

# Chapter 414. ZONING

**please note this is not the entire chapter. The entire chapter can be found on the WNY website.**

## Attachments:

- 414a Schedule of District Regulations Part 1
- 414b Schedule of District Regulations Part 2
- 414c Schedule of District Regulations Part 3

**[HISTORY: Adopted by the Board of Commissioners of the Town of West New York 1-17-1979 by Ord. No. 1326. Amendments noted where applicable.]**

## **GENERAL REFERENCES**

Department of Community Development — See Ch. 16.

Construction Board of Appeals — See Ch. 19.

Construction Code Official — See Ch. 21.

Environmental Commission — See Ch. 33.

Building construction standards — See Ch. 135.

Certificates of occupancy — See Ch. 148.

Condominium conversions — See Ch. 158.

Flood damage prevention — See Ch. 204.

Affordable housing — See Ch. 221.

Land use procedures — See Ch. 231.

Multiple dwellings — See Ch. 260.

Property maintenance — See Ch. 299.

Signs — See Ch. 338.

Subdivision of land — See Ch. 358.

Swimming pools — See Ch. 361.

## **ARTICLE I. Purposes; Title**

§ 414-1. Purposes.

§ 414-2. Title.

A. There is hereby established a comprehensive zoning plan for the Town of West New York, in the County of Hudson, hereinafter referred to as the "Town," which plan is set forth in the text, Zoning Map and Schedule of District Regulations that constitute this chapter. Said plan is adopted for the purposes set forth in Chapter 291 of the Laws of New Jersey 1975, Editor's Note: See N.J.S.A. 40:55D-1 et seq. which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following among others:

- (1) To lessen congestion in the streets.
- (2) To secure safety from fire, panic and other dangers.
- (3) To promote health, morals or the general welfare.
- (4) To provide adequate light and air and open space.
- (5) To prevent the overcrowding of land or buildings.

(6) To avoid undue concentration of population.

(7) To protect the environment from deleterious uses of land.

(8) To promote a desirable visual environment through creative development techniques and good civic design and arrangements.

(9) To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land.

(10) To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

B. Such regulations were made with reasonable consideration, among other things, to the character of each district and its peculiar suitability to particular uses and with a view of conserving the value of property and encouraging the most appropriate use of land throughout the town.

§ 414-2. Title.

This chapter shall be known as the "Zoning Ordinance of the Town of West New York."

## **ARTICLE II. Establishment of Districts; Zoning Map**

§ 414-3. Districts established.

§ 414-4. Interpretation of district boundaries.

§ 414-5. Zoning Map.

§ 414-6. Authentication of Zoning Map.

§ 414-7. Maintenance of Zoning Map.

§ 414-8. Amendments to Zoning Map.

§ 414-9. Lost, damaged or destroyed Zoning Map.

§ 414-10. Compliance with provisions required; additional requirements.

### **Article II. Establishment of Districts; Zoning Map**

§ 414-3. Districts established.

A. The Town of West New York is hereby divided into the zones or districts shown on the Zoning Map and listed below:

[Amended 5-12-2008 by Ord. No. 7/08]

**R-M Medium-Density Residential**

**R-H High-Density Residential**

**C-R Retail and Service Commercial**

**C-H Heavy-Impact Commercial**

**I-L Light-Impact Industrial**

**CWD Controlled Waterfront Development**

**Infill Development**

**B. For purposes of this chapter, the more restricted district shall be deemed to be that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations require higher standards with respect to densities, coverage, setbacks, yards, screening, landscaping, parking and similar requirements.**

**§ 414-4. Interpretation of district boundaries.**

**A. In determining the boundaries of districts shown in the Zoning Map, the following rules shall apply:**

- (1) Unless otherwise shown, the district boundary lines of streets, alleys, parkways, waterways, railroad rights-of-way or such lines extended shall be the district lines.**
- (2) Where such boundary lines are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.**
- (3) In all cases where a district boundary line divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot.**
- (4) In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.**
- (5) In all other cases, where dimensions are not shown on the Map, the location of district boundary lines shown on the Map shall be determined by the use of the scale appearing thereon.**
- (6) In cases of uncertainty or disagreement as to the true location of any zone boundary line, the determination thereof shall lie with the Board of Adjustment as hereinafter provided.**

**B. The boundaries of the districts are shown on the Map designated as the Zoning Map approved by the Board of Commissioners of the Town of West New York as part of this chapter and filed in the Clerk's office of the Town of West New York. Said Zoning Map and all notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were all fully set forth as described herein.**

**§ 414-5. Zoning Map.**

**The location and boundaries of said districts are hereby established as shown on the official Zoning Map of the Town of West New York, New Jersey, dated December 1978, which is attached hereto and is hereby made a part of this chapter, together with all notations, references and designations shown thereon. Editor's Note: A copy of the Zoning Map is included in a pocket part at the end of this volume.**

**§ 414-6. Authentication of Zoning Map.**

**Subsequent to the adoption of this chapter, the original copy of the official Zoning Map shall be authenticated by the Mayor's signature and the Seal of the municipality, attested by the Town Clerk, under the following certificate:**

**"I certify that this is the official Zoning Map of the Town of West New York, New Jersey, referred to in Ordinance Number..... of the Town of West New York, New Jersey, adopted on..... ."**

**§ 414-7. Maintenance of Zoning Map.**

**Said original tracing of the official Zoning Map shall be maintained in the office of the Town Clerk and shall be made available for public reference. Copies of all or part of the official Zoning Map may be reproduced for public distribution. However, the original copy of the official Zoning Map maintained in the office of the Town Clerk shall be used as the final authority as to the current status of zoning districts in the Town of West New York.**

**§ 414-8. Amendments to Zoning Map.**

#### **A. Notations on Map.**

(1) When, in accordance with the provisions of this chapter and of the state law, changes are made in district boundaries or other matters portrayed in the official Zoning Map, such changes will not become effective until the official Zoning Map has been amended, with an entry bearing the following notation:

"On....., ....., by adoption of Ordinance Number ....., the Board of Commissioners made the following change(s) in the official Zoning Map: (brief description of change)."

(2) Each such entry shall be signed by the Mayor and attested by the Town Clerk. Each ordinance amending the official Zoning Map in any manner shall include the proviso that it shall not take effect until the official Zoning Map has been amended in accordance with these provisions.

**B. No changes of any nature shall be made to the official Zoning Map except in conformity with the above procedure. Any unauthorized changes to the Map or its contents by any person or persons shall be considered a violation of this chapter, punishable as provided under Article XIII of this chapter.**

#### **§ 414-9. Lost, damaged or destroyed Zoning Map.**

**A. In the event that the official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Commissioners may, by resolution, adopt a new official Zoning Map which shall supersede the prior official Zoning Map. The new official Zoning Map may correct drafting or other errors or omissions in the prior official Zoning Map, but no such corrections shall have the effect of amending the original Zoning Map or any amendment thereof. The new official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and contain the following words: "This is to certify that this Zoning Map supersedes and replaces the Zoning Map (date of adoption of map being replaced) as part of Ordinance number..... of the Town of West New York, New Jersey."**

**B. Unless the prior Zoning Map has been lost or totally destroyed, the prior Map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.**

#### **§ 414-10. Compliance with provisions required; additional requirements.**

**Following the effective date of this chapter:**

**A. No building shall be erected, moved, altered, rebuilt or expanded, except as specified elsewhere in this chapter, nor shall any land or building be used, designed or arranged to be used, for any purpose or in any manner, except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or land is located.**

**B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.**

**C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the construction of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.**

### **ARTICLE III. Definitions**

#### **§ 414-11. Word usage; terms defined.**

**A. For the purpose of this chapter, words used in the present tense include the future; the singular number includes the plural and the plural, the singular; the word "building" includes the word "structure." The word "used" or "occupied" shall be deemed to also include "designed, intended or**

arranged to be used." The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the word "lot" includes the word "plot" or "parcel." The word "shall" is mandatory and the word "may" is permissive.

**B. Certain words or terms used herein shall be interpreted or defined as follows:**

**ACCESSORY BUILDING**

A building detached from and subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY USE**

A use customarily incidental and subordinate to the main use conducted in a main or accessory building.

**ALTERATION, STRUCTURAL**

Any change that involves the supporting elements of a building such as bearing walls, columns, beams, girders and the roof and roof support or foundation.

**APARTMENT HOUSE, GARDEN-TYPE**

A multifamily residential structure of not more than two stories containing three or more dwelling units.

**APARTMENT HOUSE, HIGH-RISE**

A residential structure of more than three stories, containing three or more dwelling units and containing a heating plant which supplies heat to all tenants.

**ATTIC**

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

**AUTOMOBILE SERVICE STATION**

A building or place of business where gasoline, oil and grease, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and where minor repair service is rendered.

**BASEMENT**

That portion of the building that is partly underground, which has more than 1/2 of its height, measured from clear floor to ceiling, above the average adjoining ground level.

**BILLBOARD**

A sign which directs attention to a product, business, service or entertainment conducted, sold or offered elsewhere than upon the lot on which said sign is located.

**BUILDING**

A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof. A mobile home or house trailer shall be considered a building.

**CELLAR**

The lowest part of a building partly or totally under ground having half or more of its height measured from cellar floor to ceiling below the average level of the adjoining ground.

**COMMERCIAL ENTERTAINMENT ESTABLISHMENTS**

Movie, comedy and play theaters which feature pictorial or live theatrical or comedy entertainment. Private recreation facilities, such as pool or billiard parlors; bowling alleys; roller- or ice-skating rinks; health or diet clubs; karate, yoga or exercise facilities; gyms; indoor sports and

wrestling programs; and tanning and sauna clubs, are all excluded uses which are prohibited in all districts.

[Added 5-16-1990 by Ord. No. 1881]

#### **CONTROLLED WATERFRONT DEVELOPMENT**

An area with a specified minimum contiguous acreage of 10 acres or more to be developed as a single entity according to a plan, containing one or more detached single or cluster units or townhouse residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified in the Zoning Ordinance. (See Article VI for detailed controls.)

#### **COURT, INNER**

An open unoccupied lot space enclosed on all sides by exterior walls of a building.

#### **COURT, OUTER**

An open unoccupied lot space enclosed on not more than three sides by exterior walls of a building.

#### **COVERAGE**

That percentage of the lot area that is covered by a building or buildings.

#### **CURB LEVEL**

The permanently established grade at the top of the curb of the street midpoint in front of the lot. Where a lot fronts upon two or more streets of different levels, the curb of the higher street may be taken as the base for measuring the height of structures to a distance 100 feet back from that street.

#### **DWELLING**

Any structure, including mobile homes and house trailers, designed for use by human occupants for sleeping and living purposes, whether occupied or vacant, except that the foregoing shall not apply to hotels or motels. It shall have one or more rooms containing independent cooking and sanitary facilities.

#### **DWELLING, MULTIFAMILY**

A building containing three or more dwelling units.

#### **DWELLING, SEMIDETACHED**

A building with one or two dwelling units beside the other, completely separated therefrom by a party or common wall with no openings therein.

#### **DWELLING, SINGLE-FAMILY**

A building designed as one dwelling unit for one family.

#### **DWELLING, TWO-FAMILY**

A building designed for two separate families where the dwelling units are entirely separated by vertical walls or horizontal floors.

#### **DWELLING UNIT**

Any room or group of rooms located within a dwelling forming a single habitable unit which includes facilities for living, sleeping, cooking, eating, bathing and toilet purposes.

#### **FAMILY**

One or more persons related by blood, marriage or legal adoption or related adults, living together as a single housekeeping unit.

#### **FLOOR AREA**

The sum of the gross horizontal areas of any building or buildings on a lot, measured from the interior faces of interior walls. Floor area shall not include cellar space, stairways, unenclosed porches and breezeways nor any floor space with a floor-to-ceiling height of less than seven feet.

#### **GARAGE, PRIVATE**

A building or part thereof used primarily for the storage of one or more motor vehicles that are accessory to a residential or nonresidential building and in which no other business, service or industry connected with motor vehicles is conducted or rendered.

#### **HEIGHT OF BUILDING**

The vertical distance measured from the curb level of the highest point of the roof beams adjacent to the street wall in the case of flat roofs and, in the case of pitched roofs, from the curb level to the average height of the gable. Where the front wall of a building is more than 20 feet from the street line, the average level of the ground adjoining the walls of the building may be taken in measuring its height, instead of the curb level.

#### **HOME OCCUPATION**

An activity conducted entirely within a dwelling and carried on solely by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Not more than three persons are to be engaged at this occupation, and not more than 1/3 of the floor area of one story is to be devoted to such use. Such occupation shall not be conducted in an accessory building. No mechanical equipment shall be used other than that such as is customary for purely domestic or household purposes.

#### **HOTEL**

Any building or any part of a building which contains living and sleeping accommodations for transients or permanent guests who are lodged with or without meals and in which no provision is made for cooking in any individual room or rooms.

#### **JUNKYARD**

A lot or part thereof, or a structure, used for the collection, storage and sale of wastepaper, rags, scrap metal or other scrap or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

#### **LOADING SPACE**

A space, open or enclosed, for the loading or unloading of goods to or from a vehicle, having direct access to a public right-of-way and at least 12 feet wide and 35 feet long, with 14 feet of headroom.

#### **LOT**

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

#### **LOT AREA**

The area included within lot lines in square footage or acreage.

#### **LOT, CORNER**

A lot at the junction of and abutting on two or more intersecting streets when the interior angle of intersection does not exceed 135°. Regardless of legal lot lines, no frontage greater than 100 feet in either direction from the corner point of intersection will be treated as a corner lot. Its access area shall be treated as an interior lot.

#### **LOT DEPTH**

The mean distance from the line of the street on which it fronts to the rear lot line, measured in the mean general direction of the side lines of the lot.

#### **LOT, INTERIOR**

**A lot other than a corner lot.**

**LOT LINE**

**Any boundary of a lot as defined herein.**

**LOT WIDTH**

**The horizontal distance between the side lot lines, measured at the required setback lines.**

**MARINA**

**An anchorage for boats, including launching and parking facilities and provision for fuel and accessories, but excluding out-of-water boat storage and any activities to repair and maintain boats.**

**MOTEL, MOTOR COURT or MOTOR HOTEL**

**A building or building group designed for occupancy as the temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in any individual room or suite, with a parking space provided closely related to each room or suite.**

**NIGHTCLUB**

**An establishment dispensing liquor, other beverages or meals and in which any two of the following characteristics occur:**

**[Added 5-18-2005 by Ord. No. 6/05; amended 9-20-2006 by Ord. No. 16/06]**

- (1) Low lighting levels.**
- (2) Cover charge for entry.**
- (3) Entertainment by a live band or recorded music generating above normal sound levels.**
- (4) Later than average operating hours.**
- (5) Tables and seating arranged or positioned so as to create ill-defined aisles.**
- (6) A specific area designated for dancing.**
- (7) Services facilities primarily for alcoholic beverages with limited food service.**
- (8) High occupant load density.**

**NONCONFORMING LOT**

**A lot the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a 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.**

**NONCONFORMING STRUCTURE**

**A structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a 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.**

**NONCONFORMING USE**

**A use or activity which was lawful prior to the adoption, revision or amendment of a 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.**

**PARKING SPACE**

A space which, exclusive of driveways and turning areas, is at least 91/2 feet wide and 20 feet long. Driveways or aisles to serve said parking space(s) shall be at least 24 feet wide.

#### **REAR YARD DEPTH**

The mean distance from the rear lot line or its vertical projection to the part of the building that is nearest thereto at any story level.

#### **RESTAURANT**

An establishment, with less than 49 seats, including bar stools, where food and drink is prepared, served and consumed primarily within the principal building, including serving prepared food which is also intended for consumption off the premises such as pizza parlors, bakeries and similar uses. The term "restaurant" shall not include dance clubs, social clubs and similar facilities.

[Added 7-2-1997 by Ord. No. 17/97]

#### **SIDE YARD WIDTH**

The minimum distance between the side lot line or its vertical projection and the side walls of the building at any story level.

#### **SIGN**

Any device or representation for visual communication used as or which is in the nature of an advertisement, announcement or direction, including any letter, word or model, banner, pennant or insignia, but excluding any public traffic, street or directional sign.

#### **SITE PLAN**

A development plan of one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways; 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 and screening devices; and any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board adopted pursuant to Article 6 of Chapter 291 of the Laws of New Jersey 1975. Editor's Note: See N.J.S.A. 40:55D-37 through 40:55D-59.

#### **STORY**

That part of any building comprised between the level of one finished floor and the level of the next higher finished floor, or if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the underside of the roof beams.

#### **STORY, HALF**

That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below.

#### **STREET**

Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway; or which is upon a plat heretofore approved pursuant to law; or which is approved by official action as provided by this chapter; 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.

#### **STREET LINE**

The dividing line between a street and a lot. Where title to land contiguous to a road, easement or right-of-way extends to the center thereof, the side line of such road, easement or right-of-way shall be deemed to be the side line of a street.

#### **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.

#### **TOWNHOUSE DWELLING STRUCTURE**

A building or structure containing two or more townhouse dwelling units.

#### **TOWNHOUSE DWELLING UNIT**

One of a series of contiguous single-family dwelling units attached on either both sides or one side, depending upon whether the unit is an interior unit or whether the unit is at the end of a townhouse dwelling structure, thereby having one common and one exterior wall, with private or semiprivate rear yard areas.

#### **USE**

The specific purpose for which a parcel of land or a building or portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

#### **YARD, FRONT**

An open, unoccupied space within and extending the full width of the lot between all street lines and the parts of the building nearest to such street lines.

#### **YARD, REAR**

An open, unoccupied space extending the full width of the lot between the rear lot line and the parts of the building nearest to such rear lot line.

#### **YARD, SIDE**

An open, unoccupied space extending the full length of the lot, between the side lot line and a line drawn parallel thereto at such distance therefrom as may be specified herein for any district.

#### **ARTICLE IV. Schedule of District Regulations**

§ 414-12. Adoption; amendments.

§ 414-13. Compliance with schedule required.

§ 414-14. Exclusion of certain uses.

§ 414-15. Notes to schedule.

#### **Article IV. Schedule of District Regulations**

§ 414-12. Adoption; amendments.

The regulations prescribed for each of the districts listed in § 414-3 are listed on a schedule entitled "Schedule of District Regulations," which schedule is hereby adopted and made a part of this chapter. Editor's Note: The Schedule of District Regulations is included at the end of this chapter. Said schedule may be amended in the same manner as any other part of this chapter.

§ 414-13. Compliance with schedule required.

In addition to uses specifically prohibited by this chapter and the schedule referred to herein, no building, structure or land shall be used nor shall any building, structure or part thereof be constructed or altered nor shall any use of land be changed, where said use, construction or alteration of land, structure or building is intended, arranged or designed to be used in whole or in part for any use or purpose except the uses specifically allowed by right or special permit for each district in the Schedule of District Regulations.

§ 414-14. Exclusion of certain uses.

The omission of any use or type of use from the said schedule shall be deemed to be an exclusion thereof from all districts.

§ 414-15. Notes to schedule.

**The following notes which are referred to in the Schedule of District Regulations are a part thereof and are hereby adopted as part of the Schedule of District Regulations:**

**A. Note 1: Garden apartment and elevator apartment developments shall be permitted, subject to site plan approval by the Planning Board, provided that:**

**(1) There shall be a minimum site of 20,000 square feet for each garden apartment development and a minimum site of 40,000 square feet for each elevator apartment development.**

**(2) The number of dwelling units per net residential acre or fraction thereof shall not exceed 20 in two-story garden apartment developments and shall not exceed 80 in elevator apartment developments for family units and 120 units for elderly housing in elevator buildings.**

**(3) No garden apartment building shall exceed a height of two stories or 35 feet and no elevator apartment building shall exceed a height of 12 stories or 135 feet.**

**(4) The maximum percentage of any lot that may be covered by all buildings shall not exceed 35% in garden apartment developments and shall not exceed 55% in elevator apartment developments. Where the required off-street parking facilities are contained in the apartment structure, lot coverage shall not exceed 75% of the lot.**

**(5) There shall be provided front and rear yards of at least 15 feet and two side yards each of at least 10 feet for buildings having a height of up to six stories; and for each additional story over six, there shall be provided an additional one foot of width to the required ten-foot-wide minimum side yard. Surface parking facilities, as permitted in this chapter, may be located within the required yards, provided that such parking does not extend within three feet of any property line.**

**(6) Inner courts shall be prohibited.**

**(7) All open areas other than those used for parking, loading, active or passive recreational purposes and pedestrian and vehicular circulation shall be graded, planted, landscaped and properly maintained at all times.**

**(8) On-site parking spaces as defined in this chapter shall be provided at a ratio of one space for each one-bedroom unit, 1.5 spaces for each two-bedroom unit and two spaces for each three-bedroom unit. In the case of housing units designed expressly for occupancy by the elderly, on-site parking facilities shall be provided at the ratio of one parking space for each three dwelling units. All rooms that can be readily converted to a bedroom shall be considered as such for purposes of calculating required parking spaces.**

**[Amended 4-15-1987 by Ord. No. 1771]**

**(9) In the case of elevator apartment developments, the floor area ratio shall not exceed three to one (See Subsection H, Note 8, for an explanation of FAR, floor area ratio.)**

**B. Note 2: Public and private schools and other institutions of higher learning shall be permitted, subject to site plan approval by the Planning Board, provided that:**

**(1) Said school or institution shall be qualified as a nonprofit organization within the meaning of the Internal Revenue Act and registered effectively as such thereunder and under the New Jersey Statutes Annotated and otherwise approved by the Department of Institutions and Agencies of the State of New Jersey or its successors, pursuant to the statutes, rules and regulations of the State of New Jersey.**

**(2) Such school shall have as its prime purpose the general education of students in the arts and sciences and shall be licensed by the State Department of Education if a license for its operation is required by law.**

**(3) No school permitted hereunder shall be a trade school except to the extent that instruction in a particular trade or trades may be a part of the general education curriculum of the school in the arts and sciences. No correctional, health or any other institution not primarily concerned with the general education of students in the arts and sciences shall be permitted.**

**C. Note 3.**

**[Amended 5-19-2010 by Ord. No. 9/10]**

**(1) Note 3(A). Existing neighborhood-type commercial establishments shall be permitted in the R-M District as a principle use, provided that:**

**(a) Such commercial establishments existed at the time of the passage of this chapter.**

**(b) Such retail stores, service, eating and drinking, commercial entertainment and minor repair establishments or other existing commercial uses are of a neighborhood type, i.e., daily needs establishments intended to serve the residents of a neighborhood, and are compatible with the residential uses and character of the neighborhood in which they are located.**

**(2) Note 3(B). A change of use from an existing or former neighborhood-type commercial establishment which establishment conformed to the provisions of Subsection C(1)(a) above to another neighborhood-type commercial establishment shall be permitted, provided that such retail stores, service, eating and drinking, commercial entertainment, and minor repair establishments are of a neighborhood type, i.e., daily needs establishments intended to serve the residents of a neighborhood, and are compatible with residential uses and the character of the neighborhood in which they are located.**

**D. Note 4: Customary home occupations shall be permitted as an accessory use, provided that:**

**(1) The home occupation is carried on entirely within the principal structure only by the inhabitants thereof, who shall not exceed two persons.**

**(2) The home occupation is incidental and secondary to the residential use of the structure and does not use more than 30% of the total floor area of the dwelling unit in which it is contained.**

**(3) No special mechanical equipment shall be used for the home occupations other than the equipment customarily found in a dwelling unit.**

**(4) No display of goods or signs identifying such occupation shall be permitted.**

**(5) Said home occupation will not generate truck delivery or pickup activities as a general part of the operation.**

**E. Note 5: Professional offices shall be permitted, provided that:**

**(1) Said office is for the practice of a professional in the field of medicine, dentistry, architecture, engineering, law, accounting or similar occupations requiring licensing or for an artist, musician, instructor in arts and crafts or similar professional.**

**(2) Said accessory office use shall not exceed 50% of the total floor area of the residence in which it is located.**

**(3) There shall be not more than one identification sign for each such professional office and said sign shall be limited in area to one square foot.**

**F. Note 6: Row or townhouses shall be permitted, provided that:**

- (1) The minimum lot area shall be 1,500 square feet for each dwelling unit in a row house development.
- (2) The minimum lot width shall be 15 feet.
- (3) The maximum coverage of the lot by buildings shall not exceed 60%.
- (4) A setback of at least 10 feet shall be provided, except where a garage is part of the principal structure. In that case the garage frontage of the structure shall be set back at least seven feet from the street line, and upper stories of the structure may project within the same seven-foot setback area applicable to the garage.
- (5) A rear yard of at least 20 feet shall be provided. If the garage is at the rear, there shall be a rear yard of at least five feet.
- (6) Two side yards shall be provided for the entire site of the development, with an aggregate of at least 12 feet for both, and one of which shall be at least nine feet wide.
- (7) There shall not be more than 10 nor less than five houses per row.
- (8) In the event of more than one group of row houses on a site, there shall be a distance of at least 30 feet between groups.
- (9) The height of the principal building shall not exceed 3 1/2 stories or 40 feet, and an accessory garage building shall not exceed a height of one story or 15 feet.

**G. Note 7: Private membership clubs, including social and indoor recreational meeting halls for fraternal, social and service organizations, shall be permitted, provided that:**

- (1) Such clubs shall not be used for an activity commonly conducted as a business and the use thereof shall be limited to members or their guests.
- (2) The lot operated for club purposes shall have an area sufficient to offer adequate protection to all adjoining and neighboring properties.
- (3) On-site parking facilities, as defined in this chapter, shall be provided at the rate of one space for each full-time employee plus one for each eight members.
- (4) At least one paved on-site loading space, as defined in this chapter, shall be provided for each establishment that requires deliveries for a restaurant part of the operation.
- (5) No part of the site which is used for outdoor sports activity shall be closer than 50 feet to the nearest residential property line. Where such part of the lot is used for active sports, it shall be screened by a thick hedge, fence or wall having a height of not less than 4 1/2 feet.

**H. Note 8, explaining the floor area ratio (FAR) requirement and the bonus system.**

- (1) As used elsewhere in this chapter, the term "floor area ratio" (also designated as FAR) describes a control of a building's bulk in relation to the size of the lot on which it is located. "Floor area ratio" is defined as the total gross floor area of a building on a lot, divided by the area of that lot. For example, a floor area ratio of three to one means that for each square foot of lot area, a structure containing three square feet of building area could be constructed, or a structure could have an aggregate floor area three times larger than the area of its lot (other accompanying controls in that district being applicable).

(2) In high land value sections of a municipality where vacant land is scarce, the floor area ratio principle can enable that municipality to control the intensity of development without imposing an inflexible system of controls of the dimensions of yards, the height of a building or the percentage of lot coverage, while enabling a developer to draw on a variety of design alternatives for his site and building plans. In addition, this floor area ratio control is supplemented by a system of bonuses in the form of permission to add additional floor area to a structure beyond the established ratio, in direct proportion to the provision of additional open space and site and/or building features which would enhance that use of land. When the bonus floor area amounts to be provided are added to the floor area ratio, that aggregate shall constitute the maximum intensity of building development.

(3) Bonuses in additional floor area beyond the maximum permitted in the Schedule of District Regulations shall be granted to achieve the following objectives:

(a) For light and air.

[1] For the provision of a wider side yard setback of a building in excess of the minimum requirement, beginning at a height of 30 feet above the street and extending upward the full height of the building and running the full depth of the lot, the bonus floor area shall be in direct proportion to the area of that additional side yard space in excess of the minimum which is shown as open space to be provided, multiplied by the number of stories.

[2] For the provision of low coverage by the upper stories of a building (an alternative to a side yard setback) where all upper floors of a structure, above a height of 60 feet, are set back at least 20% of the lot's width and/or depth, the bonus floor area shall be in direct proportion to the area of the additional open space to be provided, multiplied by the number of stories.

(b) For pedestrian circulation.

[1] For the provision of a plaza or arcade (at least 30 feet wide) or additional sidewalk width (of at least five feet), the bonus floor area shall be in direct proportion to the area of the additional open space to be provided, multiplied by the number of stories.

[2] For the provision of a passageway, plaza or a pedestrian walk (at least 20 feet wide) through a block to connect one public street with another, the bonus floor area shall be in direct proportion to the additional open space to be provided, multiplied by the number of stories.

I. Note 9: In an R-H District, garden and elevator apartment development shall be permitted subject to site plan approval by the Planning Board and according to the provisions contained in Subsection A, Note 1, except that the maximum residential density permitted in elevator apartment developments shall not exceed 110 units per net residential acre for family units and 150 units per net residential acre for housing units for the elderly.

J. Note 10: Parking garages and parking lots shall be permitted, provided that:

(1) Such garages or parking lots are not closer than 50 feet to any residential district or not closer than 150 feet to a school, playground, public library or other public building attended by elementary school children.

(2) Such buildings shall be compatible in height, bulk and appearance with the adjoining residences and other buildings.

(3) No sale of automobiles, repair, fueling or other services of any kind shall take place as a commercial enterprise on the premises.

**(4) No vehicles shall be parked closer to the street line than prevailing front yard setback requirements of the zone.**

**(5) A thick hedge, fence or wall with a height of not less than four feet shall be located along the side and rear property lines of such parking lot use which abuts a residential district.**

**(6) Not more than one identifying sign shall be used and it shall be limited in area to two square feet.**

**(7) Points of access or egress to the site shall be limited to not more than two for each 100 feet or major fraction thereof of lot frontage and each such driveway shall have a minimum width of 24 feet if intended for two-way vehicular movement and 12 feet if intended for one-way movement.**

**(8) All parking lots shall be lighted after sunset throughout the hours when they will be used by the public. Such lighting shall not exceed an intensity of five footcandles nor shall such lighting be less than 1.5 footcandles at pavement level. Such lighting shall be hooded or shielded to reflect the light away from abutting or neighboring residential property.**

**K. Note 11: Gas stations shall be permitted by special exception permit (a conditional use permit) approved by the Zoning Board of Adjustment or Planning Board [depending upon the need for variances and according to N.J.S.A. 40:55D-67 and 40:66D-76 (Chapter 291 of the Laws of New Jersey 1975)], provided that:**

**(1) No major repair work shall be performed in the open and all automobile parts and products for sale shall be stored within a building. Gasoline or oil sales, changing of tires and other similar minor servicing shall not be considered major repair work.**

**(2) No gasoline pump shall be located closer than 15 feet to the street line.**

**(3) All gasoline and similar substances shall be stored underground and shall be located at least 25 feet from any property line other than a street line.**

**(4) No gasoline filling station or outdoor pumps shall be located within 1,000 feet, measured along or across any street or streets, of a service station or outdoor gasoline pumps serving the general public or similar establishments then in existence or for which a building permit shall have been issued.**

**(5) No gasoline filling stations or outdoor pumps shall be located within a two-hundred-foot radius of a school, church or playground.**

**(6) Only one freestanding sign shall be permitted. Such freestanding sign shall not exceed a height of 30 feet and an area of 40 square feet.**

**L. Note 12: Auto repair garages shall be permitted by special exception permit (a conditional use permit) approved by the Zoning Board of Adjustment or Planning Board [depending upon the need for variances and according to N.J.S.A. 40:55D-67 and 40:55D-76 (Chapter 291 of the Laws of New Jersey 1975)], provided that:**

**(1) No major repair work, including the painting of auto bodies, shall be performed in the open.**

**(2) No noise, dust, fumes, odors or other pollutant of the environment shall be disseminated beyond the building where such use is conducted.**

**(3) No storage of vehicles shall be permitted on the lot, except those vehicles being stored until repair work is undertaken or after completion of the work until they are claimed by their owners.**

**(4) Any accessory gasoline pumps used for retail sales purposes shall be subject to all of the requirements for gasoline stations as required by this chapter.**

**M. Note 13: Manufacturing, converting, altering, finishing, assembling or other handling, storage or distribution of materials or products shall be permitted, provided that:**

(1) Such industrial activities are of a light-impact nature and will not exert any deleterious impacts on the environment and shall be subject to an environmental impact study prepared by a recognized and qualified specialist selected by the Town of West New York and at the expense of the applicant if such study will be deemed necessary by the Town of West New York.

(2) Such industrial use shall not constitute a fire, explosion or other hazard; nor shall water, air or noise pollution result from the operation thereof. No noise, smoke, gas, dust, fumes, odor or atmospheric pollutant or radiation shall be disseminated beyond the building in which such use is conducted.

(3) Such industrial use, including any storage of materials or equipment, shall be conducted within a fully enclosed building.

**N. Note 14: All applications for development of 10 or more new multifamily residential units must comply with guidelines of the Town of West New York for the provision of affordable housing in accordance with the provision of the Council on Affordable Housing.**

[Added 6-21-1989 by Ord. No. 1849]

**O. Note 15: Minimum frontage for all uses: For all uses in the C-R, Retail and Service Commercial District, a minimum frontage of 25 feet is required. Only one permitted use per floor shall be allowed within this required frontage. Additional street frontage of at least 25 feet shall be required for each additional permitted use.**

[Added 7-2-1997 by Ord. No. 17/97]

**P. Note 16: Fences and walls may be erected anywhere on a lot, subject to the following provisions:**

[Added 7-21-1999 by Ord. No. 11/99]

(1) In a residential front yard, no portion of a fence or wall may exceed a height of four feet. For corner lots, the front yard shall be that yard which faces the primary entrance to the residence. In the remaining yards, a fence or wall may be erected to a maximum height of six feet.

(2) For commercial properties, fences may be erected to a maximum height of six feet in all yards.

(3) Except where specifically prohibited under the terms of this or any other applicable chapter or regulations of the town, nothing herein shall be construed to prohibit the uses of hedges, trees or other planting anywhere on the lot.

(4) A building permit is required before erecting all fences or walls.

**Q. Note 17: Infill Development District.**

[Added 5-12-2008 by Ord. No. 7/08 Editor's Note: This ordinance also provided that the Infill Development District shall apply only to Block 29 of the Official Tax Map of the Town of West New York. ]

(1) Lot dimensions. There shall be frontage on any two streets bordering the property with a minimum dimension on each street frontage of 100 feet.

**(2) Yards and setbacks.** Setbacks of buildings for all yards, front, rear and side, shall be a minimum 10 feet at the ground level through the top of the third floor level, and shall be a minimum of 15 feet above that level.

**(3) Height.** The height of all structures shall be limited by the permitted density of development, setbacks and floor area ratio provisions.

**(4) Density and floor area ratios.** The maximum density of residential development shall be 140 residential dwelling units per acre. The maximum commercial or retail development shall be 5% of the residential floor area, and it shall be limited to the first, second and basement levels. The overall floor area ratio of all development shall be limited to a ratio of 5 to 1, except that development may exceed 5 to 1 up to a limit of 7 to 1 where half of the floor area above 5 to 1 is utilized for the provision of affordable housing to include workforce housing.

**(5) Lot coverage.** Lot coverage by principal buildings shall not exceed 55%. The building coverage may be increased to 90% if parking is located within the building. The total impervious surface coverage shall not exceed 90% in any case.

**(6) Parking.** Parking shall be subject to the parking requirements contained in Chapter 414, § 414-25, of the Code of the Town of West New York, but the areas devoted to parking shall not be considered in the calculation of any floor area ratio.

#### **ARTICLE IV. Schedule of District Regulations Help ARTICLE VI.**

##### **Controlled Waterfront Development District**

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

**Jump to Content**

#### **ARTICLE V. Supplementary Regulations**

§ 414-16. Scope of article.

§ 414-17. Site plan approval requirements.

§ 414-18. Site plan review criteria.

§ 414-19. Time limits for Planning Board review.

§ 414-20. Waiver of site plan requirements.

§ 414-21. Building permits.

§ 414-22. Sign regulations applicable in all districts.

§ 414-23. Signs in residential districts.

§ 414-24. Signs in commercial and industrial districts.

§ 414-25. Off-street parking and loading requirements.

##### **Article V. Supplementary Regulations**

§ 414-16. Scope of article.

This article consists of regulations, provisions and requirements that are supplementary to or in modification of the regulations set forth in the Schedule of District Regulations and the notes accompanying said Schedule of District Regulations that are contained in preceding § 414-15. These supplementary regulations include, but are not limited to, requirements for site plan approval, signs and parking and loading facilities.

§ 414-17. Site plan approval requirements.

A. Site plan approval is required prior to the issuance of a building permit for all uses of land except dwelling units, one- and two-family homes and renovations in which no variances are necessary and which do not change the use, footprint or density of the structure. Such site plans, which shall bear the official seal, signature and license number of an architect, engineer or planner licensed to practice that profession in the State of New Jersey, shall be submitted to the Secretary of the Planning Board or the Secretary of the Board of Adjustment in those cases where the Board of Adjustment has jurisdiction.

[Amended 6-19-1996 by Ord. No. 26/96]

(1) Twelve copies of the application and 12 prints of the preliminary proposal map shall be filed with the appropriate Board Secretary who shall distribute one copy to the Construction Official, the Town Planning Consultant and such other officials as necessary.

(2) The preliminary sketch map shall show, at an appropriate scale:

(a) The site for which application is being made, identified by Town of West New York Tax Map's block and lot number.

(b) Existing surrounding uses of land and their structures for a distance of at least 200 feet on all sides of the applicant's site.

(c) The type of structure which is proposed, illustrated by a floor plan sketch and front and side elevations drawn to scale. If applicable for commercial establishments, the areas to be used for outdoor selling or display should be noted.

(d) The proposed on-site circulation system, access and egressways and service roads, if applicable, with particular reference to automotive and pedestrian safety and convenience and access and egress in case of fire or catastrophe.

(e) On-site parking spaces and aisles drawn to the dimensions as contained in the definitions of this chapter.

(f) On-site loading facilities, if applicable, drawn to the dimensions contained in the definitions of this chapter.

(g) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.

(h) An estimate of the number of employees who will be using the site on a full- or part-time basis, if applicable.

(i) Landscaping and buffering or screening proposals with reference to type, dimensions and character.

(j) Topography of the site with contour intervals of not more than five feet.

(3) Said applications and sketches shall be filed at least 14 days prior to a regular meeting of the Planning Board and shall be accompanied by a certified or bank teller's check for the payment of a fee according to the following schedule:

(a) For construction costing up to \$350,000: a fee of \$200.

(b) For construction costing from \$350,000 to \$750,000: a fee of \$300.

(c) For construction costing from \$750,000 to \$1,500,000: a fee of \$400.

(d) For construction costing \$1,500,000 or more: a fee of \$500.

**B. Unless work is commenced within one year of the date of the granting of site plan approval and diligently prosecuted, such approval shall become null and void.**

**§ 414-18. Site plan review criteria.**

In reviewing a site plan, the Planning Board shall consider its conformity to the Master Plan and the other codes and ordinances of the town. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The impact of drainage shall be considered to ensure against flooding. Conservation, soil erosion and sediment control, aesthetics, landscaping and impact on surrounding development as well as on the entire town shall be part of the Planning Board review. In its review, the Planning Board may request recommendations from any other local, county, state and/or federal agency which may have an interest in the particular development for which site plan approval is being sought.

**§ 414-19. Time limits for Planning Board review.**

**A.** If an application for development is found to be incomplete, the Planning Board shall notify the developer within 45 days of the submission of such application or it shall be deemed to be properly submitted, provided that the requirements of § 414-17 have been satisfied.

**B.** Upon the submission of a complete application for a site plan for 10 acres of land or less, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan of more than 10 acres, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. In those cases where the submitted application requires the Planning Board to also consider an application for a variance, other than a use variance, the Planning Board shall grant or deny approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise the Planning Board shall be deemed to have granted preliminary approval of the site plan.

**§ 414-20. Waiver of site plan requirements.**

**A.** The requirements of the site plan provisions of this chapter may be waived in whole or in part or on such conditions as may be deemed necessary to further carry out the intent of this chapter, at the sole discretion of the approving agency, when the applicant has submitted to the approving agency a written request setting forth the following:

(1) A detailed written statement of the applicant's plans for use of the building and property, including, at a minimum, the information required by § 414-17 of Article V of this chapter.

(2) The applicant's reasons for requesting waiver of all or part of the site plan provisions of this chapter. The applicant shall submit six copies of the written application for the waiver of site plan to the approving agency for distribution.

**B.** In considering for approval a request for waiver of site plan requirements, the approving agency will consider the review criteria as contained in § 414-18 of this article and will make further findings that the application for waiver conforms to the standards of sound planning as contained in this chapter and does not impair the intent and purpose of the requirements of this chapter. The approving agency's findings and written approval or disapproval, with or without conditions, shall be forwarded to the applicant and the referring municipal officer or agency where appropriate, in conformance with other provisions of this chapter.

**§ 414-21. Building permits.**

**A.** Upon receipt by the Construction Official of such report of the Planning Board showing that conditions set forth in this and other pertinent articles have been complied with and upon compliance with the standards set forth in the Building Code, the Construction Official may issue the required building permit. In the event that the Planning Board shall not make a finding that the conditions set forth in this chapter have been complied with, the Construction Official shall refuse to issue a building permit, and the reasons for such refusal shall be set forth in writing.

**B. (Reserved) Editor's Note: Former § 238-21B, regarding appeals from decisions by the Construction Official to the Board of Commissioners, was repealed 6-19-1996 by Ord. No. 26/96.**

**§ 414-22. Sign regulations applicable in all districts.**

**The following regulations shall apply to all signs in all districts:**

**A. Signs other than an official traffic sign shall not be erected within the right-of-way of any street.**

**B. The area of a sign shall be computed as the total area of the smallest rectangle that will contain the entire sign or sign structure, including all parts thereof except the supports of a freestanding sign which shall not contain any advertising material.**

**C. Each side of a multifaced sign shall be considered as a separate sign for computation of the total surface area of any such sign.**

**D. The following types of signs are prohibited:**

**(1) Any sign that obstructs a sign displayed by a public authority for the purpose of traffic instruction, direction or other information.**

**(2) Any sign within the area of vision clearance at a street corner, corner lot or other location.**

**(3) Any sign that obstructs any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building as required by law.**

**(4) Signs that cause direct glare into or upon a dwelling or other use of a structure where persons live, are employed or conduct other activity where such glare would constitute a sustained nuisance.**

**(5) All bare incandescent light sources (neon lights not to be considered as such) and immediately adjacent reflecting surfaces shall be shielded from view. Flashing, moving, intermittently illuminated signs, reflection signs or luminous signs and advertising devices shall be prohibited.**

**(6) Billboards advertising products or services other than those dispensed at the structure and location on which the billboard will be placed.**

**E. The following are signs for which no permit is required in any district:**

**(1) Signs not illuminated by either direct or indirect lighting displayed on residential buildings other than single-family dwellings for the purpose of giving only the name thereof as follows: not to exceed one sign on a building, located on the face thereof, and projecting not more than six inches therefrom, not extending above the actual height of the building and not exceeding one foot in vertical dimension.**

**(2) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his official duties, or by trustees under deeds of trust, deeds of assignment or other similar instruments, provided that all such signs shall be removed no later than 10 days after the last day of the period for which the same are required to be displayed in order to accomplish their purpose.**

**(3) Signs of any political party or announcements of the candidacy of any individual for a nomination or office, provided that in any residential district no such sign shall exceed two square feet in area and in any district other than a residential district no such sign shall exceed in area the maximum area of sign display permitted on any lot in that district, provided, further, that all such signs shall be removed not later than 10 days after the day of the election to which they pertain.**

(4) Signs advertising only the name, time and place of any bona fide and municipally licensed fair, carnival, festival, bazaar or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious or charitable cause, provided that no such sign in any residential district shall exceed 20 square feet in area or be displayed except on the immediate site of the event to which it pertains, no such sign in any C or I District shall exceed in area the maximum area of sign permitted on any lot in that district and provided further that all such signs shall be removed within 10 days after the last day of the event to which they pertain.

(5) Signs not exceeding two square feet in area warning the public against trespassing on the land on which the same are displayed.

(6) Signs of whatever size necessary, warning the public of danger, but not containing any advertising material in addition thereto.

(7) Any informational or directional sign erected by a public agency or under the authorization of a public agency.

(8) Any temporary sign of no longer than 30 days' duration, even if same shall be contrary to the signs prohibited under § 414-22D, provided that said sign shall be authorized by resolution of the governing body and that such resolution shall provide for removal of said sign by a specific date to be determined in the discretion of the governing body and stated in its resolution authorizing said sign.

[Added 6-3-1981 by Ord. No. 1475]

**§ 414-23. Signs in residential districts.**

The following regulations shall apply to signs in residential districts:

**A. Every sign in a residence district shall:**

(1) Be placed flat against a building, projecting not more than six inches therefrom on the front or side and not extending beyond the height of said building; or

(2) Be located apart from the building as a freestanding sign in front of the building at a minimum distance of at least 15 feet from the lot line. Said freestanding sign shall not exceed five feet in height.

**B. No sign in a residence district shall be illuminated by other than indirect lighting with the source thereof so shielded that it illuminates only the face of the sign.**

**C. The following types of signs shall be permitted in all residence districts:**

(1) Nameplates and identification signs.

(a) Signs indicating the name or address of the occupant or a permitted home occupation or profession, provided that they shall not exceed one square foot in area.

(b) Only one sign shall be permitted per dwelling unit, except in the case of corner lots where two such signs, one facing each street, shall be permitted.

(c) For multiple dwelling structures, a single identification sign not exceeding six square feet in area.

(2) Sales or rental signs.

(a) Signs advertising the sale or rental of the premises upon which they are located, provided that they shall not exceed six square feet in area.

**(b) Not more than one such sign may be placed upon any property unless such property fronts upon more than one street, in which case two signs may be erected, one facing each street.**

**(c) Such signs shall be promptly removed when premises are sold or rented.**

**(3) Institutional signs.**

**(a) Signs of schools, colleges, churches, hospitals, sanatoriums or other institutions of a similar public or semipublic nature, provided that the size of any sign shall not exceed 20 square feet in area.**

**(b) Not more than one such sign shall be permitted for an institution, unless the property fronts upon more than one street, in which case two such signs may be erected, one facing each street.**

**(4) Signs accessory to parking areas.**

**(a) Signs designating entrances or exits to or from a parking area, provided that the size of any sign shall not exceed two square feet in area.**

**(b) Signs designating the identity and conditions of use of parking areas, provided that the size of any such sign shall not exceed nine square feet in area. Not more than one sign may be placed upon any property unless such property is located on a corner, in which event two such signs may be permitted, one facing each street.**

**(5) Development signs.**

**(a) Signs advertising the sale or development of the premises upon which they are located may be erected by a builder, contractor, developer or other persons interested in such sale or development, provided that the area of any sign shall not exceed 20 square feet.**

**(b) Not more than one sign may be placed upon any such property, unless such property fronts upon more than one street, in which event one such sign may be erected facing each street.**

**(c) Such sign shall be removed by the developer within 30 days of the final sale of the property.**

**(6) Directional signs for developments.**

**(a) Signs indicating the location and direction of premises available for or in the process of development, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder or agent, provided that the area of any sign shall not exceed six square feet in area nor four feet in length.**

**(b) Not more than one such sign may be erected on each 500 feet of street frontage.**

**(c) Such signs shall be removed by the developer within 30 days of the final sale of the property.**

**(7) Artisans' signs.**

**(a) Signs of mechanics, painters and other artisans may be erected and maintained during the period in which such persons are performing work on the premises, provided that the size of any such sign shall not exceed 12 square feet in area.**

**(b) Such signs shall be removed promptly upon completion of the work.**

**(8) Private driveways. Signs indicating the private nature of a driveway, provided that the size of any such sign shall not exceed two square feet.**

**§ 414-24. Signs in commercial and industrial districts.**

**A. The following types of signs shall be permitted in commercial and industrial districts:**

**(1) Signs permitted in residence districts, as described in § 414-23 above, shall be permitted and subject to those regulations and applicable to residential structures that are presently located in commercial and industrial districts.**

**B. The area of signs in commercial districts shall be based on a ratio of two square feet of sign area for each one square foot of building frontage on which the sign will be placed and shall not exceed a maximum area of 40 square feet for each business contained in the building.**

**C. The area of signs in industrial districts shall be based on a ratio of two square feet of sign area for each one square foot of building on which the sign will be placed and shall not exceed a maximum area of 100 square feet. On industrial sites having an area of one acre or larger, the sign area shall be limited to 400 square feet.**

**D. Not more than one exterior sign shall be permitted for each store on each wall facing a street.**

**E. Signs shall be placed flat against a wall and shall not project more than six inches from the wall to which they are affixed. No sign shall project beyond the top or side wall to which it is affixed.**

**F. In a commercial district no sign shall be placed to extend over a sidewalk where it may cause danger to a pedestrian or interfere with circulation or in such a position that will cause danger to traffic on a street by obscuring the view.**

**G. Billboards and other outdoor advertising displays shall be prohibited in all districts except industrial districts, where such billboard or outdoor advertising display shall be permitted, provided that it advertises the existing industry that occupies the site and that it conforms to all other requirements of the industrial district and that, if it is located on a site which is contiguous to a residential district, said billboard or outdoor advertising display shall not face the residential district. No billboard shall be placed on the roof of any building.**

**H. Freestanding identification signs for designed shopping centers and industries located on a site of at least one acre shall be permitted, provided that:**

**(1) There shall be no more than one identification sign for each street, other than a residential service street, on which the shopping center fronts.**

**(2) The total area of such signs shall not exceed 75 square feet, nor shall they exceed a height of 40 feet.**

**(3) All bare incandescent light sources (neon lights not considered as such) and immediately adjacent reflecting surfaces shall be shielded from view. Flashing, moving and intermittently illuminated advertising devices shall be prohibited.**

**§ 414-25. Off-street parking and loading requirements.**

**The following regulations and schedules with specific requirements shall apply to all off-street parking and loading facilities for all uses of land in all districts:**

**A. All off-street parking and loading facilities shall be designed at least according to the dimensions as contained in Article III, Definitions, of this chapter.**

**B. No off-street loading area or parking area or part thereof for three or more vehicles shall be closer than 10 feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot.**

**C. Any off-street parking area or off-street loading area for three or more vehicles shall be surfaced with an asphaltic or portland cement pavement or similar durable and dustless surface. All areas shall be marked so as to provide for the orderly and safe loading, parking and storage of motor vehicles.**

**D. Any off-street parking area and off-street loading area shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.**

**E. All off-street parking space and off-street loading space shall be provided with safe and convenient access to a street. Access drives or driveways shall not be less than 10 feet in width. If such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided through driveway openings through the curb not exceeding 25 feet in width and located and constructed in accordance with specifications prescribed by the Construction Official. All off-street parking space and off-street loading space that is not located within a building shall be constructed and maintained with a dustless surface and of such type of construction that the same will be available for safe and convenient use at all times. No access drive or driveway in any R District shall be used to provide access to uses other than those permitted in such R District.**

**F. Any public or private parking or loading area for three or more vehicles, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements. Plans for such areas shall be reviewed by the Construction Official to ensure compliance with these regulations.**

**G. Off-street parking areas for three or more vehicles and off-street loading areas shall be effectively screened by a fence or hedge as provided in this chapter. The screening shall be on the side or sides which adjoin or face premises situated in any residential district or institutional premises.**

**H. Where there are practical difficulties in the way of location of parking space, or if the public safety or the public convenience or both would be better served by the location of such parking space other than on the same lot with the use to which it is appurtenant, the Board of Adjustment on specific application may authorize such alternative location of required parking space as will adequately serve the public interest, subject to the following conditions:**

**(1) Such space shall be located on land in the same ownership or leasehold as that of the land on which is located the use to which such space is appurtenant.**

**(2) The entrance to such space shall be within a radius of 250 feet from an effective entrance to the use that such space serves.**

**(3) Such space shall be conveniently usable without causing hazard to pedestrians, hazard to vehicular traffic, traffic congestion, detriment to the appropriate use of other property in the vicinity or detriment to any residential neighborhood.**

**I. Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use, and provided that all regulations governing the location of accessory spaces in relation to the uses served are adhered to. Further, no accessory space or portion thereof shall serve as a space for more than one use unless otherwise approved by the Board of Adjustment in accordance with the purposes and procedures set forth herein.**

**J. Schedule of off-street parking spaces required.**

**Land Uses**

**Off-Street Parking Spaces Required**

**Dwellings Editor's Note: Apartment houses and row houses, which immediately followed this entry, was repealed 4-15-1987 by Ord. No. 1771.**

[Amended 4-15-1987 by Ord. No. 1771]

1-bedroom units 1

2-bedroom units 1.5

3-or-more-bedroom units 2

Apartment houses and row houses

2 for each dwelling unit

#### **Off-Street Parking Spaces Required**

Apartment houses 1

1 for the first 10,000 square feet of gross floor area plus 1 additional for each additional 20,000 square feet or fraction thereof of gross floor area

#### **ARTICLE VI. Controlled Waterfront Development District**

#### **ARTICLE VII. Nonconforming Buildings and Uses**

§ 414-39. General regulations.

#### **Article VII. Nonconforming Buildings and Uses**

§ 414-39. General regulations.

A. Except as hereinafter provided, no building or premises shall be used except in conformity with the provisions of this chapter which apply to the district in which it is located. However, the following provisions shall apply to all buildings and uses of land or buildings existing on the effective date of this chapter, which buildings and uses of land or buildings do not conform to the requirements set forth in this chapter; to all buildings and uses of land or buildings that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof; and to all conforming buildings housing nonconforming uses:

(1) Except as provided in Subsection A(5) hereinafter, any type of nonconforming use of buildings or land may be continued indefinitely, but shall not be:

(a) Enlarged or structurally altered, extended or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter or of any applicable amendment thereof, nor shall any external evidence of such use be increased by any means whatsoever, except whereby through such alteration it is changed to a conforming use.

(b) Changed to another nonconforming use without a special permit from the Board of Adjustment, and then only to a use which, in the opinion of said Board, is of a more restricted nature.

(c) Reestablished after the physical operation thereof has ceased for a period of one year for any reason. Intent to resume active operation of nonconforming use after cessation thereof shall not confer the right to do so.

(2) Except as provided in Subsection A(4) hereinafter, no building which houses a nonconforming use shall be:

(a) Structurally altered or enlarged.

**(b) Moved to another location where such use continues to be nonconforming.**

**(c) Changed back to a nonconforming use if once changed to a use permitted in the district in which it is located.**

**(3) Any building which houses a nonconforming use and which is damaged or destroyed by less than 50% of its sound value or floor area, exclusive of the foundation, from any cause, may be restored, but not enlarged, and the nonconforming use reinstated within six months of such damage. If the restoration of such building is not completed within the said six-month period, the physical operation of the nonconforming use of such building shall be deemed to have ceased, unless such nonconforming use shall have been carried on without interruption in the undamaged portion of such building.**

**(4) Any building housing a conforming use which does not conform to other than use regulations as set forth in this chapter may be rebuilt, if damaged, but shall not be altered or enlarged so as to increase the degree of nonconformity thereof.**

**(5) Nothing in this article shall be deemed to prevent normal maintenance and repair or incidental alteration of any building or the carrying out, upon issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety, provided that the nonconformity is not extended. In granting such a permit, the Construction Official shall state the precise reason(s) to the Board of Adjustment why such alterations were deemed necessary.**

**(6) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued or plans for which are on file with the Construction Official at the time of the passage of this chapter and the construction of which, in either case, shall have been diligently prosecuted within a year of the date of such permits. "Actual construction" is hereby defined to include the placing 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.**

**B. All the foregoing provisions relating to nonconforming uses and buildings shall apply to all nonconforming uses and buildings existing at the time of the adoption of this chapter and to all uses and buildings that become nonconforming by reason of any amendment thereof, but not to any use established or building erected in violation of law, regardless of the time of establishment or erection.**

[Prev Up / Top Next](#)

[Change Views Contents](#)

[Privacy Policy Help Terms of Service](#)

#### **ARTICLE VIII. Administration and Enforcement**

**§ 414-40. Enforcement officer designated.**

**§ 414-41. Building permits required.**

**§ 414-42. Special permits required prior to issuance of building permit in certain cases.**

**§ 414-43. Copy of filed documents to be returned to applicant.**

**§ 414-44. Issuance of building permits; display of permits.**

**§ 414-45. Appeal from denial of building permit.**

**§ 414-46. Building permits to be issued separately; water and sewer requirements.**

**§ 414-47. Revocation of building permits.**

**§ 414-48. Files and records to be kept.**

**§ 414-49. Certificates of occupancy.**

**§ 414-50. Maintenance of files and records; annual report.**

**§ 414-51. Referral to Planning Board from Board of Adjustment.**

**§ 414-52. List of property owners to be notified; fee.**

**ARTICLE VIII. Administration and Enforcement Help ARTICLE X. Planning Board**

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

[Jump to Content](#)

**ARTICLE IX. Zoning Board of Adjustment**

§ 414-53. Continuation of existing Board; organization; meetings; records and reports.

§ 414-54. Powers and duties.

§ 414-55. Authorization of temporary uses.

§ 414-56. Authorization for change from one nonconforming use to another.

§ 414-57. Imposition of conditions or restrictions on approval of applications.

§ 414-58. Procedure for exercise of powers and duties.

§ 414-59. Appeals.

§ 414-60. Expiration of Board authorizations.

§ 414-61. Referral of applications to Planning Board.

§ 414-62. Time limit for decisions upon appeals.

§ 414-63. Rehearings.

**Article IX. Zoning Board of Adjustment**

§ 414-53. Continuation of existing Board; organization; meetings; records and reports.

**A. The Board of Adjustment heretofore established pursuant to the provisions of Chapter 291 of the Laws of New Jersey 1975 shall continue as the Board of Adjustment for the Town of West New York with all the powers prescribed by law and as herein described.**

**B. The Board of Adjustment shall consist of seven members and two alternates. No member or alternate shall hold any elective office or position in the town. The terms of the members first appointed under this article shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided that the initial term of no member shall exceed four years. Thereafter, the term of each such member shall be four years. The Board of Commissioners shall determine the compensation that the members of the Board shall receive.**

**[Amended 11-20-2000 by Ord. No. 22/00]**

**C. The Board may, within the limit of appropriations made available to it by the Board of Commissioners, employ a Secretary, legal counsel and such other personnel as may be required for the conduct of its business.**

**D. The Board of Adjustment shall adopt such rules and regulations as it may deem necessary to interpret and carry into effect the provisions of this chapter. The Board shall elect a Chairman from among its members, and meetings of the Board shall be held at the call of the Chairman. The Board shall also select a Vice Chairman, who, in the absence of the Chairman, shall act as Chairman.**

**E. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or the Acting Chairman shall have power to issue subpoenas for the attendance of witnesses and the production of records and may administer oaths and take testimony. All regular meetings of the Board of Adjustment shall be open to the public.**

**F. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record. A quorum shall consist of four members of the Board and the concurring votes of four members of the Board shall be required to effect any action of the Board.**

**G. The Board of Adjustment shall report to the Board of Commissioners annually, summarizing all appeals and applications made to it since its last previous report and summarizing its decisions on such appeals and applications. At the same time that each such report is filed, copies thereof shall also be filed with the Mayor, the Planning Board, the Construction Official and the Town Attorney.**

**H. At intervals of not greater than 12 months, the Town Attorney shall examine the records of the Board of Adjustment and shall submit to said Board a written summary of his observations thereon, including any recommendations that he may deem advisable in order to assure full conformity with the requirements and limitations of this chapter pertaining to the jurisdiction and functions of said Board. Copies of such summary and recommendations shall be filed with the Board of Commissioners, the Planning Board and the Construction Official.**

**§ 414-54. Powers and duties.**

**A. The Board of Adjustment shall have all the powers and duties prescribed by law (Chapter 291 of the Laws of New Jersey 1975 Editor's Note: See N.J.S.A. 40:55D-1 et seq. ) and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the said Board that is conferred by law:**

**(1) Conditional uses, interpretations and special questions. The Board shall have the power to:**

**(a) Hear and decide requests for use and hardship variances.**

**(b) Hear and decide requests for interpretation of the Zoning Map.**

**(c) Render decisions upon other special questions upon which such Board is authorized to pass.**

**(2) Hardship variances. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of this chapter would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, the Board may authorize, upon an appeal relative to such property, a variance from such strict application so as to relieve such difficulties or hardship; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use.**

**(3) Use variances. The Board after making findings may recommend in particular cases and for special reasons to the Board of Commissioners of the Town of West New York the granting of a variance to allow a structure or use in a district restricted against such structure or use.**

**(4) Appeals. The Board shall have the power to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of this chapter.**

**B. The Board of Adjustment shall also have the following specific additional powers:**

**(1) To refer applications before the Board to any appropriate person, agency, board, commission, committee, authority or other instrumentality for review and recommendations.**

**(2) To direct the issuance of a building permit for those purposes enumerated in N.J.S.A. 40:55D-34, 40:55D-35 and 40:55D-36 upon such terms and conditions as contained therein and which will permit and encourage the health, morals, safety and general welfare of the public.**

**(3) Where an original application requires a use variance or variances on more than one lot for minimum lot area requirements on a major or minor subdivision application and this chapter requires the applicant to also obtain subdivision, site plan and/or conditional use approval, the Board of Adjustment may grant said subdivision, site plan and/or conditional use approval in conjunction**

with said variance, after referring the application to the Planning Board for review by the appropriate administrative agencies normally involved with said reviews pursuant to this chapter and reviewing the Planning Board's review and recommendation report.

(4) To review, recommend, report on or decide matters at formal or informal public meetings, referred to the Board by other administrative agencies, as permitted or required by other ordinances or inherent powers of the Town of West New York.

§ 414-55. Authorization of temporary uses.

The Board of Adjustment may, after due notice and public hearing, permit the temporary occupancy and use of a structure in any district for a purpose that does not conform with the regulations for that district. Such occupancy and use shall be subject to any reasonable conditions and safeguards which the Board may impose to minimize any injurious effect upon the neighborhood or to protect contiguous property. Such approval and permit based thereon shall not be valid for more than 12 months, but may be renewed not more than once for another period of 12 months.

§ 414-56. Authorization for change from one nonconforming use to another.

The Board of Adjustment may, after due notice and public hearing, permit a change from one nonconforming use to another, provided that the new nonconforming use shall be of substantially the same character and shall have the same or less nuisance characteristics as the previous nonconforming use and shall conform to all other provisions of this chapter for nonconforming uses.

§ 414-57. Imposition of conditions or restrictions on approval of applications.

A. Action by Board of Adjustment; conditions of grant. In any case where the Board of Adjustment is empowered to approve a conditional use or authorize a variance, said Board may impose such conditions or restrictions as are deemed necessary in the specific case in order to minimize the effects of the use or variance upon other property in the neighborhood, assure a harmonious arrangement of uses or implement the intent and purpose of this chapter. Any such conditions or restrictions shall become a part of any building permit or certificate of occupancy thereafter issued for the premises involved. Special conditions or limitations may include but are not limited to any of the following:

- (1) The location of principal and accessory buildings.
- (2) The limitation of signs or advertising devices, including number, size, location and type of illumination.
- (3) The limitation of amount, location, intensity and direction of exterior illumination.
- (4) The amount, location and improvement of off-street parking and loading space.
- (5) The control of the number and design of the means of access and circulation to and within the premises.
- (6) The type, location and design of drainage and drainage structures.
- (7) The grading and the location and type of retaining walls or structures.
- (8) Landscaping, screening, fencing and walls, including the location and type of planting and fencing required for screening purposes.
- (9) Hours of operation.
- (10) Structural changes, including the installation of storefronts.
- (11) Control or elimination of smoke, dust, gas, noise, vibration, odor or fire or health hazards, or any other deleterious effects of a land use on the environment.

**(12) Other conditions found by the Board to be necessary, which may include traffic studies, environmental impact or other technical studies by qualified professionals at the expense of the applicant.**

**B. Compliance with conditions imposed upon granting application. Whenever the Board of Adjustment, in passing upon an application, imposes conditions upon the granting of said application, unless a specific time is fixed by the Board of Adjustment within which time the conditions must be complied with, then such conditions must be complied with within 60 days after the date of the granting of said application. If such conditions are not so complied with, then the granting of said application shall become null and void, and all records of said application shall be endorsed to indicate that said application was denied by the Board of Adjustment. After said application becomes null and void, it shall be the duty of the Construction Official to examine the premises in question to ascertain whether there may be thereon any violations of this chapter. If such violation exists, the Construction Official shall cause a summons to be issued.**

**§ 414-58. Procedure for exercise of powers and duties.**

**A. The powers and duties of the Board of Adjustment shall be exercised in accordance with the following procedure:**

**(1) A public hearing shall be held by said Board on every appeal and application made to it. Due notice of such hearing and of the substance of the appeal or application shall be given by the Board to the appellant. Upon written request of the appellant, the town shall, within seven days, make and certify a list of names and addresses of property owners located within 200 feet of the property to be affected by said application to whom the applicant is required to give notice at least 10 days prior to the time of hearing. A fee of \$10 is to be paid for this certified list.**

**(2) At least five days before the date of any public hearing, the Construction Official shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Adjustment an advisory opinion on said appeal or application at any time prior to the rendering of a decision.**

**(3) Time limit for decision by Board.**

**(a) The Board shall render a decision not later than 120 days after the date:**

**[1] An appeal is taken from the decision of an administrative officer; or**

**[2] Of the submission of a complete application for development to the Board of Adjustment.**

**(b) Upon failure to do so, such appeal at the expiration of such time shall be deemed to be decided adversely to the appellant as though the Board had rendered a decision to that effect.**

**(4) Unless work is commenced and diligently prosecuted within six months of the date of the granting of a variance or conditional permit, such variance or conditional permit shall become null and void.**

**(5) Each appeal and application to the Board of Adjustment shall be made by the owner of the property affected, in writing, on forms prescribed by the Board and shall be accompanied by a fee of \$75.**

**(6) Every decision of the Board of Adjustment shall be recorded in accordance with standard forms adopted by the Board and shall set forth the circumstances of the case and shall contain a record of the findings on which the decision is based. Every decision of the Board of Adjustment shall be by resolution, and each such resolution shall be filed with the Town Clerk by case number, together with all documents pertaining thereto.**

**B. All provisions of this chapter relating to the Board of Adjustment shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein.**

**§ 414-59. Appeals.**

**A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by his agent or by an officer, board, department or bureau of the Town of West New York affected by any decision of the Construction Official. Such appeal shall be taken within 65 days by filing a notice of appeal with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the appeal is taken.**

**B. An application for a use permit or for any other permit for which approval by the Board of Adjustment is required under the terms of this chapter may be made by the owner of the property involved, or by a lessee thereof, or by a person, firm or corporation under bona fide contract to purchase the same.**

**C. All appeals shall be in writing on forms prescribed by the Board of Adjustment. Every appeal shall refer to the specific provision of the chapter that is involved and shall fully set forth the circumstances of the case and the interpretation that is claimed on an allegation of error, the variance that is applied for and the grounds on which it is claimed that the same should be granted or the conditional use for which the permit is sought or any other such information that the rules of the Board may require.**

**D. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whose action the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate a stay, in his opinion, would cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the Superior Court on application upon notice to the officer from whom the appeal is taken and on due cause shown.**

**E. Time limit for decision by Board.**

**(1) The Board shall render a decision not later than 120 days after the date:**

**(a) An appeal is taken from the decision of an administrative officer; or**

**(b) Of the submission of a complete application for development to the Board of Adjustment.**

**(2) Upon failure to do so, such appeal at the expiration of such time shall be deemed to be decided adversely to the appellant as though the Board had rendered a decision to that effect.**

**F. Said applicant or appellant shall, at least 10 days prior to the time appointed for said hearing, give notice to all owners of property situate within or without the Town of West New York and within 200 feet of the property to be affected by said appeal. Such notice shall be given either by registered mail or by being served personally at their usual place of abode if said owners are the occupants of the property affected by such appeal. Whenever said owners are nonresidents of the Town of West New York, such notice may be given by sending written notice thereof by registered mail to the last known address of the property owner or owners, as shown by the most recent tax lists of the town. Where the owner is a partnership, service upon any partner as above provided shall be sufficient, and where owners are corporations, service upon any officers, as above provided, shall be sufficient. The appellant shall by affidavit present satisfactory proof to the Board of Adjustment at the time of the hearing that said notices have been duly served as aforesaid. Upon the hearing any party may appear in person, by agent or by attorney.**

**§ 414-60. Expiration of Board authorizations.**

Unless otherwise specified by the Board of Adjustment, a decision on any appeal or request for a variance or use permit shall expire without notice if the applicant fails to obtain any necessary permit from the Construction Official or to comply with the conditions of said authorized permit within one year from the date of authorization thereof. However, an extension may be granted by the Board of Adjustment because of the occurrence of conditions unforeseen at the time of the original action. Any application for extension shall be subject to the same procedure as specified in this article for the original issuance of the variance or use permit.

**§ 414-61. Referral of applications to Planning Board.**

The Board of Adjustment shall transmit to the Planning Board a copy of every appeal or application made to the Board and shall also notify the Planning Board of the date of the hearing thereon. If prior to the hearing the Planning Board submits to the Board of Adjustment a recommendation that an application for a use permit be denied or that specified conditions be prescribed in connection with a particular variance, the Board of Adjustment shall not act contrary to such recommendation except by majority vote.

**§ 414-62. Time limit for decisions upon appeals.**

**A.** Whenever an appeal shall be taken to the Board of Adjustment pursuant to this article, said Board shall render a decision not later than 120 days after the date:

- (1)** An appeal is taken from the decision of an administrative officer; or
- (2)** Of the submission of a complete application for development to the Board of Adjustment.

**B.** Upon failure to do so, such appeal at the expiration of such time shall be deemed to be decided adversely to the appellant as though the Board had rendered a decision to that effect.

**§ 414-63. Rehearings.**

Whenever the Board of Adjustment, after hearing all evidence presented upon an application or appeal under the provisions of this article, denies the same or refuses to recommend to the Board of Commissioners, said Board shall refuse to hold further hearings on said or substantially similar application or appeal by the same applicant, successor or assignee for a period of six months. If the Board determines from the information supplied with a request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare, the appeal or application may be considered within said period.

**ARTICLE IX. Zoning Board of Adjustment Help ARTICLE XI. Board of Commissioners**

This electronic version is provided for informational purposes only. For the official version please contact the municipality.

**Jump to Content**

**ARTICLE X. Planning Board**

**§ 414-64. Power to grant conditional uses.**

**§ 414-65. Time limit for decision.**

**§ 414-66. Approval conditioned upon county approval in certain cases.**

**Article X. Planning Board**

**§ 414-64. Power to grant conditional uses.**

**A.** The Planning Board shall have the power to grant conditional uses on a case-by-case basis after making findings that each such conditional use, although not permitted by right, would be appropriate or inappropriate in the requested location.

**B. The Planning Board's review shall consider the compatibility of land uses, the impact of the conditional use on the physical, social and aesthetic environment, traffic generation, compatibility with the town's Master Plan and any other relevant factors.**

**§ 414-65. Time limit for decision.**

The Planning Board shall grant or deny an application for a conditional use within 95 days of submission of a complete application by a developer to the Construction Official, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Construction Official as to the failure of the Planning Board to act shall be issued on request of the applicant.

**§ 414-66. Approval conditioned upon county approval in certain cases.**

**A. Whenever review or approval of the application by the County Planning Board is required, the Town of West New York Planning Board shall condition any approval upon timely receipt of a favorable report from the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.**

**B. Whenever said owners are nonresidents of the Town of West New York, such notice may be given by sending written notice thereof by registered mail to the last known address of the property owner or owners, as shown by the most recent tax lists of the town. Where the owner is a partnership, service upon any partner as above provided shall be sufficient, and where the owners are corporations, service upon any officers, as above provided, shall be sufficient. The appellant shall by affidavit present satisfactory proof to the Board of Adjustment at the time of the hearing that said notices have been duly served as aforesaid. Upon the hearing any party may appear in person, by agent or by attorney.**

**ARTICLE XI. Board of Commissioners (§ 414-67)**

**ARTICLE XII. Amendments (§ 414-68 — § 414-77)**

**ARTICLE XIII. Penalties (§ 414-78 — § 414-80)**

**ARTICLE XIV. Interpretation; Repealer (§ 414-81 — § 414-82)**

**ARTICLE XV. Places of Public Assembly (§ 414-83 — § 414-90)**

**ARTICLE XVI. General Development Plans (§ 414-91 — § 414-96)**

**ARTICLE XVII. Telecommunications Towers (§ 414-97 — § 414-104)**

**ARTICLE XVIII. Uniform Growth-Based Affordable Housing Production (§ 414-105 — § 414-112)**