1 and I-2 Districts shall comply with the requirements of §500-3.6.D.4 with respect to outdoor storage.
- G. The storage of oil, gasoline, or other flammable materials/liquids in bulk, for automobile body repair facilities and for automobile repair/specialized service facilities, shall be located wholly underground and no nearer than 35 feet from any lot line.
- H. No part of any automobile body repair facility or automobile repair-specialized services facility shall be located within two hundred (200) feet from the boundary lines of an R-1, R-2 or R-3 District. Such distances shall be measured in a straight-line radial distance from the edge of the property lines.
- I. Where permitted in the B-2 District, such establishments shall be subject to the requirements of §500-4.16.

**§500-5.26 Hospitals, Medical Testing Laboratories, Medical Supply Distributors, Medical Offices, Pharmacies, Florists, and Professional Offices in the H-1 District.**

- A. Hospitals in the H-1 District shall be subject to the following requirements:
1. Hospitals shall be permitted on sites fronting on principal arterial, secondary arterial and collector roadways as shown on the Street Functional Classification Map in Appendix B attached to this Ordinance.
  2. The minimum lot area shall be 2 acres.
  3. Lot coverage shall not exceed 80%.
  4. All yard setbacks shall not be less than 10 feet.
  5. Floor ratio area shall not exceed 1.0.
  6. Building height shall not exceed 5 stories or 60 feet.
  7. Screening and landscaping for buffering shall be provided consistent with the design standards in Article IV as required by the approving board.
  8. Entrances and exits shall be located at least 50 feet from any street intersection.
- B. Medical testing laboratories, medical supply distributors, medical offices, pharmacies, florists and professional offices in the H-1 District shall be subject to the requirements of §500-2.3, Schedule of Dimensional Requirements, respective to the district.

**§500-5.27 Sexually-Oriented Businesses.**

Sexually-oriented businesses, while permissible, may be inimical to the public health, safety, morals or welfare if located without due consideration of their conditions or surroundings. The location, relocation or establishment of sexually-oriented businesses shall be permitted upon conditional use approval in accordance with the following standards:

- A. No person shall operate, nor as record owners of a premises allow to be operated, such an establishment within 1,000 feet of any existing church, synagogue, temple or other place of public worship or any elementary or secondary school or any school bus stop or any municipal or county playground or place of public recreation, or any hospital or any child care center, or within 1,000 feet of any residential zone. Such distance shall be measured as a straight line radial distance from the edge of the property lines. This subsection shall not apply to a sexually-oriented business already lawfully operating on the effective date of this Ordinance where another sexually oriented businesses, an elementary or secondary school or school bus stop, or any municipal or county playground or place of public recreation, or any hospital or any child care center, is subsequently established within 1,000 feet, or where a residential district or residential lot is subsequently established within 1,000 feet.

- B. Such use shall not be located within 1,000 feet of an existing sexually oriented business or go-go bar. Such distance shall be measured as a straight line radial distance from the edge of the property lines. This subsection shall not apply to a sexually oriented business or go-go bar already lawfully operating on the effective date of this Ordinance where a sexually oriented business is subsequently established within 1,000 feet.
- C. Such use shall have a minimum lot size of 10,000 square feet.
- D. No such use shall display more than two exterior signs, consisting of one identification sign and one sign giving notice that the premises are off limits to minors. The sum area of such signage shall not exceed 5% of the facade area or 40 square feet, whichever is lesser.
- E. Such use shall be situated and limited to the ground floor of the structure.
- F. No visibility of entertainment from the street view. All openings, entries, windows, doors, etc., to a sexually-oriented business facility shall be located, covered or screened in such a manner as to prevent a view into the interior from any public place.
- G. Every such establishment, other than existing establishments lawfully operating as of the effective date of this Ordinance, shall be surrounded by a perimeter buffer at least 50 feet in width with plantings, fence, or other physical divider along the perimeter of the premises sufficient to impede the view of the interior of the premises in which the business is located.
- H. No other use shall be conducted in the building or structure in which such establishment is located. In particular, no sexually oriented business shall be established or permitted in any building of which any part is used for residential purposes. No residential use shall be established in a building of which any part is used as a sexually-oriented business.
- I. For purposes of this section, measurements shall be made in a straight line without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises for an sexually-oriented business to the nearest property line of land upon which is situated a school, church, park or other use or district described above.

#### **§500-5.28 Recycling Facilities.**

- A. Lot area shall not be less than 80,000 square feet.
- B. The driveway or driveways to and from any lot upon which a recycling site is located shall have an unrestricted width adequate to handle the anticipated traffic load, but in no event shall the driveway be less than 20 feet wide and it shall be so designated as to avoid the necessity of any vehicle leaving the property by backing out across any public sidewalk, street right-of-way or part thereof.
- C. The area of all driveways and other areas over which motor vehicles are intended to be driven or parked shall be paved with bituminous or concrete surface, whose specifications meet or exceed those established by the City for streets and roadways.

- D. The perimeter of a lot on which a recycling site is located shall be fenced according to the following specifications:
  - 1. That the portion of the perimeter lying along a street in an industrial district shall have a solid wall or fence at least 8 feet in height.
  - 2. That portion of the perimeter lying along a railroad right-of-way shall have a solid wall or fence at least 8 feet in height.
- E. As to any recycling site, no animal or vegetable matter or by products, wood, rags, rubber or other hazardous or flammable materials shall be processed for recycling. However, paper and plastic products may be sorted, baled or compacted and then shipped to another location.
- F. All stationary motor-driven equipment shall be located within an enclosed building or buildings.
- G. Such use shall comply with all applicable federal, state and local laws, ordinances, regulations and statutes regarding noise, pollutants, health, safety and welfare of the public. Approval by the City of Paterson shall not be deemed to waive any other requirement(s) for State or Federal approval, including, but not limited to, regulation by the New Jersey Department of Environmental Protection or the U.S. Environmental Protection Agency.
- H. Such use shall not be located nearer than 500 feet to a dwelling, place of worship, school, auditorium, place of public gathering or similar places, as measured in a straight-line radial distance from the edge of the property lines.
- I. The site shall be so designed and used so that all operations associated with the use occur entirely within the interior of the site. No loading, vehicular maneuvering or any other activity associated with the operation of the site shall extend beyond the confines of the property into the right-of-way or any other area outside of the property.
- J. Such use shall comply with the requirements of this Ordinance pertaining to outdoor storage.

#### **§500-5.29 Truck Terminals.**

- A. The lot area for such use shall be not less than 2 acres.
- B. Separate entrance and exit driveways; provided that each driveway shall have an unrestricted width of not less than 15 feet or more than 30 feet, shall be located not nearer than 10 feet from any lot line, and shall be so laid out as to avoid any vehicle leaving the property by backing out across the public sidewalk, street right-of-way or part thereof.
- C. Driveways, loading areas and other areas over which vehicles are intended to be driven or parked on the lot shall be improved to meet or exceed City specifications applicable to street and roadways.
- D. Such uses shall be located adjacent to any principal arterial roadway as defined in the Street Functional Classification Map in Appendix B attached to this Ordinance.

- E. Such use shall not be located nearer than 500 feet to a dwelling, place of worship, school, auditorium, place of public gathering or similar places, as measured in a straight-line radial distance from the edge of the property lines.
- F. The site shall be so designed and used so that all operations associated with the use occur entirely within the interior of the site. No loading, vehicular maneuvering or any other activity associated with the operation of the site shall extend beyond the confines of the property into the right-of-way or any other area outside of the property.
- G. Such use shall comply with the requirements of this Ordinance pertaining to outdoor storage.

#### **§500-5.30 Motor Vehicle Junk Yards.**

- A. The lot area for such use shall not be less than 65,000 square feet.
- B. Such use shall be adjacent to a principal arterial roadway as defined on the Street Functional Classification Map in Appendix B attached to this Ordinance.
- C. Such use shall not be located nearer than 500 feet to a dwelling, place of residence, place of worship, school, auditorium, place of public gathering or similar places, as measured in a straight-line radial distance from the edge of the property lines.
- D. Such use shall comply with all applicable federal, state and local laws, ordinances, regulations and statutes regarding noise, pollutants, health, safety and welfare of the public.
- E. Such use shall comply with the requirements of this Ordinance pertaining to outdoor storage.
- F. Driveways, loading areas and other areas over which vehicles are intended to be driven or parked on the lot shall be improved to meet or exceed City specifications applicable to street and roadways.
- G. The driveway or driveways to and from any lot upon which such use is located shall be of such width and design to handle the anticipated traffic load and shall be so designed as to avoid the necessity of any vehicle leaving the property by backing out across any public sidewalk, street right-of-way or part thereof.
- H. The site shall be so designed and used so that all operations associated with the use occur entirely within the interior of the site. No loading, vehicular maneuvering or any other activity associated with the operation of the site shall extend beyond the confines of the property into the right-of-way or any other area outside of the property.

#### **§500-5.31 Junk Yards**

- A. The lot area for such use shall not be less than 43,560 square feet.
- B. Such use shall be adjacent to a principal arterial roadway as defined on the Street Functional Classification Map in Appendix B attached to this Ordinance.

- C. Such use shall not be located nearer than 500 feet to a dwelling, place of residence, place of worship, school, auditorium, place of public gathering or similar places, as measured in a straight-line radial distance from the edge of the property lines.
- D. Such use shall comply with all applicable federal, state and local laws, ordinances, regulations and statutes regarding noise, pollutants, health, safety and welfare of the public.
- E. Such use shall comply with the requirements of this Ordinance pertaining to outdoor storage.
- F. Driveways, loading areas and other areas over which vehicles are intended to be driven or parked on the lot shall be improved to meet or exceed City specifications applicable to street and roadways.
- G. The driveway or driveways to and from any lot upon which such use is located shall be of such width and design to handle the anticipated traffic load and shall be so designed as to avoid the necessity of any vehicle leaving the property by backing out across any public sidewalk, street right-of-way or part thereof.
- H. The site shall be so designed and used so that all operations associated with the use occur entirely within the interior of the site. No loading, vehicular maneuvering or any other activity associated with the operation of the site shall extend beyond the confines of the property into the right-of-way or any other area outside of the property.

#### **§500-5.32 Heavy Industrial Uses.**

Heavy industrial uses, where permitted, shall comply with the requirements of §500-3.6.D.4 with respect to outdoor storage and the performance standards required in §500-10.

#### **§500-5.33 Wireless Telecommunication Services**

It is in the best interest of the City to establish regulations and standards for the siting, design, installation, appearance, construction and maintenance of all Wireless Telecommunication Services Facilities (WTSF) equipment, including towers, monopoles, pole-mounted and structure-attached equipment and other related devices and equipment, in order to: promote the safety and welfare of the residents of the City and surrounding communities; minimize the adverse visual effects of WTSFs and protect the natural features, historic character, and aesthetics of the City by careful siting, design, buffering and screening of WTSFs; limit the total number of WTSFs to be constructed in the City to the minimum number of WTSFs necessary to provide adequate coverage within the City; maximize the use of any proposed site by encouraging co-location and multiple use of WTSFs to the extent reasonably permissible; encourage the siting of WTSFs on existing or other planned or approved WTSFs; encourage the use of alternative technologies that eliminate the need for new or additional WTSFs in the City; and, limit new WTSFs to existing nonresidential buildings and areas zoned for industrial uses where the siting of a WTSF within the City is proven to be necessary.

The following standards and requirements shall apply to all WTSPs. All applications for a WTSP shall be accompanied by such written narratives, visual analyses, technical reports, site plans and other materials as determined necessary by the Board having jurisdiction (the Board) in order to demonstrate that the WTSP would fulfill all of the purposes and meets all of the requirements of this section. No conditional use approval shall be granted unless the Board makes the findings in writing that the application fulfills all of the purposes and meets all of the requirements of this section.

- A. Use. Except as provided hereinafter, no WTSP shall be located, constructed or maintained on any building, structure or land area in the City of Paterson, except in conformity with the requirements of this section and all other applicable regulations. Any alteration of an existing WTSP must comply with requirements of this section and all other applicable regulations.
- B. Demonstration of Need and Master Plan. The operator(s) of the wireless telecommunication service shall submit a copy of their Federal Communications Commission (FCC) license and shall demonstrate to the satisfaction of the Board that there is a public need for each such WTSP at the location(s) proposed by the Applicant to provide adequate coverage in the City of Paterson. The Board may hire a qualified professional or recognized authority to review and report on the information and conclusions contained in the application materials, the cost of which shall be reimbursed by the Applicant. Such demonstration shall include the preparation of existing coverage and gap plans and a master plan of proposed service that:
  1. Consist of multi-color signal level propagation plots at not less than 5 dBm intervals to -100 dBm at standard USGS scaled drawings, including information such as, but not limited to, topography and elevations, existing buildings, streets, existing WTSPs and other similarly tall structures, tile propagation plots, radial propagation plots and drive propagation plot data, and identification of all of the relevant system design parameters of all existing, approved or proposed WTSPs which may affect or provide service within the City. Separate signal level propagation plots shall be required for each existing, planned, approved and proposed WTSP; and
  2. Demonstrate that existing, or other planned or approved WTSPs, do not and cannot be modified to provide adequate coverage to the City; and
  3. Minimize the number of such WTSPs within the City; and
  4. Maximize co-location and shared use of existing public utility and WTSPs; and
  5. Identify all existing and proposed WTSPs that impact the service area covering the City and that identify all proposed and other locations considered for such WTSP; and
  6. Analyze feasible alternatives, including alternative sites, construction and transmission technologies, to reasonably minimize the visual and other adverse impacts.
- C. Location and Access. WTSPs shall be located in accordance with the following order of placement priorities. The Applicant shall evaluate and demonstrate the infeasibility of a higher priority location before considering the next lower priority and shall demonstrate such analyses to the satisfaction of the reviewing board:

1. Co-location on an existing or other planned or approved WTSFs within an Industrial District, PUID or MU District that eliminates the need for new or additional WTSFs in the City.
2. Placement of new WTSF on an existing structure within an Industrial District, PUID or MU District.
3. Construction of a new monopole tower within an Industrial District, PUID or MU District.
4. Co-location on an existing or other planned or approved WTSFs within a Business or Hospital District that eliminates the need for new or additional WTSFs in the City.
5. Placement of new WTSF on an existing structure within a Business or Hospital District.
6. Construction of a new monopole tower within a Business or Hospital District.
7. Co-location on an existing or other planned or approved WTSFs within a R-3 or R-4 District that eliminates the need for new or additional WTSFs in the City.
8. Placement of new WTSF on an existing structure within a R-3 or R-4 District.
9. Construction of a new monopole tower within a R-3 or R-4 District.
10. Co-location on an existing or other planned or approved WTSFs within 2,000 feet of a public park, school or place of worship that eliminates the need for new or additional WTSFs in the City.
11. Placement of new WTSF on an existing structure within 2,000 feet of a public park, school or place of worship.
12. Construction of a new monopole tower within 2,000 feet of a public park, school or place of worship.

In reviewing a particular application for a WTSF, the Board may require placement at a lower priority location if it determines that the location, design and appearance of the WTSF at such location would protect and preserve the aesthetic qualities and residential characteristics of the City of Paterson, the safety and welfare of its citizens, and would otherwise further the intent and purpose of this section to the same or greater degree than placement of the WTSF at a higher priority location. However, wireless telecommunication service facilities shall in no circumstance be permitted in a R-1, R-2 District or in the Great Falls Historic District.

#### D. Co-Location Requirements.

1. Any application for a WTSF shall include a statement and appropriate documentation demonstrating to the satisfaction of the Board that to the extent relevant to provide wireless telecommunication service (WTS) in the City that is the subject of such application, all reasonable efforts have been made to co locate such WTSF on all other existing, planned or approved sites with communication antennas which would eliminate the need for new or additional WTSFs in the City. A proposal for a WTSF shall not be approved unless the Board finds that the antenna planned for the proposed WTSF cannot be accommodated on an existing or approved WTSF or a structure within a



1.5-mile search radius of the proposed WTSF due to one or more of the following reasons:

- a. The antenna would exceed the structural capacity of the existing or approved WTSF or structure, as certified by a licensed professional engineer, and the existing or approved WTSF or structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
  - b. The antenna would cause interference materially impacting the function of other existing or approved antenna at the WTSF or structure as certified by a qualified professional or other recognized authority and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved WTSFs and structures within the 1.5-mile search radius cannot accommodate the antenna at a height necessary to function reasonably or to provide adequate coverage to the intended service area as certified by a qualified professional or other recognized authority.
  - d. Other reasons that make it infeasible to locate the antenna upon an existing or approved WTSF or structure.
2. All WTSFs shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and base equipment and comparable antennas and base equipment for at least four (4) additional licensed carriers. WTSFs must be designed to allow for future rearrangement of antennas upon the WTSF and to accept antennas mounted at varying heights. The Board may reduce the number of licensed carriers required to be accommodated for just cause and consistent with the purposes of this section and the Zoning Ordinance.
  3. As a condition of conditional use approval, the applicant shall be required to provide a written agreement, in recordable form, and prepared to the satisfaction of the Board Attorney, acknowledging that the applicant, and its successors in interest, shall be required to allow the co- location of all other future wireless telecommunication service WTSFs unless otherwise unreasonably limited by technological, structural or other engineering considerations and expressly stating that it shall negotiate in good faith for shared use of the proposed WTSF by other WTS providers in the future. The issuance of any approval for a WTSF, shall commit the new WTSF owner and its successors in interest to:
    - a. Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
    - b. Negotiate in good faith concerning future requests for shared use of the WTSF by other WTS providers.
    - c. Allow shared use of the new WTSF if another WTS provider agrees in writing to pay charges.

- d. Relocate antennas on the WTSF as necessary to accommodate co-location of additional licensed service providers, to provide adequate coverage, or to minimize the height or other avoidable impacts of the WTSF.
- E. Setbacks. Unless otherwise modified by the Board in an effort to accommodate the purposes of this Section, free-standing WTSFs shall be located not less than:
1. Two (2) times the otherwise applicable setback requirements for principal structures for the district in which the property is located; or the height of the WTSF, whichever shall be greater.
  2. A WTSF's setback may be reduced by the Board to allow the integration of a WTSF into an existing or proposed building or structure.
  3. It shall be demonstrated to the satisfaction of the Board that the proposed WTSF is set back adequately to prevent damage or injury resulting from ice fall or debris resulting from failure of a WTSF or any part thereof, and to avoid and minimize all other impacts upon adjoining properties.
- F. Height Limitations. Notwithstanding the following height limitations, in no case shall a WTSF exceed the minimum height reasonably necessary to accomplish the purpose it is proposed to serve.
1. The height of any antennas, or other associated equipment, structurally mounted as part of a WTSF shall not exceed by more than fifteen (15) feet the highest point of the existing structure on which such antennas or equipment are affixed.
  2. The maximum height of free-standing WTSF is limited to 100 feet above the ground upon which the antenna is placed. The ground elevation may not be raised to increase the height of the WTSF.
  3. Height limitations may be waived by the Board when the antenna is mounted on an existing building or structure or to accommodate collocation.
- G. Design and Visual Mitigation.
1. Unless otherwise permitted by the Board, WTSFs shall only be permitted on, in or attached to existing or approved buildings or structures by use of stealth technologies, (e.g., architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and WTSFs designed not to look like a conventional WTSF but like something else existing in the community, such as light poles, power poles, flag poles, and trees or materials).
  2. Where permitted, the only freestanding WTSF permitted shall be a monopole. WTSFs that require the use of guy wires or open framework are prohibited.
  3. The applicant/provider shall prepare a visual impact assessment of the proposed WTSF based upon appropriate modeling, photography and other pertinent analytical techniques as required by the Board, including but not limited to a map identifying the zone of visibility.

4. Landscaping and/or other screening and mitigation, including but not limited to architectural treatment, and alternative construction, structural and transmission technologies such as antennas attached to or disguised as trees or other features or camouflaging techniques, shall be required to minimize the visual impact of such WTSF from public thoroughfares, important view and vantage points and surrounding properties to the extent practicable as determined by the Board.
  5. No signs other than exempt signs or as may be required by the Board for security or safety purposes, shall be erected on any WTSF.
  6. All ground-based equipment and all utilities shall be located underground to the extent feasible.
  7. WTSFs shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities. Every WTSF shall be of colors and design that are compatible and harmonious to blend with the natural features, buildings and structures surrounding such WTSF.
  8. The WTSF shall not be artificially lighted unless otherwise required by the appropriate governmental authority, (e.g., FAA).
- H. Operational Characteristics.
1. Unless otherwise superseded by the FCC, the design and use of the proposed WTSF, including its cumulative impact with other existing and approved WTSFs, shall be certified to conform with the maximum NIER exposure standards promulgated by the FCC, as amended. Said certification shall include a report prepared in accordance with FCC Office of Engineering and Technology Bulletin 65, as amended. If new, more restrictive, standards are adopted, the antennas shall be made to comply or operation of the WTSF shall be terminated. The cost of compliance shall be borne by the owner and operator of the WTSF.
  2. Annual certification of conformance with the applicable emissions standards and the requirements and conditions of special use permit approval shall be required.
  3. Certification shall also be required prior to any modification of the WTSF or upon modification of the FCC standards.
  4. The Board may hire a qualified professional or recognized authority to review and report on such initial and annual certification report, the cost of which shall be reimbursed by the Applicant.
  5. Any violation of the emissions standards shall require immediate discontinuation and correction of the use responsible for the violation. Any such violation of these requirements of the Zoning Ordinance or the conditions of conditional use approval shall be deemed to be an offense punishable in accordance with this Zoning Ordinance.

- I. Safety Provisions. A WTSF shall be designed and erected so that in the event of structural failure, it will fall within the required setback area and, to the maximum extent possible, away from adjacent development. No new structure shall be permitted which would be classified by the Federal Aviation Administration Regulations Title 14 CFR Part 77 as an obstruction or hazard.
- J. Insurance. The owner and applicant shall provide and keep in full force and effect, at their own cost and expense, public liability insurance which shall afford protection in an amount to be fixed by the City naming the City as an additional insured and indemnifying the City against any and all losses for personal injury, death, property damage or other claim, obligation or liability, and all costs or expenses in connection therewith, including reasonable attorney's fees and all costs of litigation, arising out of or relating to the existence, operation or use of any approved WTSF and any activities in connection therewith. Said insurance shall be written in form satisfactory to the City by good and solvent insurance companies of recognized standing, authorized to do business in the State of New Jersey and shall contain a provision that the policy or policies shall not be canceled on less than thirty (30) days written notice to the City. Appropriate insurance certificates shall be deposited with the City before any permit is issued. The owner and applicant shall obtain and maintain at all times insurance of an appropriate type and amount from an insurer licensed and authorized in the State of New Jersey.
- K. Security Provisions. A security program shall be formulated and implemented for the site of a WTSF. Such program shall include physical features such as fencing screened by buffer vegetation, anti-climbing devices or elevating ladders on monopoles or other approved structure and/or monitoring either by staff or electronic devices to prevent unauthorized access and vandalism.
- L. Structural Inspection and Report. A monopole or other approved structure shall be inspected at the expense of the service provider by a licensed professional engineer in the State of New Jersey at any time upon a determination by the City Engineer that the monopole or other approved structure may have sustained structural damage, but in no case less than once every five (5) years. A copy of the inspection report shall be submitted to the City Engineer.
- M. Emergency Plan. An emergency action plan shall be formulated and implemented for the site of a WTSF, to the satisfaction of the Board. Such plan shall include identification of all appropriate features and considerations of each WTSF, appropriate training of local police, fire and ambulance service providers, and appropriate provisions for notification of the public in the event of an emergency.
- N. Removal.
  1. A WTSF, or any portion thereof including any portion above the height of the antenna, shall be dismantled and removed from the property on which it is located when it has been inoperative or abandoned for a period of twelve (12) months from the date on which it ceased operation, or no longer has a valid approval, permit or license, or is otherwise no longer necessary for the provision of adequate coverage in the City of Paterson.

2. The applicant shall provide to the satisfaction of the Board Attorney, a written agreement to ensure the dismantling, removal and restoration of such an abandoned wireless telecommunications services facility. Performance of the removal requirements shall be secured by a bond posted by the Applicant in an amount and for a duration determined to be adequate by the Board.
  3. In the event that such WTSF, or portion thereof, is not completely removed from such property within such time, the City shall be authorized to effect such removal at the expense of the property owner.
- O. Owner/Applicant Representative Contacts. The applicant and all future owners of the premises and the WTSF shall at all times keep on file in the office of the City Engineer the name, address, and telephone number of the owner and operator of such WTSF and of at least one individual who shall have authority to arrange for the maintenance of the premises and WTSF, and who shall be authorized to accept service of notices and legal process on behalf of the owner and operator(s) of the premises and WTSF and to bind the owner to any settlement, fine, judgment, or other disposition (other than incarceration) which may result from any civil or criminal action or proceeding instituted by the City against such owner and/or operator(s).
- P. Assignment of Permit. No permit granted under this section shall be assigned or transferred without the prior approval of the Board having jurisdiction.

#### **§500-5.34. Home Businesses.**

Home businesses shall be permitted within a dwelling subject to the following conditions:

- A. The proprietor of the home business shall be a permanent full-time resident of the dwelling and no persons other than members of the family residing on the premises shall be engaged in such business except that there may be no more than one (1) non-resident employee on the premises.
- B. No more than one (1) home business shall be operated in a dwelling.
- C. The home business shall be clearly incidental and subordinate to the principal use of the dwelling. The home business shall occupy no more than 35% of the floor area of the dwelling unit, or 500 square feet, whichever is less.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home business other than one sign, which shall be subject to the provisions of §500-8.5.A.2 of this Ordinance.
- E. Home businesses in single-and two-family dwellings shall be limited to a single floor in the dwelling. No home business shall be conducted in any accessory building.
- F. Off-street parking requirements must be satisfied in accordance with this Ordinance.

- G. There shall be no on-premise sale, distribution or delivery of goods in connection with such home business.
- H. The rate of visits by clients, patients or other types of visitors per hour to the home business shall not exceed two (2) per hour.
- I. There shall be no delivery vehicles in excess of that associated with the residential use on site.
- I. No equipment or process shall be used in such home business which creates noise, glare, fumes, odors, electrical interference, medical waste or nuisance factors detectable to the normal sense or to radio, telephone or television equipment off the lot.

#### **§500-5.35. Tattoo, Body Piercing and Skin Art Studios**

- A. **Waiting and Display Areas.** Tattoo samples inside the studio and any other artwork inside the studio shall be displayed in professionally matted and framed panels. Frames must include glass glazing. Tattoo samples shall not be displayed in such a manner as to be visible to the general public outside the studio. There shall be no outdoor seats or ledges that could be used for seating or loitering. There shall be no outdoor area for smoking that is visible to the general public or a public street.
- B. **Signage.** Studios must use either silk-screened signs on canvas awnings or a non-glossy panel sign that may be illuminated by gooseneck style spot lighting. Mounted lettering can also be used if it is not backlit or made of a glossy material. The total signage area may not cover more than 10% of the building's facade area. Window signs that do not block the window from view or cover more than 10% of the window area are also allowed. None may be used in windows, but only for the logo of the establishment, and a neon sign cannot cover more than 5% of the window area. Window displays shall not contain sample artwork or posters that have not been professionally mounted or framed. Backlit signs, signs with movable or removable lettering, and blinking signs or blinking lighting may not be used in any circumstance.
- C. **Storefront Condition.** Storefront areas must be maintained free of litter, including cigarette butts, at all times. The studio's entire grounds, lawn area, and the sidewalk in front of the studio must be kept free of litter. Any studio found to have litter in front of it shall be in violation rendering its certificate of occupancy null and void. Studios must operate in well maintained buildings with no boarded-up windows or loose or missing siding, roof damage, damage to the building parapet, rotting wood, or exposed unpainted or untreated wood.
- D. **Parking.** Parking must be provided in accordance with Section 500-7, Off-Street Parking and Loading, of this Ordinance at a rate of 2 spaces per workstation. Parking can be arranged through a written agreement with another property owner, provided that these spaces are located within 200 feet of the front entrance of the studio. The agreement must be established for a period equal to or in excess of the duration of the lease for the studio's site. If the studio operator owns the site, the parking arrangement's continuance shall be a requirement for the operator's compliance with its certificate of occupancy.

- E. Lot Area and Bulk. Subject to the requirements of Section 500-2.3, Schedule of Bulk and Dimensional Requirements.
- F. Health Conditions. All establishments must comply with all requirements of the City of Paterson Health Division and the Health Department of the State of New Jersey. Certification of compliance including licenses and permits is a condition of obtaining conditional use approval. All health requirements for staff credential must be met, and proof of compliance is required prior to conditional use review.
- G. Not more than one studio at any time shall be approved to operate in the City of Paterson for every 75,000 residents of the City as published in the most recent Census Report issued by the US Bureau of the Census. No studio shall be located within 1,000 linear feet of another studio, bar, tavern, liquor store, church, child day care facility, or private or public school, as measured in a straight-line radial distance from the edge of the property lines.
- H. Where permitted in the B-2 District, such establishments shall be subject to the requirements of §500-4.16.

**§500-5.36 Go-Go Bar.**

- A. Such use shall not be located within 200 feet of a residential zoning district as measured in a straight line. Such use shall not be located within 500 feet, as measured in a straight line radial distance from the edge of the property lines, to the following: place of worship, public or private school, public park or playground, hospital or child care center.
- B. Such use shall not be located within 750 feet another go-go bar or within 750 feet of a sexually oriented business, as measured in a straight line radial distance from the edge of the property lines. This subsection shall not apply to a go-go bar or a sexually-oriented business already lawfully operating on the effective date of this Ordinance where a go-go bar is subsequently established within 750 feet.
- C. Such use shall have a minimum lot size of 10,000 square feet.
- D. Such use shall be situated and limited to the ground floor of the structure.
- E. No visibility of entertainment from the street view. All openings, entries, windows, doors, etc., to a gogo bar shall be located, covered or screened in such a manner as to prevent a view into the interior from any public place.
- F. Off-street parking spaces shall be provided in the ratio of one space for every 150 square feet of floor area for the entire establishment, not merely the area in which the dancing is to be performed, and one space for every two employees or fraction thereof.
- G. No go-go bar shall be established or permitted in any building of which any part is used for residential purposes. No residential use shall be established in a building of which any part is used as a go-go bar.

- H. For purposes of this section, measurements shall be made in a straight line without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises for an go-go bar to the nearest property line of land upon which is situated a school, church, park or other use or district described above.
- I. These uses may not be located on a State Highway.

#### **§500-5.37 Large-Scale Retail Facilities in the I-2 District.**

Large-scale wholesale and/or retail centers including self-storage facilities, facilities which involve the sale of general merchandise, home improvement centers and outdoor garden centers shall be permitted in the I-2 District provided the following conditions are satisfied:

- A. The minimum lot area shall be 5 acres.
- B. The minimum building size shall be 80,000 square feet.
- C. The minimum lot width shall be 400 feet.
- D. The maximum lot coverage shall be 40%.
- E. Where four (4) or more loading bays are provided, a curb cut providing access to such areas may be provided between 40 and 80 feet wide to permit tractor-trailers.
- F. Fencing on the property line and within the property shall be permitted up to twelve (12) feet in height where necessary for public safety.
- G. Where screening is required, and where a masonry screen is proposed in lieu of year-round landscaping, such masonry screen may be up to twelve (12) feet in height.
- H. Two (2) freestanding signs shall be permitted and no such sign shall exceed 144 square feet in area. Such signage shall comply with other applicable requirements of §500-8.7. Building signs and all other signs shall comply with the normally applicable sign requirements of the I-2 District as stipulated in §500-8.7.
- I. Such uses shall be located on a property that abuts a State highway or an arterial road as classified in the Master Plan.

#### **§500-5.38 Mid-Scale Retail Facilities in the I-2 District.**

It is reasonable to include in the I-2 District retail and personal services on a site not less than 2 acres and located along major roadways traversed by the general public, provided the following conditions are satisfied

- A. The minimum lot area shall be 2 acres.
- B. The maximum building size shall not be more than 35,000 sq. ft.



- C. The minimum lot width shall be 200 feet.
- D. The maximum lot coverage shall be 40%.
- E. Where four (4) or more loading bays are provided, a curb cut providing access to such area may be provided between 40 and 80 feet wide to permit tractor trailers.
- F. Fencing on the property line and within the property shall be permitted up to twelve (12) feet in height where necessary for public safety.
- G. Where screening is required, and where a masonry screen is proposed in lieu of year-round landscaping, such masonry screen may be up to twelve (12) feet in height.
- H. One (1) freestanding signs shall be permitted and no such sign shall exceed 144 square feet in area. Such signage shall comply with other applicable requirements of 500-8.7. Building signs and all other signs shall comply with the normally applicable sign requirements of the I-2 District as stipulated in 500-8.7.
- I. Such uses shall be located on a property that has frontage on and direct vehicular access to a State highway.

#### **§500-5.39 Liquor Store**

- A. Any property line of a lot used for a liquor store shall be located at least 200 feet from the nearest property line of any lot used for a theater, auditorium, or other place of public assembly capable of seating over 300 persons, church, hospital for humans, college, school, public library or institution for dependents or children, or any public playground or athletic field. Such distance shall be measured in a straight-line radial distance from the edge of the property lines.
- B. When adjacent to a residential structure, screening and fencing shall be provided consistent with the design standards in Article IV and as required by the approving board.
- C. Where permitted in the B-1 or B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

#### **§500-5.40 Bars and Taverns**

- A. Any property line of a lot used for a bar or tavern shall be located at least: 200 feet from the nearest property line of any lot used for a theater, auditorium, or other place of public assembly capable of seating over 300 persons, church, hospital for humans, college, school, public library or institution for dependents or children, or any public playground or athletic field. Such distance shall be measured in a straight-line radial distance from the edge of the property lines.
- B. When adjacent to a residential structure, screening and fencing shall be provided consistent with the design standards in Article IV and as required by the approving board.

- C. Where permitted in the B-1 or B-2 District, such establishments shall be subject to the requirements of §500-4.1 and §500-4.16.

#### **§500-5.41 Neighborhood Retail in the R-3 District**

- A. Neighborhood Retail uses must be on a corner lot, having frontage on at least two public Rights-of-Way.
- B. A minimum front yard of 20 feet shall be required.
- C. Neighborhood Retail in the R-3 zone shall be subject to all the bulk requirements of the B-1 zone as enumerated in the Schedule of Bulk and Dimensional Requirements §500-2.3, except for the minimum front yard setback.
- D. Mixed-Uses of Residential and Commercial Uses shall be subject to the requirements of §500-4.1.

#### **§500-5.42 Low-Rise Housing in the B-4 District**

- A. The property shall not have direct frontage on any of the following streets:
  - 1. Main Street
  - 2. Market Street
  - 3. Ward Street

#### **§500-5.43 Automobile-Dismantling**

- A. All dismantling of automobiles or other vehicles shall be conducted within an enclosed structure.
- B. No automobile or vehicle parts shall be stored outside of the enclosed facility.
- C. The minimum lot area for such use shall not be less than 20,000 square feet.
- D. Such use shall not be located nearer than 500 feet to a dwelling, place of residence, place of worship, school, auditorium, place of public gathering or similar places, as measured in a straight-line radial distance from the edge of the property lines.
- E. Such use shall comply with all applicable federal, state and local laws, ordinances, regulations and statutes regarding noise, pollutants, health, safety and welfare of the public.
- F. Driveways, loading areas and other areas over which vehicles are intended to be driven on the lot shall be improved to meet or exceed City specifications applicable to street and roadways.
- G. The driveway or driveways to and from any lot upon which such use is located shall be of such width and design to handle the anticipated traffic load and shall be so designed as to avoid the

necessity of any vehicle leaving the property by backing out across any public sidewalk, street right-of-way or part thereof.

- H. The site shall be so designed and used so that all operations associated with the use occur entirely within the interior of the site. No loading, vehicular maneuvering or any other activity associated with the operation of the site shall extend beyond the confines of the property into the right-of-way or any other area outside of the property.

#### **§500-5.44 Public Utilities in Residential Districts**

- A. The Utility Provider shall provide evidence demonstrating that the proposed utility service facility cannot be located in a non-residential zone in the City and provide satisfactory utility service to the neighborhood or area in which the particular use is to be located.

#### **§500-5.45 Commercial Uses in the R/C-3 District**

- A. All commercial uses in the R/C-3 District shall have their primary frontage and entrance along Madison Avenue.
- B. Mixed-Uses of Residential and Commercial Uses shall be subject to the requirements of §500-4.1.
- C. A minimum front yard setback of 10 feet shall be required.
- D. Neighborhood Retail in the R/C-3 zone shall be subject to all the bulk requirements of the B-1 zone as enumerated in the Schedule of Bulk and Dimensional Requirements §500-2.3, except for the minimum front yard setback.

### **§500-6 NON-CONFORMING USES, STRUCTURES AND LOTS**

#### **§500-6.1 Intent.**

Within the districts established by this Ordinance and amendments thereto, there exist lots, structures and/or uses of land that were lawful before this Ordinance was passed or amended, but which are prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited in the district in which it is located.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the designated use of any building on which actual construction has begun prior to the enactment of this ordinance. Actual building construction is hereby defined to include the placing or fastening of construction materials in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition

or removal shall be deemed to be actual construction, provided that work shall be carried on diligently to conclusion. All of the above provisions shall not apply unless a valid site plan has been approved by the appropriate City agency and such approval is still in effect.

#### **§500-6.2 Non-Conforming Lots of Record.**

- A. Notwithstanding any other provisions of this Ordinance, in the R-3 and R-4 residential districts, a one or two-family dwelling may be altered, renovated, added onto, or erected on any single lot of record that is non-conforming with respect to applicable minimum lot area and minimum lot width requirements without the need for a variance provided: that such lot was existing at the effective date of adoption of this Ordinance; such lot is not less than 25 feet in width and 2,500 square feet in area; such lot is in separate ownership from adjoining lot(s); development of the lot otherwise complies with yard, lot coverage and other dimensional requirements for the district in which such lot is located (unless otherwise permitted to be modified in accordance with §500-3.2) and provided that the number of dwelling units shall not be increased even if such increased number of dwelling units are allowed in the district. This provision shall not apply to lots in the R-1 and R-2 residential districts.
- B. In the R-1 and R-2 residential districts, an existing one- or two-family dwelling on a lot having a lot width and lot area less than that required in the zoning district in which it is located may be altered, renovated or added onto without the need for a variance provided: the lot is at least 37.5 feet in width and at least 100 feet in depth; the lot and dwelling were existing at the effective date of adoption of this Ordinance; and, the addition or alteration complies with all applicable bulk regulations of this Ordinance.
- C. If two or more lots of record in single ownership adjoin one another and do not meet the minimum requirements established for lot width and lot area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with the minimum lot width and lot area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or lot area below the requirements stated in this ordinance.

#### **§500-6.3 Non-Conforming Uses of Land, or Structure**

The non-conforming use of land or structure may be continued so long as it remains otherwise lawful, provided:

- A. No such non-conforming use of land shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.

- B. No existing structure devoted to a non-conforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district.
- C. Where a non-conforming use of a structure or land is replaced by a permitted use, the use of such structure or land shall thereafter conform to the regulations for the district and the non-conforming use may not thereafter be restored nor resumed.
- D. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- E. If any such non-conforming use of a structure or land ceases and is abandoned for a period of one (1) year, any subsequent use of such structure or land shall conform to the regulations specified by this Ordinance for the district in which such structure or land is located.
- F. No additional building or structure not conforming to the use requirements of this Ordinance shall be erected in connection with such non-conforming use.

#### **§500-6.4 Structures Non-Conforming for Reasons Other Than Use.**

Wherever a structure is non-conforming because it fails to comply with restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, other than use, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Structural alterations, internal rearrangements and renovations may be made in such a structure so long as the structural alteration or increase, internal rearrangement or renovation does not extend or enlarge the non-conformance of the structure. No such non-conforming structure may be enlarged or altered in a way that increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- B. Should such structure be moved for any reason and for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **§500-6.5 Repairs and Maintenance.**

- A. On any non-conforming structure or portion of a structure containing a non-conforming use, no alteration or reconstruction other than normal maintenance may be done and no increase or expansion of the non-conforming use shall result from such maintenance.
- B. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- C. Should any non-conforming structure or non-conforming portion of structure be destroyed by any means by at least 50% as determined by the Construction Official, it shall not be reconstructed except in conformity with the provisions of this Ordinance. Reconstruction of a non-conforming structure or portion of structure that is destroyed less than 50% may be restored to its prior condition provided that it may not enlarge the previously existing non-conformance.

## **§500-7 OFF-STREET PARKING AND LOADING**

### **§500-7.1 General Provisions for Off-Street Parking.**

- A. Responsibility. The duty to provide and maintain off-street parking spaces shall be the joint and separate responsibility of the operator and owner of the use or land for which off-street parking spaces are required to be provided and maintained. In the B-4 District, parking for public, semipublic, and commercial uses may be provided by the Parking Authority of the City of Paterson or other privately owned centralized facilities. Each developer shall be required to coordinate his plans with those of the Planning Board and other applicable agency of the City of Paterson.
- B. Location.
  - 1. All parking spaces required herein shall be located on the same lot with the building or use served. However, parking spaces required for non-residential uses may be located on a separate lot in a non-residential district within 300 feet of the principal building subject to the requirement of §500-7.1.C.4, below.
  - 2. No land in a residential zone shall be used to fulfill the off-street parking or loading requirements for a use in a nonresidential district.
- C. Joint Parking Facilities. Required parking may be satisfied through participation in a joint parking program involving 2 or more uses; provided that
  - 1. Plans for such a joint program shall have been approved by the Planning Board.
  - 2. The area for the parking facilities shall be adequate to provide the sum total of off-street parking space requirements of all such joint uses, unless modified in accordance with §500-7.1.D, below
  - 3. Parking requirements for a use in a non-residential district shall not be satisfied within a residential district.
  - 4. In any case, where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, such parking spaces shall be established by a recorded covenant or agreement as parking spaces to be used in conjunction with the principal use and shall be reserved as such through an encumbrance on the title of the property to be designated as required parking space, such encumbrance to be valid for the total period the use or uses for

which the parking is needed are in existence. Such agreement or covenant shall be duly recorded in the Office of the county Registrar of Deeds.

- D. Mixed Uses and Allowable Reduction in Parking Requirements for Shared Parking. In the case of mixed uses, uses with different parking requirements occupying the building or premises, or in the case of the joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except that parking requirements for permitted accessory retail and service uses and apartment buildings with 100 or more dwelling units or hotels, may be reduced by the following percentages where it is found shared parking is likely to occur as a result of patrons utilizing several of the uses comprising the development in a single visit or where variations in peak demand for parking spaces would occur between different uses:
1. Retail sales, offices, service establishments: 50%
  2. Restaurants and dining rooms: 60%
  3. Ballroom, banquet hall, meeting rooms: 70%
- E. "Land-Banking" of Parking Spaces. Where the Board reviewing a plan for development determines, in connection with its review of such plan, that less than the required number of parking or loading spaces will satisfy the intent of this chapter because of the unique nature of the proposed use, variations in the probable time of maximum use by joint users or for any other reason, the Board may waive or "landbank" the improvement of up to 1/3 of the total number of spaces as required by this Chapter, subject to the following regulations:
1. Since this section does not reduce the number of required spaces (instead it allows the reviewing board to allow less than the required number of spaces to be constructed), it shall be demonstrated on the plan that sufficient area remains for the future provision of the total number of spaces required. The site plan shall clearly indicate both that portion of the parking area to be initially improved and that portion of the required spaces proposed to be "land-banked."
  2. The site plan shall provide for adequate drainage, lighting and landscaping of both the initial and "land-banked" future parking areas.
  3. The "land-banked" parking area shall be landscaped in accordance with this ordinance. Such unimproved or "landbanked" spaces shall be maintained as additional landscaped area until and unless required for parking or loading use.
  4. Written guarantees, satisfactory to the Attorney to the Board having jurisdiction, shall be submitted by the applicant, insuring the improvement of such spaces within six months of the date of written notice to the property owner by the Board having jurisdiction stating that all or a portion of such spaces have been determined to be necessary and shall be constructed.

5. An application for site plan approval shall be required in the event there is a proposed change of use that requires more total parking spaces than was required on the plan involving the "landbanking" of parking spaces.
- F. Parking, Storage and Other Use Restrictions.
1. A parking area shall not be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.
  2. No major recreational equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), mobile home or motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such recreational equipment shall be stored or parked within any residential district other than that lot upon which the principal residence structure of the owner of the recreational equipment is located. No such recreational equipment shall be parked in a public right-of-way.
  3. In all R-1 and R-2 residential districts, overnight parking of any commercial vehicle having a gross weight that exceeds 4,000 pounds is prohibited.
  4. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used or zoned property other than in completely enclosed buildings.
  5. The rental or leasing of parking spaces within parking lots for non-residential uses shall only be permitted when the site exceeds the off-street parking requirement for the site, with the number of spaces that are rented or leased limited to the extra (i.e., over that required for the site) number of parking spaces provided on the site.
- G. Rental or Leasing of Parking Spaces in Residential Districts. The rental or leasing of accessory parking spaces in the rear of a residentially zoned lot is permitted, provided that:
1. It is found by the Planning Board that such rental or leasing of parking spaces is essential to the public interest as evidenced by a serious need for off-street parking facilities and as being not detrimental to the surrounding neighborhood.
  2. The spaces are in addition to those already provided to meet the off-street parking requirements of the lot. The rental or leasing spaces shall equal more than 25 percent of the required parking spaces for that lot, or not more than 2 spaces when located on a one or two family lot.



3. The rental or leasing of parking spaces shall be restricted to residents of the surrounding neighborhood.
4. The parking space shall be used for parking private passenger vehicles only.

**§500-7.2 Supplementary Requirements for Off-Street Parking.**

A. Yard Requirements.

1. For one- and two-family dwellings, no off-street parking areas shall be placed in any required front yard.
2. In all districts, a surface parking area may be located in a required side or rear yard, but shall be set back at least 3 feet from the property line.
3. For all townhouses, garden apartment, low and high-rise apartment buildings, all parking lots shall be at least 8 feet from building lines.

B. Parking Structures. Parking structures shall be so situated on their respective sites as to provide for adequate ingress and egress with particular attention given to the provisions of waiting space for cars entering the structure during peak periods.

C. “Stacking” of Cars. In parking lots with attendant parking, the “stacking” of cars will be limited to a depth of 2 cars so that no more than 1 car must be moved in order to get any car out of the lot. For stacking purposes, a parking space shall be measured on the basis of not less than 200 square feet per car.

D. Parking Space Dimensions. Minimum off-street parking spaces shall be measured as follows:

Angle of Parking	Stall Width	Stall Depth	Minimum Drive Areas
0 degrees (parallel)	9'	22'	12'
30 degrees*	9'	17'	15'
45 degrees*	9'	17'	15'
60 degrees*	9'	21’**	18'
90 degrees	9'	18’**	24'
* Such parking shall only be permitted in association with one-way drive areas			
** Measured perpendicular to the access driveway			

**§500-7.3 Schedule of Parking Space Regulations.**

Schedule of Required Off-Street Parking for Residential Uses. The number of off-street parking spaces required for residential uses shall be determined pursuant to N.J.A.C. 5:21, as amended, and by reference to the Schedule of Required Off-Street Parking for Residential Uses below. Alternative parking standards to those shown in the Schedule below shall be accepted by the reviewing board if the applicant demonstrates such alternative parking standards better reflect local conditions. Factors affecting the reviewing board’s consideration of alternative parking standards include household

characteristics, availability of mass transit, urban versus suburban location and the availability of off-site parking sources.

Schedule of Required Off-Street Parking for Residential Uses<sup>a</sup>

Housing Unit Type/Size <sup>b</sup>	Parking Requirement
One and Two-Family Dwellings	
2 bedrooms	1.5 spaces per dwelling unit
3 bedrooms	2.0 spaces per dwelling unit
4 bedrooms	2.5 spaces per dwelling unit <sup>c</sup>
5 bedrooms	3.0 spaces per dwelling unit
Townhouse	
1 bedroom	1.8 spaces per dwelling unit
2 bedrooms	2.3 spaces per dwelling unit <sup>c</sup>
3 bedrooms	2.4 spaces per dwelling unit
Multi-Family (3 to 7 Unit) Buildings, Garden Apartments, and Low-Rise Apartment Buildings	
1 bedroom/studio	1.8 spaces per dwelling unit
2 bedrooms	2.0 spaces per dwelling unit <sup>c</sup>
3 bedrooms	2.1 spaces per dwelling unit
High-Rise Apartment Buildings	
1 bedroom/studio	0.8 spaces per dwelling unit
2 bedrooms	1.3 spaces per dwelling unit <sup>c</sup>
3 bedrooms	1.9 spaces per dwelling unit
Retirement Community	Values shall be commensurate with the most appropriate housing type and size noted above that the retirement community resembles.
Assisted Living, Nursing Homes, and Long Term Care Facilities	0.5 spaces per bed
Residential Uses in the B-4 District	1 space per dwelling unit
<ul style="list-style-type: none"> <li>a. When determination of the required number of parking spaces results in a fractional space for the entire development, any fraction of one-half or less may be disregarded, while a fraction of greater than one-half shall be counted as one parking space.</li> <li>b. Requirements for attached units (apartments, condominiums, townhomes) include provisions for guest parking.</li> <li>c. If applicant does not specify the number of bedrooms per unit, this parking requirement shall apply.</li> </ul>	

Schedule of Required Off-Street Parking for Non-Residential Uses. Except as otherwise provided in this Ordinance, off=street parking spaces shall be provided in accordance with the minimum requirements as set forth in the Schedule of Parking Space Regulations.

Schedule of Required Off-Street Parking for Non-Residential Uses\*

Use Categories	Parking Requirement
<b>PUBLIC/SEMI-PUBLIC</b>	
Hospitals	1.5 spaces per 2 beds, plus 1 per 2 employees on maximum shift
Places of worship, Community Buildings, and other places of public assembly	1 space per 3 seats (60 inches of seating). Where specific amount of seating is undetermined, then 1 parking space shall be required for each 75 square feet of assembly area.
Libraries, Museums, and Art Galleries	1 space per employee, plus 1 per 300 square feet of floor area
Elementary and Junior High School	1 space per each classroom, plus 4 for administration, plus 1 space per each 10 seats in the main auditorium
High School	1 space per each 10 seats of student seating capacity, plus 4 for administration, plus 1 per each 10 seats in the main auditorium
College or University	1 space per 5 students, plus 1 per employee at peak period of activity
Trade or Vocational School	1 space per 200 square feet
Child Care Centers and Nursery Schools	1 space per each employee, plus 1 space for each 350 square feet of floor area
Store Front Social Club or Fraternal Lodge	1 space per 400 square feet of floor area
Private Clubs	1 space per 2 members
Lodges	1 space per 200 square feet of gross floor area or 1 space per 120 square feet of assembly area, whichever is greater
Recreational Clubs	1 per 4 members
Penal and Correctional Institutions	1 per 2 employees on maximum shift
Cemeteries	1 space per 500 square feet of administration building, plus 1 per 2 employees on maximum shift
<b>BUSINESS</b>	
Home Businesses	Based on the amount of business-related non-resident visitation
Mortuaries and Funeral Homes	1 space per 75 square feet of floor area in viewing rooms
Medical and Dental Offices	1 space per 150 square feet of floor area
Professional and Other Offices	1 space per 250 square feet of floor area, excluding common hallways, utility rooms and basements
Banks	1 space per 200 square feet of gross floor area
Stand Alone Convenience Stores	1 space per 150 square feet of gross floor area
Retail Businesses and Personal Service Businesses, not separately listed	1 space per 200 square feet of floor area
Barber Shops and Beauty Parlors	1 space per chair, plus 1 per employee on maximum shift

Dry Cleaning Establishments and Laundromats	1 space per 2 washing machines
Business Services	1 space per 600 square feet of floor area
Bars, Taverns, and Cafes	1 space per 3 seats or 100 square feet of gross floor area, whichever is greater
Restaurants/Cocktail Lounges	1 space per 3 seats
Restaurants, Fast Food	1 space per 35 square feet of gross floor area
Commercial Recreation and Amusement Establishments	1 space per 200 square feet of building area
Bowling Alley	3 spaces per lane, plus 1 per employee on maximum shift
Hotels, Inns, Bed and Breakfasts	1 per guest room or suite, plus 1 per employee on maximum shift
Animal Hospitals	1 space per 200 square feet of floor area
Indoor Theaters	1 space per 3 seats or 75 square feet of floor space in seating area, whichever is greater
Car Washing Establishments	1 space per washing lane, plus 1 per 2 employees on maximum shift
Gasoline Filling Stations	1 space per pumping island and each service bay, plus 1 per 2 employees on maximum shift
Automobile Repair	1 space per 200 square feet of floor area
Motor Vehicle Sales	1 per 300 square feet of showroom and sales office space
Large Scale Retail Facilities in the I-2 District	1 space per 300 square feet of floor area, plus 1 per 2 employees on maximum shift
Mid-Scale Retail Facilities in the I-2 District	1 space per 300 square feet of floor area, plus 1 per 2 employees on maximum shift
Wholesaling Establishments	1 space per 2 employees, plus 1 per 800 square feet of floor area in excess of 6,000 square feet
Research and Development	1 per 1,000 square feet of floor area
Retail, Professional Offices, in the B-4 District	1 space per 500 square feet of floor area
Restaurants, Bars and Taverns in the B-4 District	1 space per 200 square feet of floor area
<b>INDUSTRIAL</b>	
Warehousing and Storage, Light and Heavy Industrial Uses, Recycling Facilities, Truck Terminals, and Junk Yards	1 space per each employee on maximum shift, plus 1 per each vehicle used in the conduct of the enterprise
*In the B-1 and B-2 Districts, lots 25 feet or less in width existing at the date of the adoption of this Ordinance shall be exempt from non-residential parking requirements. However, existing off-street parking shall not be reduced below that already provided. Lots greater than 25 feet in width shall provide parking at the rate indicated in the table.	

- A. Parking for the Handicapped. In all instances where parking lots or garages are provided for buildings, 12' by 20' handicapped accessible parking spaces shall be located in one area, designated as parking for the handicapped and located so that access does not require passing behind parked cars. Handicapped parking requirements are contained in the following table:

Total Parking Spaces Provided	Required # of Accessible Spaces
1 – 50	1
51 – 200	2
201 +	1% of total spaces in lot or garage

- B. **Uses Not Specified.** In the case of a use not specifically mentioned in the Schedule of Parking Space Regulations, the requirements of off-street parking facilities for a use most similar, compatible or consistent with the use that is mentioned, shall apply. In the event that there is no similar, compatible or consistent use, off-street parking requirements shall be determined by the Board based upon accepted industry standards.
- C. **Storage of Trucks or Other Vehicles.** The parking space requirements as prescribed in the Schedule of Parking Space Regulations are in addition to spaces for storage of trucks or other vehicles used in connection with any use.
- D. **Employees.** The number of parking spaces which are calculated based upon the number of employees shall be based on the maximum number of employees on duty or residing, or both, on the premises at the time of maximum use. In addition, the estimated number of employees shall be determined appropriate by the Board based upon comparison to industry standards for the use involved.
- E. **Fractions.** For non-residential development, when units of measurement result in the requirement of a fractional space, any fraction shall require 1 parking space.

**§500-7.4 Off-Street Loading and Unloading.**

- A. Each lot on which a building for trade or business is hereafter erected or substantially altered or where there is a change in use shall make provision for loading and unloading which will not interfere with traffic on the street or streets on which the use is located.
- B. Off-street loading and unloading spaces shall be located on the same lot as the structure for which it is provided. Such space may be provided on an aisle or driveway required for off-street parking.
- C. Loading berth shall be at least 12 feet in width and .50 feet in length, with a minimum 14-foot height clearance and having direct access to the street.
- D. In the B-4 District, 1 off-street loading berth for each 30,000 square feet or fraction thereof of floor area for each building over 5,000 square feet. In all other districts, except for the B-4 District, 1 loading berth shall be provided for each 30,000 square feet or fraction thereof of floor area for any building.

**§500-8 SIGN REGULATIONS****§500-8.1 Sign Permit Required.**

All signs hereinafter erected, altered, enlarged, relocated or repaired, except for identical replacement of worn-out or damaged signs, shall require a sign permit issued by the Division of Community Improvements and shall comply with the requirements of this Section. Where applicable, sign permit applications shall also be filed with the Division of Historic Preservation.

Applications for a sign permit shall be submitted to the Division on forms available at the Building Department and at the Division of Planning and Zoning and shall include 3 copies of each of the following: the identification of the size, dimensions, type, materials, letter style and size, colors, method of construction and method of attachment to building or ground, and lighting and support details of each sign that is proposed; each application for signs to be placed within the ground shall include a plot plan of the property showing the sign location(s) in relation to property lines, buildings and other structures, parking areas and other site features; and, each application for awning, canopy and/or other signs affixed to a building shall include building elevations showing each entire facade of the building upon which signs are proposed showing existing conditions of the facade and the awning, canopy and/or other signs to be affixed to the facade.

**§500-8.2 Exempted Signs.**

No approval shall be required for the signs listed below:

- A. Any public notice or warning required by a valid and applicable federal, state, county or local law, regulation or ordinance.
- B. Any sign that is inside a building, not attached to a window or door, and that is not readable from a distance of more than three feet beyond the lot line of the lot or parcel nearest to where such sign is located.
- C. Holiday lights and decorations with no commercial message.
- D. Any sign indicating the name of a building and/or date of construction and/or other incidental information about its construction, which sign is cut into a masonry surface or made of bronze or similar permanent material including historic tablets, cornerstones, memorial plaques and emblems.
- E. Traffic control signs on private property which meets Department of Transportation standards, and which contain no commercial message of any sort.
- F. Flags of the United States, State of New Jersey, the City of Paterson, foreign nations having diplomatic relations with the United States, other flags adopted or sanctioned by an elective legislative body of competent jurisdiction and flags flown in conjunction with the flag of the

United States. The statutory requirements associated with flags and generally accepted standards of flag display etiquette shall be observed.

- G. Pump mounted fuel price informational signs subject to the following:
1. Only one fuel price informational sign shall be permitted per fuel pump.
  2. Fuel price informational signs shall be limited in size to an area of 216 square inches in accordance with State and Federal regulations.
  3. Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
  4. Nothing herein shall be construed to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this section.
- H. Temporary real estate sign indicating the sale of premises is permitted, subject to the following requirements:
1. The sign shall not exceed five square feet for a residential use. The sign shall not exceed 20 square feet or a height of six feet for a nonresidential use.
  2. Only one sign shall be permitted per lot, except in the following instances:
    - a. Residential through lots shall be permitted two signs with one sign be placed on each street.
    - b. Commercial lots with a frontage on more than one street shall be permitted two signs.
    - c. Temporary real estate signs shall be removed within seven (7) days after the consummation of a lease or sale.
    - d. Temporary real estate signs shall not be illuminated.

### **§500-8.3 Signs Prohibited in all Districts.**

The following signs are prohibited in all districts:

- A. Signs that interfere with, disrupt, are erected upon, or block a pedestrian or vehicular circulation pattern or sight line within or from any parking area, service drive, public driveway, alley or other thoroughfare.
- B. Sign that obstruct any window or door opening used as a means of egress, interferes with an opening required for legal ventilation, or is attached to or obstructs any standpipe, fire escape or fire hydrant.
- C. Illuminated signs that have interior or exterior flashing light sources, that have intermittent or variable intensity lighting, or that cause glare on pedestrian or vehicular circulation patterns within or into residential areas.

- D. Signs containing exposed incandescent bulbs or neon tubing or lighting.
- E. Privately owned or operated signs which simulate or resemble by color, size, shape, or location any governmental, public utility, official, traffic, directional or warning sign or device, including signs of such design and/or location that they interfere with, compete for attention with, or may be mistaken for a traffic signal or sign.
- F. Signs painted directly on the surface or facing material of a building, except as otherwise permitted.
- G. Handbills, posters, bumper stickers, stencil signs, or other similar objects painted, affixed or applied in any manner directly upon any building, street furniture, retaining wall, fence, railroad, trestle, public utility pole, natural or artificial tree or other similar objects.
- H. Billboards.
- I. Signs which move either by wind, motion, mechanical or electrical means, except signs with time or temperature messages.
- J. Signs that repeat a message or announcement along a public or railroad right-of-way.
- K. Roof signs or other signs that are erected or projected above the cornice or parapet of a building.
- L. Signs on any building facade not fronting on a public right-of-way or driveway with direct access to a public right-of-way.
- M. Signs on bridges or other structures crossing over any public right-of-way.
- N. Signs with more than two (2) display faces.
- O. Signs located on an accessory structure.
- P. Signs applied to the facade of a building that cover any portion of a window or cornice of that building or placed on a balcony, gallery or any architectural feature or detail so as to disfigure or conceal any architectural feature or detail of the building.
- Q. Signs that obstruct the view of any natural geographic feature, especially when viewed by occupants of vehicles traversing an interstate or inter-county highway.

#### **§500-8.4 Signs Permitted in all Districts.**

The following signs are permitted in all districts:

Address signs not exceeding 8" x 12" in size; and governmental and public utility signs.

#### **§500-8.5 Signs Permitted in all Residential Districts.**

Except as otherwise permitted, only the following signs shall be permitted in residential districts:



- A. Address signs, on residential properties subject to the following conditions:
  - 1. Only 1 address sign per property or building is permitted not exceeding 8" x 12" in size.
  - 2. An address sign for a home business or for a permitted conditional use maybe permitted to be up to 18" x 24" in size and may identify the name of the use
- B. One identity sign for a "semi-public or public" conditional use permitted in the district, for a funeral home, for a nursing home or long term care facility, or for a multi-family or apartment development in a R-3 or R-4 District, shall be permitted provided such sign does not exceed 12 square feet in sign area whether it be affixed to the building or to the ground, and 5 feet in height if affixed to the ground. Places of worship, schools, governmental buildings, and other institutional uses shall also be permitted to have one bulletin board for the purpose of announcing events related to such institution provided such bulletin board does not exceed 12 square feet in sign area whether it be affixed to the building or to the ground and 5 feet in height if affixed to the ground.
- C. Neighborhood retail businesses, personal service businesses, and professional offices permitted in residential districts, and the R/C-3 District shall be subject to the signage requirements of the B-1 District.

#### **§500-8.6 Signs Permitted in all Non-Residential Districts.**

- A. Business and identity signs shall be permitted in the City's Non-Residential Districts as specified in the Schedule of Permitted Signage-Non Residential Districts which is contained at the end of this Article and is hereby made part of this Ordinance. Signs in association with residential uses shall be as permitted in residential districts.
- B. Directional Signage. In addition to the signage permitted in the Schedule of Permitted Signage, small directional signs meant to direct visitors or patrons to a particular component of the establishment (e.g., signs directing patrons to the drive through facility of a bank or restaurant) shall be permitted and shall not be counted towards the allowable sign area provided each such sign is no more than 2 square feet in area and 4 feet in height. Such signage may utilize the corporate logo and/or colors of the establishment provided the directional purpose of the signage is achieved.
- C. Temporary signs that comply with the applicable sign area, dimension, height, location and design standards shall be permitted provided such sign is not otherwise prohibited in accordance with §500-8.3.
- D. No sign shall project more than 4 inches past the street line when its lowest point is less than 12 feet above the curb level, and no sign shall project more than 24 inches past the street line when its lowest point is 12 feet or more above the curb level, with the exception of projecting signs as permitted in the Schedule of Permitted Signage.

- E. Signs within a Historic District. In addition to the requirements concerning signs found elsewhere in this Ordinance, the following requirements shall apply to any new sign proposed to be erected in any historic district. Pursuant to §300-13.2, such signage shall require the review by the Historic Preservation Commission.
1. No sign display or advertising devices shall be erected which contain a brand, trademark, slogan, symbol or other similar device unrelated to the specific business or service provided on the premises.
  2. An application shall be submitted which includes the following information included on drawings and samples or models where available: the number of signs including reference to frontage requirements and coverage limitations, as per this Ordinance; location of signs, citing any other special aspects (e.g., angle, or direction toward which the sign will face); materials; dimensions; colors; lettering design and/or style of lettering with reference to standard print fonts; an indication of whether the sign or signs will be affixed to the building or be free-standing, and what method and materials of attachment or support are proposed; surface texture; illumination; and, permanent or temporary effect on any surface of building, pavement, walkway or landscaping.

#### **§500-8.7 Discontinued Signs.**

- A. In the event a business ceases operation for a period of time in excess of 60 days, the sign owner or lessee, or the property owner, shall immediately remove any sign identifying or advertising said business or any product sold thereby. Upon failure of the sign owner or lessee, or property owner to comply with this section, the City shall issue a written notice to the sign owner or any lessee and to the property owner, which notice shall state that such sign shall be removed within the following time period: sign face - 60 days; posts, columns and supporting structures - one year.
- B. If the sign owner or lessee, or property owner, fails to comply with such written notice to remove, the City may cause removal of such sign, and any expenses incidental to such removal shall be charged to owner of the property upon which the sign is located and shall constitute a lien upon the property. For the purpose of this section, the word "remove" shall mean the removal and dismantling of the sign face, along with posts, columns or supports of any such sign(s) and their removal from the property.

#### **§500-8.8 Non-Conforming Signs.**

- A. No non-conforming sign may be enlarged or altered in a way that increases its non-conformity. Existing non-conforming signs may continue to exist; however, when the sign is modified either in shape, size or structure, the sign shall be altered to conform to the provisions of this section.

- B. An existing sign that does not conform to the provisions of this ordinance may be repaired provided that the cost of repair does not exceed 50% of the estimated replacement cost of the entire sign. Should any non-conforming sign be damaged by any means to an extent of more than 50% of its estimated replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this section.

#### **§500-8.9 Removal of Unsafe Signs.**

If the Division of Community Improvements shall determine that any sign is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in such a manner as to pose a hazard to persons or property, it shall give written notice to the permittee, and if there is no permittee, to the owner of the premises of such violation. If the said permittee or owner fails to remove or correct such violation within 30 days after such notice, such sign may be removed or altered by the Division at the expense of the permittee or owner of the premises upon which it is located. The Division may cause any sign that is an immediate peril to persons or property to be removed summarily and without prior notice. The cost of removal or alteration by the City shall constitute a lien upon the property. Failure to remove signs in accordance with this action will result in the City taking the necessary steps to have the sign removed at the expense of the owner of the property.

### **§500-9 PLANNED DEVELOPMENT DISTRICTS**

#### **§500-9.1 PUID Planned Unit Industrial Development District.**

- A. Principal Uses Permitted. The uses listed below shall be permitted. In addition, mixed uses containing one or more of the uses listed below shall be permitted in one or more buildings, structures, lots, and/or properties. Several or more uses may occupy a structure or property at one time, provided there is compliance with the applicable bulk standards.
  - 1. Mid-rise office buildings that are related to uses in the development.
  - 2. Research laboratory establishments, as per the Performance Standards section of this Article.
  - 3. The manufacture, fabrication, assembling and other handling of products, according to the Performance Standards section of this Article.
  - 4. Restaurants or cafeterias serving the uses within the development.
  - 5. Warehousing up to 50% of the total floor area of a building or buildings in combination on a lot or parcel and only when the warehousing is related to a manufacture, fabrication, assembling or research laboratory use within the development.
  - 6. Public utility company structures provided that all utility lines are underground.
  - 7. Landing areas for helicopters.

8. Government uses and structures other than housing and schools.
  9. Recreational facilities for company employees.
  10. Garages for transportation companies.
  11. T.V. and radio stations.
- B. Location. A planned industrial development shall be permitted in the following zoning districts:
1. Mapped PUID districts.
  2. I-1 Districts provided that minimum overall acreage requirements are met.
  3. I-2 Districts provided that minimum overall acreage requirements are met.
- C. Minimum Size of Planned Industrial Development.
1. A planned industrial development shall comprise an area of no less than three (3) contiguous acres. All such acreage shall be in common ownership at the time of application.
  2. Minimum lot size for any individual lot or single user within a planned industrial development shall be one acre
- D. Common Open Space.
1. All common open space shall be preserved for necessary light, air and recreational amenities as expressed in the approved general development plan. The developer shall choose one or a combination of the following three (3) methods of administering common open space:
    - a. Public dedication to the City of the common open space subject to formal acceptance by the City.
    - b. Establishment of an association or corporation of all individuals or corporations owning property within the planned industrial development to insure the maintenance of all common open space.
    - c. Retention of ownership, control and maintenance of all common open space by the developer.
  2. All privately owned common open space shall continue to conform to its intended use and remain as expressed in the approved general development plan through the inclusion in all deeds of appropriate restrictions to insure that the common open space is permanently preserved according to the development plan. Said deed restrictions shall run with the land and be for the benefit of- present as-well as future property owners and the public and shall contain a prohibition against partition or subdivision, or other alteration.
  3. All common open space as well as recreational facilities shall be specifically included in the development schedule and be constructed and/or fully improved by the developer or owner.

4. If the developer elects to administer common open space through an association or corporation, said organization shall conform to applicable laws and standards imposed by the Planning Board.
- E. Utilities and Services. Structures within the planned industrial development shall be connected to City water and sewer lines and all utility lines shall be placed underground. The road network of the planned industrial development shall be of a suitable design and construction, whether public or private, to allow for adequate access of fire fighting equipment or access to necessary service areas such as for garbage collection and waste disposal. The City shall have the right to require prior to the approval of the final development plan, such easements from the developer as are necessary for access by the City to privately owned areas of the planned industrial development to permit the City to perform necessary police, health, safety and fire service.
- F. Streets, Alleys, Walkways, Parking Areas and other Facilities, Public and Private. All streets, alleys, walkways and parking areas within the development that are or are not dedicated to public use shall be improved in accordance with the standards established pursuant to City ordinances. Provisions acceptable to the city shall be made for the preservation and maintenance of all such streets, alleys, walkways and parking areas where not dedicated to public use.
- G. Landscaping. All common open space and private open space within the boundaries of the development shall be landscaped as approved by the Planning Board and provided with a permanent underground water system.
- H. Building Coverage. Maximum building coverage shall not exceed 50% for a single lot or 50% of the area for a multi-lot development.
- I. Setback and Height Requirements. The minimum front yard setback shall be ten (10) feet from the property line. The maximum height of a building shall not exceed twice the distance of the front yard setback to the building, up to a maximum of fifty (50) feet in height.
- J. Distance Between Buildings. There shall be a minimum distance between detached buildings as follows:
  1. The distance between buildings shall be equal to the height of the higher or taller building.
  2. Where buildings are adjacent to a railroad track or siding, the building may be erected on the property line or close to the railroad track or siding in order to take advantage of loading and unloading directly from the building.
- K. Access. All lots and buildings shall have access to either private or public roads within the planned industrial development. Private roads are to be allowed within the planned industrial development if they meet the minimum City construction standards and are of a design that meets the approval of the Department of Public Works. Private roads shall not be permitted along the perimeter of the planned industrial development unless approved by the Planning Board and Department of Public Works. All roads must be designated to tie in effectively with the City's plans. The City shall be allowed access on private roads and privately owned common

open space to insure the police and fire protection of the area to meet emergency needs, and to conduct City services.

L. Off-Street Parking Requirements.

1. Parking within the development shall be one space for every two employees or one space for every 600 square feet of floor area, whichever provides the greater number of parking spaces.
2. Parking shall not be permitted in the front yard setback directly in front of the building. However, parking may be permitted in the front yard setback not directly in front of the building and only when there is screening at least four (4) feet in height
3. No parking will be permitted in the development other than areas designed specifically for same.
4. The parking areas, loading berths, driveways, and service entrances shall be suitably designed, engineered and landscaped. Lighting shall be provided so as not to cause glare onto adjacent properties or structures
5. Parking, driveway and loading areas as well as curb cuts shall be guided by the minimum standards established in the applicable City ordinances.

M. Buffer Areas. Compatible and complimentary buffer screening shall be provided between parking areas and the streets and between conflicting uses located on the periphery of the development and surrounding developments or zoning districts. Screening shall be developed to a height that would eliminate view of all outside stored materials such as pallets, oil drums, parking cartons, rubbish, trash and other materials that would cause unsightly conditions.

N. Signage. Subject to the provisions of §500-8.

1. Only two signs per structure shall be permitted, one of which may be freestanding.
2. The signs may be mounted directly on the facade of the building and shall not project more than eighteen inches from the building facade nor shall it project above the roof line.
3. Signs painted directly on the facade of the building shall not be permitted.
4. Exposed neon tubing, flashing or varying intensity signs shall not be permitted.
5. One freestanding double-faced sign will be permitted provided:
  - a. The sign is strategically located so as not to interfere with the sight distance at intersections or driveways and is not hazardous to traffic.
  - b. The sign shall not project across any walkway, roadway or property line.

O. Antennas and Satellite Earth Stations. As permitted under Sections 500-3.6.D.6 and 500-5.10

P. Procedure for Securing Approval of Planned Unit Industrial Development. Applications and exhibits shall be required when applying for approval of a planned industrial development in accordance with site plan and land subdivision ordinances of the City of Paterson.

- Q. The Planning Board of the City of Paterson shall find the following facts and conclusions, as a basis for approval, pursuant to N.J.S.A. 40:55D-45:
- a. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to standards pursuant to N.J.S.A. 40:55D-65.
  - b. That the proposals for maintenance and conservation of the common open space are reliable, and the amount, location and purpose of the common open space are adequate.
  - c. That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate.
  - d. That the proposed development will not have an unreasonable adverse impact upon the area in which it is proposed to be established.
  - e. If the development contemplates construction over a period of years, the terms and conditions intended to protect the interests of the public and the residents, occupants and owners of the proposed development in the total completion of development are adequate.

## **§500-10 PERFORMANCE STANDARDS**

### **§500-10.1 Intent and Applicability.**

All uses shall be so operated as to comply with the performance standards described in this section. In addition to the performance standards hereinafter specified, all uses shall be so constructed, maintained, and operated as not to be injurious to the use and occupation of the adjacent premises by reason of the emission or creation of noise, vibration by radiation, fire and explosive hazards, glare or toxicity.

- A. Prior to the issuance of a building permit for a use or structure subject to performance standards herein and as a condition of approval and the continuance of any use, occupancy of any structure and operation of any process or equipment, the owner and/or applicant shall file a sworn affidavit that the use will be operated in accordance with same. Said affidavit shall be accompanied with supporting documentation by qualified professionals that the proposed use is in compliance with the performance standards. Permits and certificates required by other government agencies shall be submitted to the Board as proof of compliance with applicable codes. Continued compliance with the performance standards stated herein shall be a requirement for the continued occupancy of any structure or the operation of any process or equipment
- B. The regulations contained in this section shall not apply to one- and two-family dwellings, but shall apply to any home businesses contained therein.

**§500-10.2 Noise.**

In all districts, the sound pressure level resulting from any activity shall not exceed, at any point on or beyond any lot line, the maximum permitted sound level, according to standards as set forth in Chapter 337 of the Code of the City of Paterson.

- A. The sound levels shall be measured with a sound level meter and associated octave band filter manufactured in compliance with standards prescribed by the United States of America Standards Institute.
- B. Sounds produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted sound levels.

**§500-10.3 Vibration.**

No use shall be operated so as to produce ground vibration, noticeable without instruments, at the lot line of the premises on which the use is located. Except that quarrying operations involving blasting are specifically exempted from the foregoing restrictions, but shall be controlled by the "Rules and Regulations Governing Quarry Blasting and Related Operations" as published and revised by the Department of Labor and Industry of the State of New Jersey.

**§500-10.4 Air Pollution.**

- A. General. No substance shall be emitted into the atmosphere in quantities that are injurious to human, plant or animal life or to property or which interfere unreasonably with the comfortable enjoyment of life and property anywhere in the City. All provisions of Title 7, Chapter 27 of the New Jersey Administrative Code, (N.J.A.C.), or the regulations contained in this section, whichever shall be more stringent, shall apply.
- B. Smoke. In any district, no smoke, the shade of which is darker than No. 1 of the Ringelmann Smoke Chart, shall be emitted into the open air from any fuel-burning equipment, pursuant to Chapter 105 of the Code of the City of Paterson. However, smoke emitted during the cleaning of a fire box or the building of a new fire, the shade or appearance of which is not darker than No. 2 of the Ringelmann Smoke Chart, may be permitted for a period or periods aggregating no more than three (3) minutes in any thirty (30) consecutive minutes. Smoke emissions from the combustion of fuel and mobile sources and from stationary internal combustion engines shall not exceed the limits set forth in N.J.A.C. 7:27.
- C. Dust or Solid Particles. In any district, no discharge of solid particles through a stack, duct or vent shall be permitted that is greater than the allowable emission in pounds per hour established by Chapters 7 and 8 of the New Jersey Air Pollution Control Code.



- D. Open Burning. No open burning shall be permitted in any district as established pursuant to Chapter 105 of the Code of the City of Paterson, or any other pertinent air pollution laws.
- E. Odors.
  - 1. In districts other than the I-2 District, the emission of odorous matter in such quantities as to be detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
  - 2. In the I-2 District, the emission of odorous matter in such quantities as to produce a public nuisance or hazard at or beyond lot lines is prohibited.

#### **§500-10.5 Waste.**

- A. Liquid Waste. No liquid waste shall be discharged into any watercourse in the City without all necessary permits from the New Jersey Department of Environmental Protection (NJDEP). No liquid waste shall be discharged into the public sewage collection and disposal system unless the appropriate City official shall have first investigated the character and volume of such wastes and shall have certified that the City will accept the discharge of such waste material into the system. The applicant shall comply with any requirements of said officials, including the pretreating of such wastes, the installation of processing methods, separation or screening of wastes, control of pH and other methods of improving such wastes prior to discharge, as a condition of approval of such facilities.
- B. Solid Waste. Each property owner shall be responsible for:
  - 1. Adequate and regular collection and removal of all refuse, except where the City assumes such responsibility.
  - 2. Compliance with all applicable provisions of the NJDEP.
  - 3. Compliance with all provisions of Title 7, Chapter 26, of the N.J.A.C., where applicable.
  - 4. No accumulation on the property of any junk or other objectionable materials except in designated trash receptacles.
  - 5. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

#### **§500-10.6 Heat Hazards.**

In any zoning district, any use or process shall not produce a temperature rise in excess of one (1) degree Fahrenheit in the ground, or discharge water into any natural watercourse that will produce a temperature increase of greater than three (3) degrees Fahrenheit in that watercourse within ten (10) feet of the discharge point.

**§500-10.7 Fire and Explosion Hazards.**

Subject to compliance by the applicant and/or owner of the property with all federal, state, county and municipal laws, statutes, ordinances, and regulations, processes that involve the possibility of fire or explosive hazards are regulated as follows:

- A. In all manufacturing districts, slow and moderately burning materials or products may be stored, manufactured or utilized in the manufacturing processes or other production.
- B. Free to intense burning materials may be stored within buildings or other structures that are completely enclosed in MU and I-1 districts and may be stored, manufactured or utilized in I-2 districts.
- C. No flammable or explosive vapors or gases may be stored, manufactured or utilized in MU, I-1 or I-2 districts or within any other zoning district in the City.
- D. Materials that decompose by detonation shall not be manufactured in any district and may be utilized only when authorized by the approving agency.

**§500-10.8 Humidity and Glare.**

An activity producing excessive humidity in the form of steam or producing intense glare, (defined as brightness of sufficient intensity to cause annoyance, discomfort, or loss in visual performance and visibility) shall be entirely enclosed in such manner so as not to be perceptible at or beyond the lot line of the premises.

**§500-11 FLOOD DAMAGE PREVENTION****§500-11.1 Statutory Authorization**

The legislature of the State of New Jersey in N.J.S.A. 40:48-1 et- seq. has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Municipal Council of the City of Paterson, New Jersey does ordain as follows:

**§500-11.2 Findings of Facts.**

- A. The flood hazard areas of Paterson are subject to periodic inundation which results in loss of life and damage to property, health and safety hazards, disruption to commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

#### **§500-11.3 Statement of Purpose.**

It is the purpose of this Flood Damage Prevention Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the secondary use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To insure that potential buyers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard and who contribute to such conditions assume responsibility for their actions.

#### **§500-11.4 Method of Reducing Flood Losses.**

In order to accomplish its purpose, this Flood Damage Prevention Ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- B. Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers that help accommodate or channel floodwaters.
- D. Controlling filling, grading, dredging, and other development that may increase flood damage.

- E. Preventing or regulating the construction of flood barriers that may increase flood hazards in other areas.

#### **§500-11.5 Definitions.**

Unless specifically defined below, words or phrases used in this Flood Damage Prevention ordinance shall be interpreted so as to give them the meanings they have in common usage and to give this Flood Damage Prevention ordinance its most reasonable application.

- A. APPEAL : Means a request for a review of the Construction Official's interpretation of any provisions of this Flood Damage Prevention Ordinance or a request for a variance.
- B. AREA OF SHALLOW FLOODING : Means a designated AO or VO Zone on the flood insurance rate map (firm). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.
- C. AREA OF SPECIAL FLOOD HAZARD : Means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area is shown as the "Flood way Fringe" District on the Zoning Map and is subject to the requirements of the "Flood way Fringe District in this Section.
- D. BASE FLOOD : Means the flood having a one percent chance of being equaled or exceeded in any given year.
- E. BASEMENT : Means any area of the building having its floor subgrade (below ground level) on all sides.
- F. BREAKAWAY WALL : Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.
- G. DEVELOPMENT : Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations within the areas of special flood hazard.
- H. ELEVATED BUILDING : Means a non-basement building (1) built in the case of a building in an area of special flood hazard to have the top of the elevated floor or in the case of a building in a coastal high hazard area to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special building hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high hazard "elevated building" also includes a

building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

- I. FLOOD OR FLOODING : Means a general and temporary condition of partial or complete inundation of norm dry land areas from: (1) the overflow of inland or tidal waters and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- J. FLOOD INSURANCE RATE MAP OR FIRM : Means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- K. FLOOD INSURANCE STUDY : Means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the flood boundary flood way map and the water surface elevation of the base flood.
- L. LOWEST FLOOR : Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation other applicable non-elevation design requirements.
- M. MANUFACTURED HOME : Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home", also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.
- N. MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION : Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- O. NEW CONSTRUCTION : Means structures for which the "start of construction" commenced on or after the effective date of this Flood Damage Prevention ordinance.
- P. START OF CONSTRUCTION : (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

- Q. STRUCTURE : Means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.
- R. SUBSTANTIAL IMPROVEMENT : Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a state or municipal Register of historic places.
- S. VARIANCE : Means a grant of relief from the requirement of this Flood Damage Prevention Ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

#### **§500-11.6 General Provisions.**

- A. Lands to which this Flood Damage Prevention Ordinance Applies. This Flood Damage Prevention Ordinance shall apply to all lots including portions of parcels within areas of special flood hazards within the jurisdiction of the City of Paterson.
- B. Basis for Establishing the Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Paterson, Passaic County, New Jersey" dated May 1976, with accompanying flood insurance rate maps and flood boundary flood way maps is hereby adopted by reference and declared to be a part of this Flood Damage Prevention Ordinance. The flood insurance study is on file at the Engineering Division and the Planning and Zoning Division, Municipal Complex, 111 Broadway. The Zoning Map of the City of Paterson, as revised to include the flood hazard area, is hereby incorporated as part of this article as if fully set forth herein.
- C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, altered without full compliance with the terms of this Flood Damage Prevention Ordinance Failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Flood Damage Prevention Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Paterson from taking such other lawful action as is necessary to prevent or remedy any violation.

- D. Abrogation and Greater Restrictions. This Flood Damage Prevention Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Flood Damage Prevention Ordinance or other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. Interpretation. In the interpretation and application of this Flood Damage Prevention Ordinance, all provisions shall be:
  - 1. Considered as minimum requirements.
  - 2. Liberally construed in favor of the governing body; and
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this Flood Damage Prevention Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Flood Damage Prevention Ordinance does not imply that land outside the area of special flood hazards or uses permitted with such areas will be free from flooding or flood damages. This Flood Damage Prevention Ordinance shall not create liability on the part of the City of Paterson, any officer or employee thereof or the federal insurance administration, for any flood damages that result from reliance on this Flood Damage Prevention Ordinance or any administrative decision lawfully made thereunder.

#### **§500-11.7 Procedures.**

- A. Establishment of Development Permit.
  - 1. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 500-11.6.B. Application for a development permit shall be made on forms furnished by the Construction Official and may include, but not be limited to: plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. A copy of the development permit shall accompany any application submitted to the Planning Board and Board of Adjustment, as applicable. Specifically, the following information is required:
    - a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
    - b. Elevation in relation to mean sea level to which any structure has been flood-proofed;

- c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 500-11.8.E.2; and,
    - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
    - e. Any additional information that may be required by the City of Paterson. It shall be the responsibility of the developer to obtain all necessary reviews permits from the N.J. Department of Environmental Protection, Bureau of Water Resources. The local approving agency shall require the developer to obtain such permits that shall accompany all local applications submitted to the approving agency involving lands within the flood hazard area.
- B. Designation of the Construction Official. The Construction Official is hereby appointed to administer and implement this Flood Damage Prevention Ordinance by granting or denying development permit applications in accordance with its provisions.
- C. Duties and Responsibilities of the Construction Official. Duties of the Construction Official shall include, but not be limited to:
  1. Permit Review.
    - a. Review all development permits to determine that the permit requirements of this Flood Damage Prevention Ordinance have been satisfied.
    - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
    - c. Review all development permits to determine if the proposed development is located in the flood way, and assure that the encroachment provisions of Section 500-11.8.17.1 are met.
  2. Use of Other Base Flood and Flood way Data. When base flood elevation and flood way data have not been provided in accordance with Section 500-11.6.13, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and flood way data available from a federal, state or other source, in order to administer Section 500-11.8.
  3. Information to be Obtained and Maintained.
    - a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
    - b. For all new substantially improved flood-proofed structures: verify and record the actual elevation (in relation to mean sea level); and maintain the flood-proofing certifications required in Section 500-11.7.A.1.c.



- c. Maintain for public inspection all records pertaining to the provisions of this Flood Damage Prevention Ordinance.
  4. Alteration of Watercourses.
    - a. Notify adjacent communities and the N.J. Department of Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
    - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- D. Variance Procedure.
  1. The Zoning Board of Adjustment as established by the City of Paterson shall hear and decide appeals and requests for variances from the requirements of this Section.
  2. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Section.
  3. Those aggrieved by the decision of the Zoning Board of Adjustment, or any taxpayer, may appeal such decision to the City Council of the City of Paterson, according to law
  4. In passing on such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Section and shall determine the specific flood damage potential for the site and shall evaluate the suitability of the proposed use in relation to that flood damage potential and the following:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger to life and property due to flooding erosion damage;
    - c. The degree to which the natural, scenic, and aesthetic values at the proposed activity site could be retained.
    - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage;
    - e. The proposed water supply and sanitation systems.
    - f. The importance of the service provided by the proposed facility to the community and the degree to which the proposed use would serve the general public health, safety and welfare.
    - g. The necessity to the facility of a waterfront location, where applicable;
    - h. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

- i. The compatibility of the proposed use with existing and anticipated development.
  - j. The relationship of the proposed use to the Master Plan and Flood Plan Management Program of that area;
  - k. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - l. The degree to which archeological or historical sites and structures and endangered or rare species of animals and plants would be degraded or destroyed;
  - m. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - n. The degree to which people, animals, and property would be evacuated in the expected time available after flood warning.
  - o. Whether the proposed use would provide adequate facilities for the proper handling of litter, trash, refuse, and sanitary and industrial wastes.
  - p. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
5. Upon consideration of the factors of Section 500-11.7.D.4 and the purposes of this Section, the Zoning Board of Adjustment may attach such conditions to the granting of such variances as it deems necessary to further the purposes of this Flood Damage Prevention Ordinance.
6. The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.
7. Conditions for Variance.
  - a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot on one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in Section 500-11.7.D.4 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State inventory of historic places, without regard to the procedures set forth in the remainder of this section.

- c. Variances shall not be issued within any designated flood way if any increases in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, consideration the flood hazard, to afford relief.
- e. Variances shall only be issued upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (c) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 500-11.7.D.4, or conflict with existing local laws or Ordinances.
- f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### **§500-11.8 Provisions for Flood Hazard Reduction.**

##### **A. Anchoring**

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over the top or frame ties to ground anchors. This requirement is an addition to applicable state and local anchoring requirements for resisting wind forces.

##### **B. Utilities.**

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
4. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- C. Subdivision Proposals.
1. All subdivision proposals shall be consistent with the need to minimize flood damage;
  2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
  4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less)
- D. Enclosure Openings. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- E. Specific Standards. In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 500-11.6.13 or in Section 500-11.7.C.2, the following standards are required:
1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
  2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or
    - a. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in Section 500-11.7.A.1.c.
  3. Manufactured Homes.

- a. Manufactured homes shall be anchored in accordance with Section 500-11.8.A.2.
  - b. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.
- F. Floodways. Located within area of special flood hazard established in Section 500-11.6.B are areas designated as floodways. Since the flood way is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:
1. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless a technical --valuation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge;
  2. If Section 500-11.8.F.1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 500-11.8.
  3. In all areas of special flood hazard in which base flood elevation data has been provided and no flood way has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood way more than two-tenths (0.2) of a foot at any point.

#### **§500-11.9 Flood Hazard Area.**

- A. Designation of Districts. The flood hazard area is hereby divided into two districts: flood way district and flood way fringe district. The district designation corresponds to the degree of flood damage potential at locations along the river or stream. Within these districts, all uses not allowed by right or as conditional uses shall be prohibited.
- B. Flood way District.
1. Permitted Uses in Flood way Regulations. Permitted uses in the flood way shall have an inherent low flood damage potential, and shall not be prohibited by other regulations and:
    - a. Shall not require the erection of new structures, or substantial temporary or permanent improvements.
    - b. Shall not require fill borrowed from outside the immediate flood way.
    - c. Shall not require channel modification or relocation.
    - d. Shall not obstruct flood flows.
    - e. Shall not increase local run-off and/or erosion.

- f. Are undertaken with full on-site flood damage risk accepted by the owner.
  - g. Shall not affect the water carrying or storage capacity or any channel, flood way or flood plain.
  - h. Shall not increase off-site flood damage potential.
  - i. Shall not cause degradation of water quality and/or the natural environment.
2. List of Permitted Uses. Permitted uses in the flood way shall include the following:
- a. Private and public recreation uses, such as tennis courts, basketball courts, baseball fields, other playing fields, picnic grounds, archery ranges, driving ranges, boat launching ramps, parks, fishing areas, hiking trails, biking trails, and swimming areas.
  - b. Accessory industrial and commercial uses such as loading areas and parking areas.
  - c. Accessory residential uses such as lawns, gardens, parking areas, and play areas.
3. Conditional Uses in Flood way. A conditional use permit required for all land uses in the flood way which involve:
- a. Structures, temporary or permanent, which permit nonresidential occupancy by human beings or animals.
  - b. Fill.
  - c. Storage of materials or equipment.
  - d. Channel modifications or relocation.
  - e. Excavation of sand, gravel, and other materials.
  - f. All uses allowed in Section 500-11.9.13.2 when they involve any of the factors listed in a-e of this section.
  - g. Off-street parking facilities serving the general public.
  - h. Utilities and transportation facilities such as transmission lines, railroads, streets, highways, bridges, pipelines, and transmission lines.
4. Prohibited Uses in Flood way. The following uses are prohibited in the flood way, except as permitted as a lawful preexisting use as provided for in this Flood Damage Prevention Ordinance:
- a. Placing, depositing, or dumping any solid waste, untreated sewage or industrial waste.
  - b. The erection of residential structures for occupancy at any time by human beings or structures housing livestock, and the erection of kennels for the boarding of domestic pets.

- c. The discharge, except as authorized under other provisions of the State law, processing, storage or disposal of pesticides, domestic or industrial wastes, radioactive materials, petroleum products or other hazardous materials.
- d. The construction of individual septic systems for residential, commercial or industrial buildings.
- e. Uses that do not require storage or material or equipment which increase off-site flood damage potential.

C. Flood way-Fringe District

1. Permitted Uses in Flood way Fringe. All uses allowed in the flood way under Section 500- 11.9.B.2 are permitted in the flood way fringe provided that they are not prohibited by other zoning regulations and:
  - a. Have an inherent flow flood damage potential.
  - b. Do not obstruct flows in the flood way.
  - c. Do not require modification or relocation of the channel. If this provision is at any time waived by any federal, state or local action and channel modification or relocation is permitted, notification of such proposal must be sent to adjoining communities as well as the State Department of Environmental Protection. Under all circumstances the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.
  - d. Do not increase significantly the local rate of run-off and/or erosion and sedimentation.
  - e. Are undertaken with full on-site flood damage risks accepted by the owner or his assigns.
2. Conditional Uses in Flood way Fringe. A conditional use permit is required for uses in the flood way fringe that involves one or more of the following:
  - a. Structures (temporary and permanent).
  - b. Fill.
  - c. Excavation.
  - d. Channel modification or relocation.
3. List of Conditional Uses. Uses that are not prohibited under Section 500-11.9.C.5 and that do not meet the regulations of Section 500-11.9.C.2 are conditional uses, such as:
  - a. Off-street parking facilities serving the general public.
  - b. Retaining walls, dams, bulkheads and dikes.
  - c. Utilities and transportation facilities such as railroads, streets, highways, bridges, pipelines, and transmission lines.

- d. Residences (and other structures) except mobile homes, constructed so that the basement floor, or first floor if there is no basement, is at or above the flood protection elevation. (The finished fill elevation shall be at least equal to the flood hazard profile elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon). Residential structures shall only be elevated and shall not be flood-proofed.
  - e. Other uses that are elevated, flood-proofed or otherwise protected and, therefore, are in compliance with the stated purposes and objectives of the flood hazard area.
4. Standards for Conditional Uses.
- a. Fill.
    - i. Any fill proposed to be deposited in the flood way fringe must be shown to have a beneficial purpose and the amount thereof must not exceed that necessary to achieve the intended purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials
    - ii. Such fill or other materials shall be protected against erosion with rip-rap vegetative cover or bulkheading.
  - b. Structure.
    - i. Residential structures shall not be flood-proofed.
    - ii. Structures shall have a flow flood damage potential.
    - iii. Any permitted structures shall be constructed or placed on the building site so as to offer the minimum obstruction to the flow of floodwaters. Whenever possible, structures shall be constructed longitudinal axis parallel to the direction of flood flow, and when practicable, structures shall be placed, approximately on the same flood flow-lines as an adjoining structure
    - iv. Structures shall be firmly anchored to prevent flotation that may result in damage to other structures, restriction of bridge, openings and other narrow sections of the stream or river.
  - c. Utilities. Service facilities such as electrical and heating equipment shall be constructed at or above the flood protection elevation for the particular area or flood-proofed.
  - d. Storage (and Processing) of Materials. Any permitted storage of materials or equipment shall be firmly anchored to prevent flotation or be readily removable from the area within the time of flood warning.



5. Prohibited Uses in Flood way Fringe. No person shall engage in or cause other persons to engage in prohibited uses. The following uses are prohibited, except as permitted as a lawful preexisting use as provided in this Flood Damage Prevention Ordinance:
  - a. Placing, depositing, or dumping any solid waste.
  - b. The dumping, disposal, or discharge except as authorized under other provisions of state law, pesticides, domestic and industrial wastes, radioactive materials, petroleum products, or other hazardous materials.
  - c. The water table is within four (4) feet of the surface at any time of the year.
  - d. Soil type is a "moderate" to "high" shrink-swell potential, especially if development of road or building is involved.
  - e. Exposed surface area is to remain unprotected and unstabilized for six (6) months or longer.
  - f. The site is within a flood hazard area.
  - g. No use that will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system shall be permitted.

**APPENDICES**