(1) 1st reading
3-19-14

Introduced by: _____
Seconded by: _____

CITY OF HOBOKEN

CALENDAR YEAR 2014
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to .5% unless authorized by ordinance to increase it to 3.5% over the previous year=s final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.0% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the City Council of the City of Hoboken in the County of Hudson finds it advisable and necessary to increase its CY 2014 budget by up to 3.5% over the previous year=s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the City Council hereby determines that a 3.0% increase in the budget for said year, amounting to $2,550,795.32 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the City Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Hoboken, in the County of Hudson, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2014 budget year, the final appropriations of the City of Hoboken shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.50%, amounting to $2,975,927.87, and that the CY 2014 municipal budget for the City of Hoboken be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Date of Introduction: March 19, 2014

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	/			
Theresa Castellano		/		
Peter Cunningham	/			
James Doyle	/			
Elizabeth Mason		/		
David Mello	/			
Tim Occhipinti	/			
Michael Russo		/		
President Giattino	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Peter Cunningham				
James Doyle				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
President Giattino				

Approved as to Legal Form:

_____

Mellissa Longo, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2014

_____

James Farina, City Clerk

☐ Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

-or-

☐ Approved by the Mayor
On the ___ day of _____, 2014

_____

Dawn Zimmer, Mayor

(2) 1st reading 3-19-14

Sponsored by: _____

Seconded by: _____

City of Hoboken
Ordinance No.: _____

AN ORDINANCE AMENDING CHAPTER §44 (LAND USE PROCEDURES) UPDATING AND CONSOLIDATING THE PROCESSES AND PROCEDURES FOR LAND USE BOARDS

WHEREAS, the City Council wishes to update administrative procedures for the Planning Board and Zoning Board of Adjustment to assure consistency with the city's land use goals set forth in the Master Plan; and

WHEREAS, the consolidation of administrative procedures for the Planning Board and Zoning Board of Adjustment to a single location (chapter) within the Municipal Code is a matter of significant convenience for residents of the City of Hoboken and to users of the Municipal Code.

Now, **THEREFORE,** be it ordained by the City Council of the City of Hoboken, County of Hudson, State of New Jersey, as follows:

SECTION ONE: AMENDMENT

Chapter 44, Land Use Procedures, of the Code of the City of Hoboken is hereby amended as follows; deletions to the current ordinance are noted in ~~strikethrough~~, additions to the current ordinance are noted in underline.

Chapter 44. LAND USE PROCEDURES

Article I. PLANNING BOARD

§ 44-101. Establishment; Composition

A. Members. There is hereby established a Planning Board of the City of Hoboken, of 9 regular members in accordance with the provisions of N.J.S.A. 40:55D-23; positions specified as follows:

(1) One Class I member: the Mayor or the Mayor's designee in the absence of the Mayor;

(2) One Class II member: an official of the municipality, other than a member of the governing body, to be appointed by the Mayor;

(3) One Class III member: a member of the governing body to be appointed by it; and

(4) Six Class IV members: citizens of the municipality to be appointed by the Mayor.

B. Alternate members.

(1) Two Alternate members, who meet the qualifications of Class IV members, shall be appointed by the Mayor. Such alternate members shall be designated, at the time of appointment, as "Alternate No. 1" and "Alternate No. 2."

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

C. Substitute members. If the Planning Board lacks a quorum because regular or alternate members are prohibited from acting on a matter because those members have a personal or financial interest

therein, regular members of the Zoning Board of Adjustment shall be called upon to serve as substitute members in accordance with N.J.S.A. 40:55D-23.2.

D. Class IV members shall hold no other municipal office, position or employment.

~~§ 44-1. Establishment; composition.~~

~~A. Members. There is hereby established pursuant to P.L. 1975, c. 291, in the City of Hoboken, a Planning Board of members consisting of the following four classes:~~

~~(1) Class I; the Mayor or the Mayor's designee in the absence of the Mayor. [Amended 7-11-2001 by Ord. No. DR-3]~~

~~(2) Class II: one of the officials of the municipality, other than a member of the governing body, to be appointed by the Mayor.~~

~~(3) Class III: a member of the governing body to be appointed by it.~~

~~(4) Class IV: six other citizens of the municipality to be appointed by the Mayor.~~

~~B. The members of Class IV shall hold no other municipal office, position or employment. For purposes of this section, membership on a municipal board or commission whose function is advisory in nature and the establishment of which is discretionary and not required by statute shall not be considered the holding of municipal office.~~

~~C. Alternate members.~~

~~(1) Not more than two alternate members, who shall meet the qualifications of Class IV members, may be appointed by the Mayor. Such alternate members shall be designated at the time of appointment as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except such terms shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the term of the alternate member first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only.~~

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

§ 44-102. Terms of Office

A. The term of the Class I member shall coincide with the term of the Mayor, except that if the Mayor appoints a designee as the Class I member, the designee shall serve at the pleasure of the Mayor.

B. The terms of the Class II and Class III members shall be for one year or shall terminate at the completion of their respective terms of office, whichever occurs first.

C. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed evenly over the first four years after their appointments, as determined by resolution of the governing body; provided however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years except as otherwise herein provided.

D. The terms of the Alternate members shall be for two years. Expirations of Alternate terms shall be distributed such that not more than one alternate member shall expire in any one year.

~~**§ 44-2. Terms of office.**~~

~~A. The term of the member composing Class I shall correspond with his official tenure.~~

~~B. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office whichever occurs first.~~

~~C. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed evenly over the first four years after their appointments, as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of the Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years except as otherwise hereinabove provided. All terms shall run from January 1 of the year in which the appointment is made.~~

§ 44-103. Vacancies

If a vacancy of any class shall occur, other than by expiration of term, the unexpired portion of that term shall be filled by appointment as provided above.

~~**§ 44-3. Vacancies.**~~

~~If a vacancy of any class shall occur otherwise than by expiration of terms, it shall be filled by appointment as above provided for the unexpired terms.~~

§ 44-104. Organization

A. The Planning Board shall elect a Chair and Vice Chair from the members of Class IV in accordance with N.J.S.A. 40:55D-24.

B. The Planning Board shall select a secretary who may be either a member or alternate member of the Planning Board or a municipal employee designated by it.

C. There is hereby created the position of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of, or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney. To be eligible for Planning Board Attorney, he/she shall be licensed in the State of New Jersey and in good standing.

D. The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Planning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use unless a court of competent jurisdiction finds the appropriation to be unreasonable.

E. The Planning Board Chair shall appoint four regular members of the Planning Board to a "Subdivision and Site Plan Review Committee" (SSPR Committee). The SSPR Committee shall operate in the following manner and have the following powers and duties:

(1) To review all applications submitted to the Planning Board prior to a formal hearing thereon.

(2) To grant informal review of a concept plan for which the developer intends to prepare or submit an application for development.

(a) The fee charged for such concept plan review shall be the same as that charged on the application for development, except that such fee shall be a credit toward the subsequent application fee.

(b) Neither the developer nor the SSRP Committee shall be bound by any concept plan review.

(3) In the case of minor subdivision applications, the SSRP Committee may approve the same by unanimous vote of all four Committee members in accordance with this chapter.

(4) In the case of major subdivision and site plan applications, the SSRP Committee shall submit a written report to the entire Planning Board prior to the formal hearing thereon.

(5) The SSRP Committee shall keep minutes of all of its meetings and shall not consider any application unless it has been formally filed with the Secretary of the Planning Board,

(6) Three members of the SSRP Committee shall constitute a quorum.

~~§ 44-4. Organization.~~

~~A. The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary, who may be either a member of the Planning Board or a municipal employee designated by it.~~

~~B. The Secretary of the Board shall ensure that at least one copy of all applications is kept at all times in the Board's files in the custody of the recording secretary. All pending applications on file with the Board shall be listed on the Board's regular meeting agenda, whether the Board is required to take action thereon or not.~~

~~C. Subdivision and Site Plan Review Committee. The Board shall appoint a Committee consisting of four regular members of the Board which shall be known as the "Subdivision and Site Plan Review Committee." The Committee shall review all applications submitted to the Board prior to a formal hearing thereon. The Committee shall also grant informal review of a concept plan for a development for which the developer intends to prepare or submit an application for development. The fee charged for such review shall be the same as that charged on the application for development, except that such fee shall be a credit toward the subsequent application fee. Neither the developer nor the Committee shall be bound by any concept plan review. In the case of minor subdivision applications, such Committee may unanimously approve the same in accordance with the 1959 Land Subdivision Ordinance of the City of Hoboken. In the case of major subdivisions, site plan and conditional use application, the Committee shall submit a written report to the entire Board prior to the formal hearing thereon. The Committee shall keep minutes of all of its meetings and shall not consider any application unless it has been formally filed with the Secretary of the Board. Three members of the Committee shall constitute a quorum.~~

~~§ 44-5. Planning Board Attorney.~~

~~There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney.~~

~~§ 44-6. Experts and staff.~~

~~The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.~~

§ 44-105. Powers and Duties of the Planning Board

The Planning Board, in accordance with N.J.S.A. 40:55D-25, shall have the following powers and duties:

A. To prepare and, after public hearing, adopt or amend a Master Plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with the provisions of N.J.S.A. 40:55D-28.

B. To reexamine, at least every ten years, the Master Plan and development regulations; prepare and adopt by resolution, to the governing body, a report on the findings of such reexamination in accordance with N.J.S.A. 40:55D-89, and any necessary amendments resulting there from.

C. To review and approve preliminary and final subdivision applications, in accordance with Chapter 34, Subdivision of Land, of the Code of the City of Hoboken, and attach reasonable conditions to the approval thereof.

D. To review and approve preliminary and final site plan applications, in accordance with this Chapter and with Chapter 196, Zoning, of the Code of the City of Hoboken, and attach reasonable conditions to the approval thereof.

E. To review and approve conditional use applications, in accordance with Chapter 196, Zoning, of the Code of the City of Hoboken, and attach reasonable conditions to the approval thereof. In cases where a "d" variance is sought, the application for conditional use will be heard by the Zoning Board of Adjustment.

F. To participate in the preparation and review of programs or plans required by state or federal law or regulations.

G. To assemble data on a continuing basis as part of a continuous planning process.

H. To prepare annually a program of municipal capital improvement projects over a term of six years, and amendments thereto, and recommend the same to the governing body.

I. To consider and make a report to the governing body, within 35 days after referral, as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also to review other matters specifically referred to the Planning Board by the governing body, pursuant to the provisions of N.J.S.A. 40:55D-26b.

J. Granting of Relief; Variances; Direction for Issuance of Certain Permits.

(1) When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:

(a) Variances pursuant to N.J.S.A. 4:55D-70c.

(b) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.

(c) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.

(2) Whenever relief is requested pursuant to this subsection, notice of the hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

(3) The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon the granting of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zoning Map and Chapter 196, Zoning.

K. To require a developer, as a condition of subdivision or site plan approval, to execute a developer's agreement, post performance and/or maintenance guarantees, and/or pay pro rata cost for off-tract improvements as permitted by law. Off-tract improvements shall include but not be limited to street improvements, improvements to water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the subdivision or development but which are otherwise necessitated or required by construction or improvements within such subdivision or development. Regulations shall be based on circulation and comprehensive utility service plans in accordance with the Master Plan, and shall establish fair and reasonable standards to determine the pro rata amount of the cost of such facilities. Where a developer pays the amount determined as his pro rata share under

protest, he shall institute legal action within one year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.

L. To grant exceptions from this chapter and the requirements of subdivision and site plan approval pursuant to N.J.S.A. 40:55D-25(6) and 40:55D-51.

M. To issue subdivision certificates pursuant to N.J.S.A. 40:55D-56.

N. To perform such advisory duties as are assigned to it, by ordinance or resolution of the governing body, for the aid and assistance of the governing body, or other agencies or officers.

O. To issue subpoenas, administer oaths and take testimony in accordance with the provisions of the County and Municipal Investigations Law of 1953 *(N.J.S.A. 2A:67A-1, et seq.)*

P. To perform such other duties as may be provided by law.

~~§ 44-7. Powers and duties.~~

~~The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of the subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:~~

~~A. To make and adopt and, at least every six years, reexamine and amend, if necessary, a Master Plan for the physical development of the municipality in accordance with the provisions of N.J.S.A. 40:55D-28.~~

~~B. To reexamine at least every six years the development regulations of the City and recommend, by written resolution to the governing body, any necessary amendments thereto.~~

~~C. To approve subdivision applications.~~

~~D. To approve site plan applications.~~

~~E. To approve conditional use applications, including special review in the W District.~~

~~F. To approve planned development applications and allow a greater concentration of density or intensity of land use within a section or sections of development, whether it be earlier, later or simultaneous in the development than in others.~~

~~G. To grant general development plan approval to provide the increased flexibility desirable to promote mutual agreement between the applicant and the Planning Board on the basic scheme of a planned development.~~

~~H. To participate in the preparation and review of programs or plans required by state or federal law or regulations.~~

~~I. To assemble data on a continuing basis as part of a continuous planning process.~~

~~J. To annually prepare a program of municipal capital improvement projects over a term of six years, and amendments thereto, and recommend the same to the governing body.~~

~~K. To consider and make a report to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26a, and also pass upon other matters specifically referred to the Planning Board by the governing body, pursuant to the provisions of N.J.S.A. 40:55D-26b.~~

~~L. Granting of relief.~~

~~(1) When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant to the same extent and subject to the same restrictions as the Zoning Board of Adjustment:~~

~~(a) Variances pursuant to Section 57c of P.L. 1975, c. 291.~~

~~(b) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.~~

~~(c) Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit as the case may be.~~

~~(2) The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and Zoning Ordinance.~~

~~M. To require a developer, as a condition for approval of a subdivision or site plan, to pay his pro rata share of the cost of providing only reasonable and necessary street improvements and water, sewerage and drainage facilities and easements therefor located outside the property limits of the subdivision or development but necessitated or required by construction or improvements within such subdivision or development. Such regulations shall be based on circulation and comprehensive utility service plans in accordance with the Master Plan of the City of Hoboken, respectively, and shall establish fair and reasonable standards to determine the proportionate or pro rata amount of the cost of such facilities that shall be borne by each developer or owner within a related and common area, which standards shall not be altered subsequent to preliminary approval. Where a developer pays the amount determined as his pro rata share under protest, he shall institute legal action within one year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.~~

~~N. To grant exceptions from this chapter and the requirements of subdivision and site plan approval pursuant to N.J.S.A. 40:55D-51.~~

~~O. Issue subdivision certificates pursuant to N.J.S.A. 40:55D-56.~~

~~P. To perform such other advisory duties as and assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body, Zoning Board of Adjustment or other agencies or officers.~~

§ 44-106. Application; Procedure; Concept Plan Review

A. Applications for development within the jurisdiction of the Planning Board shall be filed with the Secretary of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Planning Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Planning Board and of the SSPR Committee.

B. Within 45 days of the date of submission, the Secretary of the Planning Board shall certify an application as complete, in consultation with Planning Board professionals and any applicable municipal commissions and administrators, only if the application, checklist, all documents required by the checklist, application fee, and escrow fees have been received. If the application lacks required information, documents, or fees, or requires referral pursuant to §44-304, the applicant shall be so notified, in writing, of the deficiency and the application shall be deemed incomplete. In the event that an application is not certified as either complete or incomplete within 45 days of its submission, it shall be, by default, considered complete for the purpose of commencing the applicable Time of Decision action by the Planning Board.

C. The Planning Board, at its discretion, may require any of the following: correction of any information found to be in error; submission of additional information not specified in this chapter; or revisions to the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met.

D. At the request of the developer, the SSPR Committee of the Planning Board shall grant an informal review of a concept plan for which the developer intends to prepare and submit an application for development. The developer shall not be bound by any concept plan for which review is granted, and the Planning Board shall not be bound by any such review.

§ 44-107. Time of Decision

A. Upon certification, by the Planning Board Secretary in consultation with Planning Board professionals and any applicable municipal commissions and administrators, that an application is complete, the Planning Board shall then have:

(1) 45 days within which to act on an application for subdivision of ten or fewer lots (N.J.S.A. 40:55D-48);

(2) 95 days within which to act on an application for subdivision of more than ten lots (N.J.S.A. 40:55D-48;

(3) 45 days for approval of a minor site plan or minor subdivision (N.J.S.A. 40:55D-46.2 and 47 respectively;

(4) 45 days for approval of a site plan which involves ten or fewer dwelling units (N.J.S.A. 40:55D-46);

(5) 95 days for approval of a site plan which involves more than ten dwelling units (N.J.S.A. 40:55D-46);

(6) 95 days for approval of a conditional use (N.J.S.A. 40:55D-61), and;

(7) 120 days for approval of a "c" variance or for direction for issuance of a permit pursuant to §44-105.J. (N.J.S.A. 40:55D-61).

B. Where an application is made simultaneously for site plan or subdivision or conditional use and for a "c" variance or direction for the issuance of a permit, the Planning Board shall grant or deny approval of the application within 120 days. In the event that the developer elects to submit separate consecutive applications, the 120 day period shall apply only to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying subsequent approvals shall be as indicated above.

C. Minor site plan approval shall be deemed to be final approval of the site plan provided site plan improvements and conditions set forth in Chapter 196, Zoning, and the Municipal Land Use Law (N.J.S.A 40:55D-1 et seq.) shall be met.

D. The Time of Decision may be extended only by consent of the applicant. Consent shall be made on the record at a hearing or in writing. Extensions on the Time of Decision may be granted for no more than one year from the date of the original Time of Decision deadline, at which time the application shall be acted upon or dismissed without prejudice.

E. Applications that have been deemed complete shall be scheduled for a hearing before the Planning Board within the time of action stated above. If the applicant fails to appear when scheduled and the time of decision will expire prior to the next regularly scheduled meeting of the Planning Board, the application shall be dismissed without prejudice.

F. Failure of the Planning Board to act within the period prescribed shall constitute approval of the given application. At the request of the applicant, the Secretary of the Planning Board shall so certify that the

Planning Board failed to act and that the application is therefore approved. Said certification shall be sufficient in lieu of the written endorsement or other evidence of approval herein required.

G. Approval of a minor subdivision shall expire 190 days from the date on which the resolution of approval is adopted unless, within such period, a plat in conformity with such approval and the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9, et seq., or a deed clearly describing the approved minor subdivision, is filed by the developer with the County Recording Officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chair and Secretary of the Planning Board. The Planning Board may extend the 190 day period for filing a minor subdivision plat or deed if the developer proves to the reasonable satisfaction of the Planning Board that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

H. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat by the Chair and Secretary of the Planning Board unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for and additional 190 days from the date of signing of the plat. The Planning Board may extend the 95-day or 190 day period if the developer proves, to the reasonable satisfaction of the Planning Board, that the developer was barred or prevented, directly or indirectly, from filing because of delays in obtaining legally required approvals from other governmental or quasi-governmental entities and that the developer applied promptly for and diligently pursued the required approvals. The length of the extension shall be equal to the period of delay caused by the wait for the required approvals, as determined by the Planning Board. The developer may apply for the extension either before or after what would otherwise be the expiration date.

~~§ 44-8. Procedure; time limits.~~

~~A. Minor subdivisions. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless, within such period, a plat in conformity with such approval and the provisions of the Map Filing Law, or a deed clearly describing the approved minor subdivision, is filed by the developer with the county recording officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Planning Board before it will be accepted for filing by the county recording officer.~~

~~B. Preliminary major subdivision approval. Upon submission of a complete application for a subdivision of 10 or fewer lots, 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, unless such application includes a variance request, in which event the Board shall have 120 days from the date of a complete application to render its decision. Upon submission of a complete application for a subdivision of more than 10 lots, 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, unless such application includes a variance request, in which event the board shall have 120 days from the date of a complete application to render its decision. Otherwise, the Planning Board shall be deemed to have granted preliminary approval for the subdivision.~~

~~(1) If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application shall be submitted and proceeded upon, as in the case of the original application for development.~~

~~(2) Preliminary subdivision approval and any variances granted incidental thereto shall remain valid for three years from the date of such approval. Requests for extensions of such three-year period pursuant to N.J.S.A. 40:55D-49c shall be made within such three-year period.~~

~~C. Final major subdivision approval.~~

~~(1) Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application or within such further time as may be consented to by the applicant. Whenever review or approval of the application by the County Planning Board is required, such approval shall be conditioned upon timely receipt of a favorable report on the application by the County Planning Board.~~

~~(2) Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless, within such period, the plat shall have been duly filed by the developer with the county recording officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat.~~

~~(3) The Planning Board shall grant final subdivision approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards established for the same, the conditions of preliminary approval and the standards prescribed by the Map Filing Law, P.L. 1960, c. 141, N.J.S.A. 46:23-9.9 et seq., provided that in the case of a planned unit development, planned unit residential development or residential cluster, the Planning Board may permit minimal deviations from the conditions of preliminary approval necessitated by change of conditions beyond the control of the developer since the date of preliminary approval without the developer being required to submit another application for preliminary approval.~~

~~D. Site plan approval: Preliminary and final site plan approval shall be governed by Article IX, § 196-26 et seq. of the City of Hoboken Zoning Ordinance, subject to the following:~~

~~(1) A copy of any application for property within the CBD(H) Subdistrict shall be contemporaneously filed with the Hoboken Historic District Commission.~~

~~(2) On all applications involving a variance request, the Board shall have 120 days from the date of a complete application to render its decision.~~

~~(3) The Board, on granting site plan approval, shall find and set forth in its resolution of approval that the application provides for:~~

~~(a) Preservation of existing natural resources on the site, if any.~~

~~(b) Safe and efficient vehicular and pedestrian circulation, parking and loading.~~

~~(c) Screening, landscaping and proper location of structures.~~

~~(d) Exterior lighting needed for safety reasons in addition to any requirements for street lighting.~~

~~(e) Conservation of energy and use of renewable energy sources.~~

~~(f) Recycling of recyclable materials.~~

~~(4) If preliminary approval is granted, the written resolution of the Planning Board granting the same shall be signed by the Chairman and Secretary of the Board and sent to the applicant and the Zoning Officer, who may grant a first certificate of zoning compliance, subject to the conditions of the resolution, unless such condition(s) necessitate fulfillment prior to the issuance of such certificate. If final approval is granted, the written resolution of approval and the site plan shall be signed by the Chairman and Secretary of the Board and sent to the applicant and the Zoning Officer, who may grant a final certificate of zoning compliance, subject to the conditions of the written final resolution, unless such condition(s) necessitate fulfillment prior to the issuance of such certificate. If a site plan has been denied approval, the written resolution of disapproval shall be signed by the Chairman and Secretary of the Board and sent to the applicant and the Zoning Officer.~~

~~(5) Preliminary site plan approval and any variances granted incidental thereto shall remain valid for three years from the date of such approval. Requests for extension of such three-year period pursuant to N.J.S.A. 40:55D-49c shall be made within such three-year period.~~

~~E. Conditional use approval. Conditional use approval shall be governed by Article X, § 196-35 et seq. of the City of Hoboken Zoning Ordinance, subject to the following: Where an application involves a variance request, the Board shall have 120 days from the date of a complete application to render its decision.~~

~~F. Planned unit development. Prior to the approval of any planned development, the Planning Board shall find the following facts and conclusions:~~

~~(1) The departures by the proposed development from zoning regulations otherwise applicable to the property conform to the standards of urban design review for planned developments under § 196-27.1 of the City of Hoboken Zoning Ordinance.~~

~~(2) The proposals for maintenance and conservation of common open space are reliable, and the amount, location and purpose of the common open space are adequate.~~

~~(3) The provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic and the amenities of light and air, recreation and visual enjoyment are adequate.~~

~~(4) The proposed planned development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.~~

~~(5) In the case of a proposed development which contemplates construction over a period of years, the terms and conditions intended to protect the interest of the public and the residents, occupants and owners of the proposed development in the total completion of the development are adequate.~~

~~G. General development plan. General development plan approval shall be governed by Article IX, § 196-34 et seq. of the City of Hoboken Zoning Ordinance, subject to the following provisions:~~

~~(1) The general development plan shall set forth the permitted number of dwelling units, the amount of nonresidential floor space, the residential density and the nonresidential floor area for the planned development, in its entirety, according to a schedule which sets forth the timing of the various sections of the development.~~

~~(2) The planned development shall be developed in accordance with the general development plan approved by the Planning Board, notwithstanding any provision of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., or an ordinance or regulation adopted pursuant thereto after the effective date of the approval.~~

~~(3) The term of the effect of the general development plan approval shall be determined by the Planning Board using the guidelines set forth in Subsection G(4) of this section, except that the term of the effect of the approval shall not exceed 20 years from the date upon which the developer receives final approval of the first section of the planned development pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.~~

~~(4) In making its determination regarding the duration of the effect of approval of the development plan, the Planning Board shall consider the number of dwelling units or amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the development and the likelihood of its fulfillment, the developer's capability of completing the proposed development and the contents of the general development plan and any conditions which the Planning Board attached to the approval thereof.~~

~~(5) The Planning Board shall grant or deny general development plan approval within 95 days after submission of a complete application to the administrative officer or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute general development plan approval of the planned development.~~

~~(6) In the event that the developer seeks to modify the proposed timing schedule, such modification shall require the approval of the Planning Board. The Planning Board shall, in deciding whether or not to grant~~

~~approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for residential units and nonresidential space within the municipality and the region and the availability and capacity of public facilities to accommodate the proposed development.~~

~~(7) The developer shall be required to gain the prior approval of the Planning Board if, after approval of the general development plan, the developer wishes to make any variation in the location of land uses within the planned development or to increase the density of residential development or the floor area ratio of nonresidential development in any section of the planned development. However, any variation in the location of land uses or increase in density or floor area ratio proposed in reaction to a negative decision of or condition of development approval imposed by the Department of Environmental protection pursuant to P.L. 1973, c. 185 (N.J.S.A. 13:19-1 et seq.) shall be approved by the Planning Board if the developer can demonstrate, to the satisfaction of the Planning Board, that the variation being proposed is a direct result of such determination by the Department of Environmental Protection.~~

~~(8) Once a general development plan has been approved by the Planning Board, it may be amended or revised only upon application by the developer approved by the Planning Board. However, a developer, without violating the terms of the approval pursuant to this act, may, in undertaking any section of the planned development, reduce the number of residential units or amounts of nonresidential floor space by no more than 15% or reduce the residential density or nonresidential floor area ratio by no more than 15%; provided, however, that a developer may not reduce the number of residential units to be provided pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., without prior municipal approval.~~

~~(9) Upon the completion of each section of the development, as set forth in the approved general development plan, the developer shall notify the administrative officer, by certified mail, as evidence that the developer is fulfilling his obligations under the approved plan. For the purposes of this section, "completion of any section of the development" shall mean that the developer has acquired a certificate of occupancy for every residential unit or every nonresidential structure, as set forth in the approved general development plan and pursuant to Section 15 of P.L. 1975, c. 217 (N.J.S.A. 52:27D-133). If the municipality does not receive such notification at the completion of any section of the development, the municipality shall notify the developer, by certified mail, in order to determine whether or not the terms of the approved plan are being complied with. If a developer does not complete any section of the development within eight months of the date provided for in the approved plan or if at any time the municipality has cause to believe that the developer is not fulfilling his obligations pursuant to the approved plan, the municipality shall notify the developer, by certified mail, and the developer shall have 10 days within which to give evidence that he is fulfilling his obligations pursuant to the approved plan. The municipality thereafter shall conduct a hearing to determine whether or not the developer is in violation of the approved plan. If, after such a hearing, the municipality finds good cause to terminate the approval, it shall provide written notice of the same to the developer and the approval shall be terminated 30 days thereafter.~~

~~(10) In the event that a developer who has general development plan approval does not apply for preliminary approval for the planned development which is the subject of that general development plan approval within five years of the date upon which the general development plan has been approved by the Planning Board, the municipality shall have cause to terminate the approval.~~

~~(11) In the event that a development which is the subject of an approved general development plan is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purposes of this section, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final residential or nonresidential structure in the last section of the development, in accordance with the timing schedule set forth in the approved general development plan, and the developer has fulfilled all of his obligations pursuant to the approval.~~

~~H. Ancillary power. Whenever the Planning Board is called upon to exercise its ancillary power to grant a variance as set forth in Article I, § 44-7L(1) of this chapter, the Planning Board shall grant or deny approval of the application within 120 days after submission by the developer of a complete application or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the~~

~~variance or direction for issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in this chapter. Failure of the Planning Board to act within the time prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued upon request of the applicant.~~

~~§ 44-9. Applications; procedure for filing.~~

~~A. Applications for development within the jurisdiction of the Planning Board pursuant to the provisions of P.L. 1975, c. 291, shall be filed with the Secretary of the Planning Board. The applicant shall file at least 14 days before the date of the monthly meeting of the board seven copies of a sketch plat; seven copies of an application for minor subdivision approval; seven copies of an application for major subdivision approval or seven copies of an application for site plan review, conditional use approval or planned development. At the time of filing the application but in no event less than 10 days prior to the date set for hearing, the applicant shall also file seven copies of its plot plans, maps or other papers for which approval is sought or required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms, including the applicable checklist, from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board and the Subdivision and Site Plan Committee. Whenever the term "administrative officer" appears in this chapter or in the Municipal Land Use Law, P.L. 1975, c. 291, N.J.S.A. 40:5D-1 et seq., it shall refer to the Secretary of the Board.~~

~~B. Subdivision certificate.~~

~~(1) Any person desiring information as to whether land has been subject to or is statutorily exempt from subdivision approval may apply to the Planning Board for a certificate as to approval of subdivision of land, such application shall include:~~

~~(a) A copy of the current deed to the land.~~

~~(b) A survey of the land.~~

~~(c) A check in the amount of $10 payable to the City of Hoboken.~~

~~(d) Such additional facts and/or documents that the applicant desires the Board to consider in issuance of the certificate.~~

~~(2) The certificate shall be issued within 15 days after receipt of the application and fee therefor. Such certificate shall be designated a "certificate as to approval of subdivision of land" and shall certify:~~

~~(a) There exists in the City of Hoboken a duly established Planning Board and an ordinance controlling subdivision of land.~~

~~(b) Whether a subdivision has been approved by the Planning Board as to the land. If a subdivision has been approved, a copy of the written resolution of approval shall be attached to the certificate.~~

~~(c) If there has been no subdivision approval, whether or not such land is statutorily exempt from the requirement of approval under the definition of subdivision set forth in N.J.S.A. 40:55D-7.~~

~~(3) The administrative officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of the Board's office.~~

§ 44-108. Advisory Committee

The Mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Planning Board. Such person or persons shall serve at the pleasure of the Mayor.

~~§ 44-10. Advisory Committee.~~

~~The Mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.~~

Article II. ZONING BOARD OF ADJUSTMENT

§ 44-201. Establishment; Composition

A. Members. There is hereby established a Zoning Board of Adjustment (Zoning Board) of the City of Hoboken, consisting of seven regular members that meet the qualifications of Class IV members as defined in section §44-101, appointed by the governing body, in accordance with N.J.S.A. 40:55D-69 et seq.

B. Alternate members.

(1) Not more than four alternate members, who meet the qualifications of Class IV members, may be appointed by the governing body. Such alternate members shall be designated at the time of appointment as "Alternate No. 1", "Alternate No. 2", "Alternate No. 3" and "Alternate No. 4".

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

C. Substitute members. If the Zoning Board lacks a quorum because regular or alternate members are prohibited from acting on a matter because the members have a personal or financial interest therein, Class IV members of the Planning Board shall be called upon to serve as substitute members in accordance with N.J.S.A. 40:55D-69.1.

D. No member of the Zoning Board shall hold any municipal office, position or employment.

§ 44-202. Terms of Office

A. The term of all Class IV members first appointed pursuant to this chapter shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided however, that no term of any member shall exceed four years, and further provided that nothing herein shall affect the term of any present member of the Zoning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be appointed for terms of four years except as otherwise herein provided.

B. The term of all Alternate members shall be two years. Expiration of Alternate terms shall be distributed such that not more than two alternate members shall expire in any one year.

§ 44-203. Vacancies

If a vacancy of any Class IV or Alternate shall occur, other than by expiration of term, the unexpired portion of that term shall be filled by appointment as provided above.

~~§ 44-11. Establishment; composition.~~

~~A. A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven residents of the City of Hoboken appointed by the City Council to serve for terms of four years from January 1 of the year of their appointment. Members of the Zoning Board of Adjustment shall be appointed by the City Council. The terms of the members first appointed shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be evenly distributed over the first four years. Thereafter, the term of each member shall be for four years. Nothing in this chapter shall, however, be~~

~~construed to effect the term of any present members of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed. [Amended 11-22-1993 by Ord. No. R-20; 8-5-2009 by Ord. No. Z-2]~~

~~B. No member of the Zoning Board of Adjustment may hold any elective office or position under the municipality.~~

~~C. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.~~

~~D. Alternate members. [Amended 11-22-1993 by Ord. No. R-20; 8-5-2009 by Ord. No. Z-2; 1-20-2010 by Ord. No. Z-26]~~

~~(1) Not more than four alternate members, who shall meet the qualifications of Class IV members, may be appointed by the City Council. Such alternate members shall be designated at the time of appointment as "Alternate No. 1", "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4." The terms of the alternate members shall be for two years, except that such terms shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the term of the alternate member first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.~~

~~(2) Alternate No. 1 shall have a term expiring December 31, 2011. Alternate No. 2 shall have terms expiring on December 31, 2010. Alternate No. 3 shall have a term expiring December 31, 2011 and Alternate No. 4 shall have a term expiring on December 31, 2010. Thereafter, the terms of the alternate members shall be for two years, and the terms of not more than two alternate members shall expire in any one year.~~

~~(3) A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.~~

~~(4) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of any regular member of the Board. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.~~

§ 44-204. Organization

A. The Zoning Board shall elect a Chair and Vice Chair from its Class IV members in accordance with N.J.S.A. 40:55D-69.

B. The Zoning Board shall select a secretary who may be either a member or alternate member of the Zoning Board or a municipal employee designated by it.

C. There is hereby created the position of Zoning Board Attorney. The Zoning Board may annually appoint, fix the compensation of, or agree upon the rate of compensation of the Zoning Board Attorney, who shall be an attorney other than the Municipal Attorney. To be eligible for Zoning Board Attorney, he/she shall be licensed in the State of New Jersey and in good standing.

D. The Zoning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Zoning Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use unless a court of competent jurisdiction finds the appropriation to be unreasonable.

~~§ 44-12. Officers.~~

~~The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and shall also select a Secretary, who may be a Board member or another municipal employee.~~

~~§ 44-13. Board of Adjustment Attorney.~~

~~There is hereby created the office of Attorney to the Zoning Board of Adjustment. The Zoning Board of Adjustment may annually appoint, fix the compensation of or agree upon the rate of compensation of the Zoning Board of Adjustment Attorney, who shall be an attorney other than the Municipal Attorney.~~

~~§ 44-14. Experts and staff.~~

~~The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.~~

~~§ 44-15. Promulgation of rules and regulations.~~

~~The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply.~~

§ 44-205. Powers and Duties of the Zoning Board of Adjustment

The Zoning Board of Adjustment, in accordance with N.J.S.A. 40:55D-70, shall have the following powers and duties:

A. 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 the Zoning Officer or other Administrative Officer of the city based on or made in the enforcement of the Zoning Map or Chapter 196, Zoning.

B. To hear and decide requests for interpretation of the Zoning Map or Chapter 196, Zoning, or for decisions upon other special questions upon which the Zoning Board is authorized to make determination in accordance with this chapter.

C. To hear and decide requests for variances or other relief to allow departure from regulations set forth in Chapter 196, Zoning, in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.). Variance relief shall be limited to the following:

(1) Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property; or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or (c) by reason of an extraordinary and exceptional situation, uniquely affecting a specific piece of property, or the structures lawfully existing thereon, the strict application of any regulation in Chapter 196, Zoning, would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Zoning Board may determine to grant upon an application or an appeal relating to such property a variance from such strict application of regulation so as to relieve such difficulties or hardship.

(2) Where, in an application or appeal relating to a specific piece of property, the purposes of the Municipal Land Use Law would be advanced by a deviation from the requirements of Chapter 196, Zoning, and the benefits of the deviation would substantially outweigh any detriment, the Zoning Board may determine to grant a variance to allow departure from regulations pursuant to Chapter 196, Zoning; provided however, that no variance from those departures enumerated in (3) of this section shall be granted under this subsection, and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to §44-105.J.

(3) Where special reasons exist to allow (a) departure from regulations pursuant to Chapter 196, Zoning, to permit a use or principal structure in a district restricted against such use or principal structure; (b) an expansion of a nonconforming use; (c) deviation from a specification or standard pertaining solely to a conditional use; (d) an increase in the permitted floor area ratio; (e) an increase in the permitted density, except as applied to the required lot area for a lot or lots for

detached one- or two-dwelling-unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision; or (f) a increase in height of a principal structure which exceeds by 10 feet or 10% maximum height permitted in the district for a principal structure, a variance under this subsection shall be granted only by affirmative vote of at least five members.

D. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Master Plan, Zoning Map and Chapter 196, Zoning.

E. The Zoning Board shall, in addition to the powers enumerated above, have the power given by law in accordance with N.J.S.A. 40:55D-76, to:

(1) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way, flood-control basin, or public area reserved on the Zoning Map.

(2) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.

(3) Grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-37, et seq., or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the Zoning Board is reviewing an application for approval of a "d" variance pursuant to N.J.S.A 40-55D-70d. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon the granting of all required subsequent approvals by the Zoning Board. No subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zoning Map and Chapter 196, Zoning.

F. The Zoning Board shall annually review its decisions and prepare and adopt by resolution a report of its findings on Chapter 196, Zoning, provisions that were the subject of variance requests and its recommendations for amendments to Chapter 196, Zoning, if any. Copies of the report and resolution shall be submitted to the City Council and the Planning Board.

~~§ 44-16. Powers and duties.~~

~~A. The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq. and amendments and supplements thereto and with the provisions of this chapter.~~

~~B. It is further the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, not by way of limitation, the authority, in connection with any case, action or proceeding before the Board, to interpret and construe the provisions of this chapter or any term, clause, sentence or word hereof and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.~~

~~C. The Board, when acting upon applications for preliminary or minor subdivision and preliminary site plan approval, shall have the power to grant such exceptions from the requirements for such approval as may be reasonable and within the general purpose and intent of the provisions for preliminary or minor subdivision and site plan review, as well as this chapter, if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question, and it shall, from time to time, furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.~~

~~D. The Board shall annually review its decisions and prepare and adopt by resolution a report of its findings on Zoning Ordinance provisions, which were the subject of variance requests, and its recommendations for Zoning Ordinance amendments, if any. Copies of the report and resolution shall be submitted to the City Council and the Planning Board.~~

§ 44-206. Appeal; Application; Procedure

A. An appeal to the Zoning Board may be taken by any interested party affected by any decision of the Zoning Officer or other Administrative Officer of the city based on or made in the enforcement of the Zoning Map or Chapter 196, Zoning. Each appeal shall be taken within 20 days from the date of notification by certified letter, or from the date of publication of the decision, or from the date construction permits are posted if the decision is not noticed by certified letter or published. The appellant shall filing a notice of appeal, specifying the grounds for said appeal, with the Zoning or Administrative Officer from whom the appeal is taken, together with three copies of said notice of appeal with the Secretary of the Zoning Board. The Zoning or Administrative Officer from whom the appeal is taken shall forthwith transmit to the Zoning Board all the papers constituting the record upon which the action appealed was taken.

(1) An appeal to the Zoning Board stays all proceedings in furtherance of the action from which the appeal was made unless the Zoning or Administrative Officer from whose action the appeal is taken certifies to the Zoning Board that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court.

(2) In exercising the above mentioned power, the Zoning Board may, in conformity with the provisions of N.J.S.A. 40:55D-1, et seq., or amendments thereto, reverse or affirm wholly or in part, or may modify the order, requirement, decision or determination appealed from, and make such other requirement, decision or determination as ought to be made, and to that end, exercise all the powers of the Zoning or Administrative Officer from whom the appeal was taken.

B. Applications for development addressed to the original jurisdiction of the Zoning Board shall be filed with the Secretary of the Zoning Board. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board, who shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Zoning Board.

E. Within 45 days of the date of submission, the Secretary of the Zoning Board shall certify an application as complete, in consultation with Zoning Board professionals and any applicable municipal commissions and administrators, only if the application, checklist, all documents required by the checklist, application fee, and escrow fees have been received. If the application lacks required information, documents, or fees, or requires referral pursuant to §44-304, the applicant shall be so notified, in writing, of the deficiency and the application shall be deemed incomplete. In the event that an application is not certified as either complete or incomplete within 45 days of its submission, it shall be, by default, considered complete for the purpose of commencing the applicable Time of Decision action by the Zoning Board.

C. The Zoning Board, at its discretion, may require any of the following: correction of any information found to be in error; submission of additional information not specified in this chapter; or revisions to the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met.

§ 44-207. Time of Decision

A. The Zoning Board shall render its decision not later than 120 days after (a) the date an appeal is taken from the decision of a Zoning Officer; or (b) from the date an application for development involving a variance or direction for the issuance of a permit pursuant to §44-205.E, is certified as complete by the Secretary of the Zoning Board in consultation with the Zoning Board professionals and any applicable municipal commissions and administrators.

B. In the event an applicant elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for the issuance of a permit. The period for granting or denying any subsequent site plan or conditional use approval shall be the same Time of Decision required of the Planning Board, as set forth in §44-107.

C. The Time of Decision may be extended only by consent of the applicant. Consent shall be made on the record at a hearing or in writing. Extensions on the Time of Decision may be granted for no more than one year from the date of the original Time of Decision deadline, at which time the application shall be acted upon or dismissed without prejudice.

D. Applications that have been deemed complete shall be scheduled for a hearing before the Zoning Board within the time of action stated above. If the applicant fails to appear when scheduled and the Time of Decision will expire prior to the next regularly scheduled meeting of the Zoning Board, the application shall be dismissed without prejudice.

E. Failure of the Zoning Board to act within the period prescribed shall constitute approval of the given application. At the request of the applicant, the Secretary of the Zoning Board shall so certify that the Zoning Board failed to act and that the application is therefore approved. Said certificate be sufficient in lieu of the written endorsement or other evidence of approval, herein required.

§ 44-208. Appeal of Zoning Board of Adjustment Decision

A. Any interested party may appeal any final decision of the Zoning Board approving a "d" variance application for development to the governing body, pursuant to N.J.S.A. 40:55D-17.

B. Such an appeal to the governing body shall be made within 10 days of the date of publication of such final decision of the Zoning Board by serving the municipal clerk, in person or by certified mail, with a notice of appeal specifying the grounds thereof and the name and address of the appellant and name and address of his or her attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Zoning Board.

C. Notice of hearings and required documents related to an appeal to the governing body shall be provided in accordance with N.J.S.A. 40:55D-17.

D. The governing body shall conclude its review of the record not later than 95 days from the date of publication of the decision of the Zoning Board. The governing body may reverse, remand or affirm, with or without the imposition of conditions, the final decision of the Zoning Board approving such variance. The review shall be made on the record before the Zoning Board. The affirmative vote of a majority of the full authorized membership of the governing body shall be necessary to reverse, remand or affirm, with or without conditions, any final action of the Zoning Board.

E. Any appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision was made, unless the Zoning Board certifies to the governing body that, by reason of facts stated in the certificate, a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court.

~~§ 44-17. Appeals and applications.~~

~~A. Appeals to the Board of Adjustment may be taken by any interested party from a decision or action by the Zoning Officer in regard to the Zoning Ordinance or Official Map, including the denial of a certificate of zoning compliance or the issuance of the same subject to conditions based upon the report of the Historic Preservation Commission. Each appeal shall be taken within 20 days by filing a notice of appeal with the Zoning Officer, together with three copies of said notice with the Secretary of the Board of Adjustment. Said notice of appeal shall specify the grounds for said appeal. The Zoning Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. [Amended 3-20-1991 by Ord. No. P-136]~~

~~B. Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to the Building Subcode Official shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the~~

~~Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.~~

~~C. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such 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 of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.~~

~~§ 44-18. Power to reverse or modify decisions.~~

~~In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the provisions of P.L. 1975, c. 291, or amendments thereto or subsequent statutes applying, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and, to that end, have all the powers of the administrative officer from whom the appeal was taken.~~

~~§ 44-19. Expiration of variance.~~

~~Any variance from the term of this chapter hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation, unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced, within one year from the date of publication of the notice of the judgment or determination of the Board of Adjustment, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the governing body or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding.~~

~~§ 44-20. Powers granted by law.~~

~~A. The Board of Adjustment shall have such powers as are granted by law:~~

~~(1) 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 the Zoning Ordinance.~~

~~(2) To hear and decide requests for interpretations of the map or Zoning Ordinance or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.~~

~~(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property; or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property; or by reason of an extraordinary and exceptional situation, uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation in the Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to grant upon an application or an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship.~~

~~(4) Where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, to grant a variance to allow departure from the Zoning ordinance; provided, however, that no variance from those departures enumerated in Subsection A(5) of this section shall be granted under this subsection, and further provided that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to Section 47a of the Municipal Land Use Law of 1975, P.L. 1975, c. 291.~~

~~(5) In particular cases and for special reasons, to grant a variance to allow departure from regulations pursuant to Article 8 of P.L. 1975 c. 291, to permit a use or principal structure in a district restricted against such use or principal structure; an expansion of a nonconforming use; deviation from a specification or standard under the Zoning Ordinance pertaining solely to a conditional use; an increase in the permitted floor area ratio; or an increase in the permitted density, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling-unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision. A variance under this subsection shall be granted only by affirmative vote of at.~~

~~B. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. Any application under any subsection of this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.~~

~~§ 44-21. Additional powers.~~

~~A. The Zoning Board of Adjustment shall, in addition to the powers specified in § 44-20 of this Article, have power given by law to:~~

~~(1) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood-control basin or public area reserved on the Official Map.~~

~~(2) Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.~~

~~(3) Grant to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to Article 6 of P.L. 1975, c. 291, or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the Board is reviewing an application for approval of a use variance pursuant to Article II, § 44-20A(5) of this chapter.~~

~~B. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon the granting of all required approvals by the Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance.~~

~~C. An application under this section shall be referred to the Planning Board for its report on such subdivision, site plan or conditional use application.~~

~~§ 44-22. Time for decision.~~

~~A. The Board of Adjustment shall render its decision not later than 120 days after the date an appeal is taken from the decision of an administrative officer or the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-70b.~~

~~B. Failure of the Board to render a decision within such thirty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.~~

Article III. PROVISIONS APPICABLE TO BOTH PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

~~Article III. Provisions Applicable to Planning Board, Zoning Board of Adjustment and Historic Preservation Commission~~

~~[Amended 3-20-1991 by Ord. No. P-136]~~

§ 44-301. Conflicts of Interest

No member of the Planning Board or Zoning Board shall act on any matter in which that member has, either directly or indirectly, any personal or financial interest. If such a circumstance presents itself, that member shall disqualify himself or herself from acting on a particular matter. He or she shall not continue to sit with the Planning Board or Zoning Board on the hearing of such matter nor participate in any discussion or decisions relating thereto.

~~§ 44-23. Conflicts of interest.~~

~~No member of the municipal agency shall act on any matter in which he has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the municipal agency on the hearing of such matter nor participate in any discussion or decisions relating thereto.~~

§ 44-302. Meetings

A. Meetings of both the Planning Board and Zoning Board shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications to process or for lack of a quorum.

B. Special meetings of the Planning Board or Zoning Board may be provided for at the call of the respective Chair or at the request of any two members of the respective board. Said meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.

C. No action shall be taken at any meeting without a quorum being present.

D. All actions shall be taken by a majority vote of a quorum of the members of the Planning Board, Zoning Board or SSPR Committee present at such meeting, except as otherwise required by any provision of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), or this chapter. Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.

E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, P.L. 1975, c. 231, N.J.S.A. 10:4-6, et seq.

F. A member of the Planning Board or the Zoning Board who was absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his or her absence from one or more of the meetings provided, however, that such Planning Board or Zoning Board member has available to him or her the transcript or recording of all the hearings from which he or she was absent and certifies in writing to their respective board that he or she has read such transcript or listened to such recording.

~~§ 44-24. Meetings.~~

~~A. Meetings of the municipal agency shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.~~

~~B. Special meetings may be provided for at the call of the Chairman or on the request of any two agency members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.~~

~~C. No action shall be taken at any meeting without a quorum being present.~~

~~D. All actions shall be taken by a majority vote of the members of the municipal agency present at the meeting, except as otherwise required by any provision of P.L. 1975, c. 291. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote~~

~~requirements of Section 44-125 of the Municipal Land Use Act, N.J.S.A. 40:55D-34, or Article II, Section 44-110.d, shall be deemed an action denying the application. A member of the municipal agency who is absent from any hearing shall be eligible to vote on the matter upon which the hearing was conducted upon certifying, in writing, to the municipal agency that he has read the transcript or listened to the recording of all the hearing from which he was absent.~~

~~E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, P.L. 1975, c. 231.~~

§ 44-303. Minutes

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Planning Board, Zoning Board or SSPR Committee and of the persons appearing by attorney, the action taken by the respective Board or Committee, the findings, if any, and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the Planning Board or the Zoning Board office. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for his or her use, as provided for in the rules of the Planning Board or the Zoning Board.

~~§ 44-25. Minutes.~~

~~Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the municipal agency and of the persons appearing by attorney, the action taken by the municipal agency and the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the administrative officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use, as provided for in the rules of the municipal agency.~~

§ 44-304. Application and Referral Procedures

A. An application for development shall mean an application and checklists, on standard forms available in the Planning Board or the Zoning Board office, on the City's web site, and attached to this Chapter and made a part hereof as *Appendix A*.

B. An application for development may be filed with the Planning Board or the Zoning Board for action under any of their respective powers without prior application to the Zoning Officer.

C. Within 45 days of the date of submission, the Secretary of the Planning Board or the Zoning Board shall certify an application as complete, in consultation with the respective Board professionals and any applicable municipal commissions and administrators, only if the application, checklist, all documents required by the checklist, application fee, and escrow fees have been received. If the application lacks the required information, documents, or fees, or requires referral pursuant to §44-304, the applicant shall be so notified, in writing, of the deficiency and the application shall be deemed incomplete. In the event that an application is not certified as either complete or incomplete within 45 days of its submission, it shall be, by default, considered complete for purposes of commencing the applicable Time of Decision action by the Planning Board or Zoning Board.

D. The Planning Board or Zoning Board, at its discretion, may require any of the following: correction of any information found to be in error; submission of additional information not specified in this chapter; or revisions to the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements for approval of the application have been met.

E. An applicant may request that one or more of the submission requirements be waived. The request shall be granted or denied, in writing, within 45 days of the date of submission, by the SSPR Committee for applications made to the Planning Board, or by the Zoning Board Secretary in consultation with the Zoning Board professionals for applications made to the Zoning Board.

F. All applications for development within the Special Flood Hazard Area as designated by Chapter 104, Flood Damage Prevention, shall be transmitted to the Flood Plain Administrator for review prior to the Planning Board or Zoning Board's hearing of the application. In the event application documents are not sufficient to satisfy flood plain review but are otherwise complete and the Planning Board or Zoning Board wishes to proceed with a hearing on the application, that Board shall condition any approval that is granted upon full compliance with the Flood Damage Prevention Ordinance.

G. Applications that are subject to review by the Historic Preservation Commission (HPC) pursuant to Chapter 42, Historic Preservation, shall be transmitted to the HPC for its consideration and recommendation which shall be submitted in writing to the Planning Board or Zoning Board prior to that board's hearing of the application. Applications subject to HPC review that have not been seen by that commission shall not be deemed complete.

H. Site Plan and Subdivision applications shall be referred to the Shade Tree Commission for consideration and recommendations. Any recommendations shall be submitted in writing to the Planning Board or the Zoning Board, as applicable. If that board is not in receipt of the Shade Tree Commission's report prior to the hearing, the Planning Board or Zoning Board's approval shall be conditioned upon compliance with Shade Tree Commission recommendations.

I. Whenever review or approval of an application by the County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:27-6.6, in the case of a site plan, the Planning Board or Zoning Board shall condition any approval that it grants upon either timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time pursuant to N.J.S.A 40:27-6 et seq.

~~§ 44-26. Applications.~~

~~On all applications involving a site plan, subdivision or conditional use, the applicant shall be provided with the checklist covering such application set forth in the appendix to this chapter. An application shall be deemed complete upon certification of such fact by the municipal agency or its designee. In the event that an application is not certified as complete within 45 days of its submission, it shall be deemed complete for purposes of commencing the applicable time period for action by the municipal agency, unless the application lacks information indicated on the checklist or application form and the municipal agency has notified the applicant, in writing, of such deficiency within 45 days of submission of the application. The applicant may request a waiver from one or more of the submission requirements, which waiver request shall be granted or denied within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. All applications in the Historic District shall be referred to the Historic Preservation Commission for its recommendation and report.~~

§ 44-305. Application Fees and Escrow Deposits

A. Pursuant to N.J.S.A. 40:55D-8(b), the City shall be reimbursed for the administrative costs associated with a development application from application fees.

B. Pursuant to N.J.S.A. 40:55D-53.1 and 2, the City is further entitled to offset the costs of professional services engendered by a development application from escrow deposits.

(1) Escrow deposits shall be in addition to the application fees and shall be used by the Planning Board or the Zoning Board to pay professionals for services rendered for review of applications for development, review and preparation of documents, inspection of improvements, or other purposes under the provisions of the Municipal Land Use Law. Those application review and inspection charges shall be limited only to professional charges for review of applications, review

and preparation of documents, inspections of developments under construction, and review by outside consultants when an application is of a nature beyond the scope of expertise of the professionals normally utilized by the City. The only cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged, from escrow for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to his or her bill.

(2) The City shall be entitled to be reimbursed for the following: for the review of applications, both as to completeness and as to content; and for the review and preparation of documents, such as, but not limited to, drafting resolutions, developer's agreements and necessary correspondence with applicant or applicant's professionals.

(3) If review costs exceed the escrow deposited, the applicant shall pay the additional amount within 15 days of the request for additional funds. Failure to remit the additional required deposit within the requested timeline shall render the application incomplete, and no further action or proceedings shall be taken by the Planning Board or Zoning Board until after compliance. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant within 120 days of final disposition of the application.

C. A schedule of application fees and escrow deposits is hereby adopted by the governing body and attached hereto as *Appendix B.*

D. An application shall be deemed to be incomplete until all application fees and escrow deposits are submitted. Fees and escrow shall be submitted as separate checks, payable to the City of Hoboken, in the amounts indicated on the fee schedule set forth in Appendix B. Where more than one fee category applies, the fee shall equal the combined total of fees required for each type of application.

~~§ 44-27. Fees.~~

~~Fees for applications or for the rendering of any service by the municipal agency or any member of its administrative staff shall be as set forth in this chapter, the Zoning Ordinance of the City of Hoboken or the Land Subdivision Ordinance of the City of Hoboken.~~

§ 44-306. Hearings

A. Rules. The Planning Board and Zoning Board shall make rules governing the conduct of hearings before such bodies, respectively, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or this chapter.

B. Oaths. The Board Attorney presiding at the hearing or such person as he or she may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the applicant or others on the applicant's behalf, and the provisions of the County and Municipal Investigations Law, (N.J.S.A. 2A:67A-1 et seq.), shall apply.

C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the Chair and to reasonable limitations as to time and number of witnesses.

D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Planning Board or the Zoning Board may exclude irrelevant, immaterial or unduly repetitious evidence.

E. Records. The Planning Board, SSPR Committee and Zoning Board shall each provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Planning Board or the Zoning Board shall furnish a transcript or duplicate recording in lieu thereof on request to

any interested party at his or her expense. All transcripts shall be certified in writing by the transcriber to be accurate.

~~§ 44-28. Hearings.~~

~~A. Rules. The municipal agency shall make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.~~

~~B. Oaths. The officer presiding at the hearing or such person as he may designate shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 38 (N.J.S.A. 2A:67A-1 et seq.), shall apply.~~

~~C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.~~

~~D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the municipal agency may exclude irrelevant, immaterial or unduly repetitious evidence.~~

~~E. Records. Each municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.~~

§ 44-307. Notice Requirements for Hearing

Whenever notice is required on an application for development pursuant to N.J.S.A. 40:55D-1, et seq. or pursuant to the determination of the Planning Board or the Zoning Board, the applicant shall give notice thereof as follows:

A. Public notice shall be given by publication in the official newspapers of the municipality at least 10 days prior to the date of the hearing, for the following applications for development:

(1) Any request for a variance from the requirements of Chapter 196, Zoning;

(2) Any request for conditional use approval;

(3) Any request for minor site plan approval or preliminary approval of a major site plan;

(4) Any request for a minor subdivision approval;

(5) Any request for preliminary approval of a major subdivision; and/or

(6) Any request for the issuance of a permit to build within the bed of a mapped street, public drainage-way, flood control basin, or public area reserved on the Zoning Map, or in a lot not abutting a street.

B. Notice shall be given to the owners of all real property, including owners of condominium and cooperative units, as shown on the current tax duplicate or duplicates located within 200 feet in all directions of the property which is the subject of such hearing, and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given (a) by serving a copy thereof on the owner as shown on said current tax duplicate or his/her/their agent in charge of the property; or (b) by mailing a copy thereof, by certified mail, to the property owner at his/her/their address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a limited liability company may be made by service upon any member thereof.

C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to subsection B of this section to the owners of property in such adjoining municipality which are located within 200 feet of the subject premises.

D. Notice shall be given by personal service or certified mail to the Hudson County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan adjoining other county land or situated within 200 feet of a municipal boundary.

E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.

F. Notice shall be given by personal service or certified mail to the State Planning Commission of hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Planning Board or the Zoning Board, pursuant to N.J.S.A. 40:55D-10.

G. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for a hearing, and the applicant shall file an affidavit of proof of service with the respective Planning Board or Zoning Board holding the hearing on the application for development at least one business day before the date of the hearing. Notice pursuant to subsections C, D, E and F of this section shall not be deemed to be required unless public notice pursuant to N.J.S.A. 40:55D-12a and b is required.

H. Any notice made by certified mail as hereinabove required shall be deemed to be completed upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.

I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the particular board before which the hearing is to be held, the date, time and place of the hearing, the nature of the matters to be considered, including a general description of the development, the developmental approval and each variance sought, identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office, and the location and times at which any maps and documents pertaining to any approval being sought are available, as required by law.

~~§ 44-29. Notice requirements for hearing.~~

~~Whenever notice is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq. or pursuant to the determination of the municipal agency in question, the applicant shall give notice thereof as follows:~~

~~A. Public notice shall be given by publication in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality at least 10 days prior to the date of the hearing.~~

~~B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within 200 feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on said current tax duplicate or his agent in charge of the property; or by mailing a copy thereof, by certified mail, to the property owner at his address as shown on said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its President, a Vice President, Secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.~~

~~C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B of this section~~

~~to the owners of lands in such adjoining municipality which are located within 200 feet of the subject premises.~~

~~D. Notice shall be given by person service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan adjoining other county land or situated within 200 feet of a municipal boundary.~~

~~E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.~~

~~F. Notice shall be given by personal service or certified mail to the State Planning Commission of hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the municipal agency.~~

~~G. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for a hearing, and the applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development at least one day before the hearing.~~

~~H. Any notice made by certified mail as hereinabove required shall be deemed to be completed upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.~~

~~I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the particular municipal agency before which the hearing is to be held, the date, time and place of the hearing, the nature of the matters to be considered, including a general description of the development, the developmental approval and each variance sought, and identification of the property proposed for development by street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.~~

~~J. Applications before the Historic Preservation Commission shall not require notice unless requested by the Commission.~~

§ 44-308. List of Property Owners Furnished

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Planning Board or the Zoning Board Secretary shall, within 7 days after receipt of a request therefore and upon receipt of payment of a fee of $10 or $0.25 per name, whichever is greater, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 44-307B.

~~§ 44-30. List of property owners furnished.~~

~~Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Director of the department of Revenue and Finance shall, within seven days after receipt of a request therefor and upon receipt of payment of a fee of $10, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 44-29B.~~

§ 44-309. Decisions

A. The Planning Board and the Zoning Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing.

B. The Planning Board and the Zoning Board shall provide its findings and conclusions through a memorializing resolution to be adopted at a meeting held not later than 45 days after the date of the meeting at which the relevant board voted to grant or deny approval of an application for development, pursuant to N.J.S.A. 40:55D-1, et seq.

C. Only the members of the Planning Board or the Zoning Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of those members present at the meeting at

which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to this section resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above, with only those members voting against the motion for approval being eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the respective board; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by § 44-309.E and § 44-310.

D. If the Planning Board or the Zoning Board fails to adopt a memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the Planning Board or the Zoning Board to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the City.

E. A copy of the decision shall be mailed by the Secretary of the Planning Board or the Zoning Board within 10 days of the date of decision to the applicant or, if represented, then to his or her attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Planning Board or the Zoning Board for such service. A copy of the decision shall also be filed in the office of the Planning Board or Zoning Board, which shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the City.

~~§ 44-31. Decisions.~~

~~A. Each decision on any application for development shall be set forth, in writing, as a resolution of the municipal agency which will include findings of fact and legal conclusions based thereon.~~

~~B. The municipal agency shall provide the findings and conclusions through a resolution adopted at a meeting held within the time period provided in the Act for action by the municipal agency on the application for development or a memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval.~~

~~C. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to Section 5 of the Act (N.J.S.A. 40:55D-9), resulting from the failure of a motion to approve an application, shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by Subdivisions h and i of N.J.S.A. 40:55D-10.~~

~~D. If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the municipality.~~

~~E. A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the municipal agency for such service. A copy of the decision shall also be filed in the office of the Zoning Officer, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.~~

§ 44-310. Publication of Decision

A brief notice of the decision shall be published within 10 days of the date of the decision in the official newspapers of the municipality. Such publication shall be arranged by the applicant. Proof of publication

shall be filed with the Secretary of the Planning Board or the Zoning Board, as applicable, immediately following the same.

~~§ 44-32. Publication of decision.~~

~~A brief notice of the decision shall be published within 10 days of the date of the decision in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the applicant Proof of publication shall be filed with the Secretary of the municipal agency immediately following the same.~~

§ 44-311. Payment of Taxes

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or the Zoning Board shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either the Planning Board or the Zoning Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the City will be adequately protected.

~~§ 44-33. Payment of taxes.~~

~~Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application for development submitted to the municipal agency shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.~~

§ 44-312. Expiration of Variances

Any variance, hereafter granted by the Planning Board or the Zoning Board, permitting the erection or alteration of a structure or structures, or permitting a specified use of any premises shall expire by limitation unless such construction or alteration has actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within one year from the date the memorializing resolution was adopted. Provided, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of (a) the Zoning Board to the governing body or (b) either the Planning Board or the Zoning Board to a court of competent jurisdiction, until the termination, in any manner, of such appeal or proceeding. The Planning Board or the Zoning Board, upon written request from the party to whom the variance was granted, and for good cause shown, may grant an extension of time beyond the one year limitation, up to but not exceeding two additional years.

~~Article IV. Appeals~~

~~§ 44-34. Appeals from decisions of Zoning Board of Adjustment.~~

~~Any appeal from the final decision of the Board of Adjustment approving a D variance may be taken to the governing body in accordance with N.J.S.A. 40:55D-17. The governing body may reverse, remand or affirm, with or without the imposition of conditions, the final decision of the Board of Adjustment approving such variance. The review shall be made on the record before the Board of Adjustment. The affirmative vote of a majority of the full authorized membership of the governing body shall be necessary to reverse, remand or affirm, with or without conditions, any final action of the Board of Adjustment. Any appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision was made, unless the Board certifies to the governing body, after filing of the notice of appeal, that by reason of facts stated in a certificate a stay would cause imminent peril to life or property. In such case, there shall be no stay other than by order of the Superior Court on application upon notice to the Board.~~

Article IV. MISCELLANEOUS PROVISIONS

§ 44-401. Definitions

Whenever a term is used in this chapter which is defined in the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or in Chapter 196, Zoning, of the Code of the City of Hoboken, such term is intended to have the meaning set forth in said statute, unless a contrary intention is clearly expressed from the context of this chapter. The term "Administrative Officer" for purposes under this chapter shall mean the Secretary of the Planning Board or the Secretary of the Zoning Board, as the case may be, unless another official is specified.

§ 44-402. Interpretation

This chapter shall be read and be interpreted in pari materia with the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), as amended, and with Chapter 34, Site Plan and Subdivision of Land; Chapter 42, Historic Preservation; Chapter 104, Flood Damage Prevention; and Chapter 196, Zoning, of the Code of the City of Hoboken, as amended.

§ 44-403. Pending Applications

All applications for development filed prior to the effective date of this chapter may be continued under the provisions of the prior statute, except where matters of health and public safety shall dictate that the most current regulations shall apply. Appeals arising out of decisions made on any such application shall be governed by the provisions of § 44-208 of this chapter.

§ 44-404. Filing of Copies

Immediately upon adoption of this chapter, the Municipal Clerk shall file a copy of this chapter with the Hudson County Planning Board, as required by law. The Clerk shall also file with said Hudson County Planning Board copies of all other ordinances of the municipality relating to land use, which have heretofore not been filed.

[NOTE: Article V. Historic Preservation Commission was previously deleted pursuant to adoption of Ordinance No. Z-196 on 08/15/2012.]

~~Article VI. Miscellaneous Provisions~~

~~§ 44-47. Definitions.~~

~~Whenever a term is used in this chapter which is defined in P.L. 1975, c. 291, such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this chapter.~~

~~§ 44-48. Repealer.~~

~~All sections of the Land Subdivision Ordinance, Zoning Ordinance, Site Plan Review Ordinance or any other ordinance of the City of Hoboken which contains provisions contrary to the provisions of this chapter shall be and are hereby, to the extent of such inconsistency, repealed.~~

~~§ 44-49. Provisions continued.~~

~~The substantive provisions of the existing Land Subdivision Ordinance adopted April 1, 1959, and the Zoning Ordinance of the City of Hoboken adopted August 1979 and the development regulations set forth therein shall continued in full force and effect.~~

~~§ 44-50. Pending applications.~~

~~All applications for development filed prior to the effective date of this chapter may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of Article IV of this chapter.~~

~~§ 44-51. Title.~~

~~This chapter shall be known and may be cited as the "Land Use Procedures Ordinance of the City of Hoboken."~~

~~§ 44-52. Copy to be filed with County Planning Board.~~

~~Immediately upon adoption of this chapter, the Municipal Clerk shall file a copy of this chapter with the County Planning Board, as required by law. The Clerk shall also file with said County Planning Board copies of all other ordinances of the municipality relating to land use, such as the Subdivision Ordinance.~~

~~§ 44-53. Interpretation.~~

~~This chapter shall be read and interpreted in pari materia with the Municipal Land Use Law, as amended, P.L. 1975, c. 291, the Zoning Ordinance of the City of Hoboken, adopted August 1979, and the Land Subdivision Ordinance of the City of Hoboken, approved April 1, 1959, as amended. Immediately upon adoption of this amended chapter, the Municipal Clerk shall file a copy of this amended chapter with the County Planning Board as required by law.~~

~~§ 44-54. When effective.~~

~~This chapter shall take effect on final adoption and publication according to law.~~

SECTION TWO: ADDITIONAL AMENDMENTS

The following Chapters and Sections of the Municipal Code of the City of Hoboken are hereby amended, for consistency with Chapter 44 (as amended); deletions to the current ordinance are noted in ~~strikethrough~~, additions to the current ordinance are noted in <u>underline</u>.

Chapter 34A, "Development Application Checklists" shall be deleted in its entirety.

Chapter 196, ZONING shall be amended as follows:

~~Article XIV. Zoning Board of Adjustment~~

~~§ 196-54. Establishment, membership and organization.~~

~~A. Establishment. The Zoning Board of Adjustment shall be continued pursuant to the requirements of Article II of the Land Use Procedures Ordinance of the City of Hoboken. *Editor's Note: See Ch. 44, Land Use Procedures.*~~

~~B. Membership.~~
~~[Amended 1-20-2010 by Ord. No. Z-26]~~

> ~~(1) The Zoning Board of Adjustment shall consist of seven members appointed by the City Council, subject to the conditions set forth in § 44-11 of the Hoboken City Code and N.J.S.A. 40:55D-69 et seq., concerning length of members' terms, ineligibility of those holding elective or appointive municipal office, exclusion from voting of members having any personal interest, directly or indirectly, in the issue under consideration and other items concerning members' appointment, tenure and conduct.~~
>
> ~~(2) The Zoning Board of Adjustment shall include four alternate members appointed by the City Council, subject to the conditions set forth in § 44-11 and N.J.S.A. 40:55D-69 et seq., concerning length of members' terms, ineligibility of those holding elective or appointive municipal office, exclusion from~~

~~voting by members having any personal interest, directly or indirectly, in the issue under consideration, and other items concerning members' appointment, tenure and conduct.~~

~~C. Organization. The Zoning Board of Adjustment shall elect a Chairman and Vice Chairman from among its members and select a Secretary who may or may not be a member of the Board or a municipal employee.~~

~~§ 196-55. Powers and responsibilities.~~

~~A. Powers. The Zoning Board of Adjustment shall have the powers accorded to it in accordance with N.J.S.A. 40:55D-69 et seq., of the New Jersey Statutes as set forth in Article II of the Land Use Procedures Ordinance of the City of Hoboken *Editor's Note: See Ch. 44, Land Use Procedures.* as follows:~~

~~(1) Hear and decide appeals where it is alleged by the appellant that there is any order, requirement, decision or refusal made by the Zoning Officer or other administrative agency based on or made in the enforcement of the Zoning Ordinance.~~

~~(2) Hear and decide in accordance with the provisions of the Zoning Ordinance requests for interpretation of the Zoning Map or Ordinance or for decisions upon other special questions upon which such Board is authorized to pass by this ordinance.~~

~~(3) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or by reason of other extraordinary or exceptional situations uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of this section would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship. Where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviance from the requirements of this section and the benefits of such deviation would substantially outweigh any detriment, a variance may be granted to allow departure from the strict interpretation of the regulations of this section. The foregoing is subject to the provision that no variance to permit those departures enumerated in Subsection B of this section shall be granted under this subsection, and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the planning Board has power to review a request for a variance pursuant to the requirements of the Land Use Procedures Ordinance. *Editor's Note: See Ch. 44, Land Use Procedures.*~~
~~[Amended 6-21-1989 by Ord. No. P-58]~~

~~(4) Grant a variance in particular cases and for special reasons to allow a structure or use in a district restricted against such structure or use, but only by affirmative vote of at least 2/3 of the full authorized membership of the Zoning Board of Adjustment.~~

~~B. Responsibilities and limitations.~~

~~(1) No variance or other relief may be granted under the terms of this subsection, unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the land use plan and Zoning Ordinance.~~

~~(2) On such matters as have not previously been reviewed by the Planning Board, the Zoning Board of Adjustment shall, at least 45 days before the required public hearing of any appeal or application, transmit a copy of such appeal or application to the Planning Board, together with a copy of the notice of such hearing so that the Planning Board may review and submit a report of its opinion prior to the date of such hearing. Planning Board failure to submit such report shall be considered approval of the application or appeal.~~

~~(3) The Zoning Board of Adjustment shall prepare an annual report on variances in accordance with the requirements of N.J.S.A. 40:55D-70.1, as specified in Article 9 of the Municipal Land Use Law.~~
~~[Added 6-21-1989 by Ord. No. P-58]~~

~~**§ 196-56. Procedure.**~~

~~A. Appeals from the Zoning Enforcement Officer. Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of the Zoning Enforcement Officer of the City based on or made in the enforcement of this chapter or official map. Such appeal shall be taken within 20 days by filing a notice of appeal with the Zoning Enforcement Officer specifying the grounds of such appeal. The Zoning Enforcement Officer shall immediately transmit to the Zoning Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.~~
~~**[Amended 6-29-1994 by Ord. No. R-58]**~~

~~B. Application for development.~~

~~(1) A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to the Zoning Enforcement Officer.~~

~~(2) If an application for development is filed with the Zoning Board of Adjustment, whether or not an appeal from a decision of the Zoning Enforcement Officer is also taken, the applicant shall submit three copies of his completed application to the Secretary of the Zoning Board of Adjustment. The time for the Board's review shall not begin to run until the submission of a complete application with the required fee. Unless the applicant is informed in writing by the Secretary of the Zoning Board of Adjustment within 45 days of the actual submission of the application that it is incomplete, said application shall be deemed complete as of the date it was submitted.~~

~~(3) A complete application for development under this article shall consist of the following:~~

~~(a) A properly completed variance information application form.~~

~~(b) The required fee, as per § 196-63 of this chapter.~~

~~(c) If subdivision and/or site plan and/or conditional use approval is also sought as part of an application for a variance pursuant to this chapter, the applicant shall also include the information and documents required pursuant to the provisions of the Land Use Procedures Ordinance.~~

~~(4) The Secretary of the Zoning Board of Adjustment shall distribute the application for review and report and, where required, approval as follows:~~

~~(a) The Zoning Board of Adjustment.~~

~~(b) The Planning Board.~~

~~(c) The City Engineer.~~

~~**§ 196-57. Time for decision.**~~

~~The Zoning Board of Adjustment shall render a decision not later than 120 days after the date that an appeal is taken from the decision of the Zoning Enforcement Officer or the submission of a complete application for development to the Zoning Board of Adjustment pursuant to the requirements of this article. Failure of the Board to render a decision within such one-hundred-twenty-day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.~~

~~**§ 196-58. Other powers and duties.**~~

~~All other powers and duties of the Zoning Board of Adjustment not specifically designated in this article shall be as set forth in the Land Use Procedures Ordinance. *Editor's Note: See Ch. 44, Land Use Procedures.*~~

§ 196-63. Application ~~and escrow~~ fees.
[Amended 6-21-1989 by Ord. No. P-58; 3-20-1991 by Ord. No. P-136; 5-1-2002 by Ord. No. DR-36; 5-7-2003 by Ord. No. DR-90; 6-18-2008 by Ord. No. DR-357; 9-1-2010 by Ord. No. Z-53]

Action Requested	Project Type	Project Size	Application Fee	Escrow Fee
~~**Site Plan, PUD, Conditional Use Approval**~~				
~~Minor site plan [per § 196-26A(1)(b)]\~~				
	~~Residential~~	~~3-9 dwelling units~~	~~$500~~	~~$5,000~~
	~~Nonresidential~~	~~3,000-4,999 square feet~~	~~$500~~	~~$5,000~~
	~~Other~~	~~per § 196-26~~	~~$500~~	~~$5,000~~
~~Preliminary site plan, PUD, conditional use~~				
	~~Residential~~	~~10+ dwelling units~~	~~$750 plus $50/dwelling unit~~	~~$10,000 plus $100/dwelling unit~~
	~~Nonresidential~~	~~under 5,000 square feet~~	~~$750~~	~~$5,000~~
	~~Nonresidential~~	~~5,000-9,999 square feet~~	~~$1,000 plus $50/1,000 square feet~~	~~$7,500~~
	~~Nonresidential~~	~~10,000-24,999 square feet~~	~~$1,500 plus $50/1,000 square feet~~	~~$10,000~~
	~~Nonresidential~~	~~25,000 square feet and over~~	~~$2,000 plus $50/1,000 square feet~~	~~$15,000~~
~~Final site plan~~	~~All~~	~~All~~	~~50% of preliminary~~	~~50% of preliminary~~
~~Amendment or extension of preliminary or final site plan or conditional use approval~~	~~All~~	~~All~~	~~$500~~	~~$2,500~~
~~**Appeals, Interpretations, Variances**~~				
~~Appeals, per~~	~~All~~	~~All~~	~~$300~~	~~$1,000~~

Action Requested	Project Type	Project Size	Application Fee	Escrow Fee
~~N.J.S.A. 40:55D-70a~~				
~~Interpretations, per N.J.S.A. 40:55D-70b~~	~~All~~	~~All~~	~~$300~~	~~$1,000~~
~~Hardship variance, per N.J.S.A. 40:55D-70c~~	~~All~~	~~All~~	~~$300 for first $150 for each additional~~	~~$1,000 if NOT part of site plan $3,000 if part of site plan~~
~~Use variance, per N.J.S.A. 40:55D-70d~~	~~All~~	~~All~~	~~$500 for first $250 for each additional~~	~~$1,000 if NOT part of site plan $3,000 if part of site plan~~
~~**Other Fees**~~				
~~Special meeting request~~	~~All~~	~~All~~	~~$1,000~~	~~None~~
~~Informal or concept review~~	~~All~~	~~All~~	~~$400~~	~~500~~
~~Redevelopment plan amendment~~	~~All~~	~~All~~	~~$2,500~~	~~$5,000~~
Zoning Review				
	Residential	1-4 dwelling units	$100	None
	Residential	5+ dwelling units	$100 plus $25/dwelling unit over 4	None
	Nonresidential	under 5,000 square feet	$100	None
	Nonresidential	5,000-9,999 square feet	$200	None
	Nonresidential	10,000-49,999 square feet	$400	None
	Nonresidential	50,000 square	$500	None

Action Requested	Project Type	Project Size	Application Fee	Escrow Fee
		feet and over		
~~Historic Preservation Review~~				
	~~Residential~~	~~1-4 dwelling units~~	~~$50 $35/dwelling unit~~	~~None~~
	~~Residential~~	~~5+ dwelling units~~	~~$50/1,000 square feet~~	~~None~~
	~~Nonresidential~~	~~All~~		~~None~~
~~Subdivision~~	~~Minor or major~~	~~All~~	~~$5/lot~~	~~None~~

SECTION THREE: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand not withstanding the invalidity of any part.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

SECTION SIX: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: March 19, 2014

Approved:

Quentin Wiest, Business Administrator

Approved as to Legal Form:

Mellissa Longo, Corporation Counsel

RECORD OF COUNCIL VOTE ON 1ST READING				
Councilperson	**Yea**	**Nay**	**Abstain**	**No Vote**
Councilman Bhalla	✓			
Councilwoman Castellano	✓			
Councilman Cunningham	✓			
Councilman Doyle	✓			
Councilwoman Mason	✓			
Councilman Mello	✓			
Councilman Occhipinti		✓		
Councilman Russo	✓			
President Giattino	✓			

RECORD OF COUNCIL VOTE ON 2ND READING				
Councilperson	**Yea**	**Nay**	**Abstain**	**No Vote**
Councilman Bhalla				
Councilwoman Castellano				
Councilman Cunningham				
Councilman Doyle				
Councilwoman Mason				
Councilman Mello				
Councilman Occhipinti				
Councilman Russo				
President Giattino				

I do hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted by the City Council of the City of Hoboken, in the County of Hudson on this _____ day of _____, 2014

James Farina, City Clerk

Approved by the Mayor of the City of Hoboken on the _____ day of _____, 2014.

Dawn Zimmer, Mayor

-or-

Vetoed by the Mayor for the following reasons:

CITY OF HOBOKEN
Department of Community Development

DAWN ZIMMER
Mayor

BRANDY FORBES
Director

MEMORANDUM

DATE: March 12, 2014

TO: Hoboken City Council

CC: Dawn Zimmer, Mayor
Quentin Wiest, Business Administrator
Mellissa Longo, Corporation Counsel

FROM: Brandy Forbes, Community Development Director

RE: An Ordinance Amending Chapter §44 (Land Use Procedures) Updating and Consolidating the Processes and Procedures for Land Use Boards

On the March 19, 2014 City Council agenda is the ordinance to amend Chapter 44 regarding land use procedures. As well, this ordinance would amend the checklist and application form for the Planning Board and Zoning Board. This memo is to provide some explanation as to the purpose of this amendment and perhaps address some of the questions you may have regarding the ordinance.

Chapter 44 is the administrative chapter for the land use boards; Planning Board and Board of Adjustment. The chapter establishes the boards and officially adopts standards and procedures, as set forth by the New Jersey Municipal Land Use Law (MLUL). This amendment is a comprehensive update to Chapter 44 Land Use Procedures, making the chapter more concise and user friendly, and consolidating all Planning Board and Zoning Board of Adjustment processes and procedures into a single location within the code. The ordinance corrects inconsistencies and cleans up changes that have occurred over the years to assure that the content of the chapter properly reflects the MLUL and the Master Plan of the City of Hoboken.

This chapter will pull together, in one place, all administrative and procedural items related to the Planning Board and Zoning Board of Adjustment. Having all related information in one place makes the code easier for residents to use and understand. Here are some of the key components to the ordinance amendment:

- This amendment does not convey any additional powers to the boards that are not statutorily set forth in the MLUL.

- The make-up of regular and alternate members on each board remains the same as amended by the City Council in 2009. The Council is the appointing authority for the Board of Adjustments and the Mayor is for the Planning Board.

- The fee and escrow structure remains the same as amended by the City Council in 2010.

- Currently, establishment and administration of the Board of Adjustment can be found in both chapters 44 and 196 (Zoning Code). There is no reason for the Board of Adjustment to appear in chapter 196. This amendment removes the board section from the Zoning Code, and consolidates all elements of the board's administration to chapter 44. By doing this we eliminate redundancy and some inconsistencies in the code.

- The current section concerning appeals (Article IV) is retained but relocated as a subsection of Article II Zoning Board of Adjustment. The appeals addressed in this section are those appeals of a Board of Adjustment decision to the City Council. This appeal process does not apply to decisions of the Planning Board; therefore it was moved from the general chapter to the Board of Adjustment section.

- The Planning Board and Zoning Board of Adjustment sections mirror each other in format, with consistent language used from one to the other where appropriate.

- Several redundancies from the Planning Board and Zoning Board of Adjustment sections have been eliminated by amending the "Provisions Applicable to Both" section. Such matters as meetings, minutes, application procedures, fees and escrow, hearings, notice requirements, decisions, publication of decisions, and dismissal of inactive applications, which are common to both boards are spelled out here to assure consistency of administrative procedures.

- A section has been added clarifying the referral process to the Historic Preservation Commission, Shade Tree Commission, Floodplain Administrator, and County Planning Board where applicable.

- The other key element to this amendment is the introduction of a new application and checklists. The checklists have been split up into application types; subdivision, site plan, variances and conditional use. By making the checklists type specific, the applicant has a more focused list of requirements to meet and documents to provide when filing an application; and eliminates documents that are unnecessary. The application has been converted to an electronic form that can be filled out on line; it has also been reduced from 14 pages to 6 by eliminating redundancy.

- The chapter, application and checklists have already been reviewed by the Planning Board Planner, Engineer and Attorney who enthusiastically support their adoption.

Please email me at bforbes@hobokennj.gov and copy Business Administrator Wiest at qwiest@hobokennj.gov with any additional questions regarding the proposed ordinance amendment.

Appendix A

CITY OF HOBOKEN

PLANNING BOARD & BOARD OF ADJUSTMENT

94 Washington Street, Hoboken, NJ 07030

APPLICATION FOR DEVELOPMENT

For office use only:

Date/Time Received: _____ Application No.: _____

Certified Complete: _____ ☐ Planning Board ☐ Board of Adjustment

1. PROPERTY INFORMATION:

Property Address: _____ Block: _____ Lots: _____

Zone District: _____ Overlay: _____ Tax Map No: _____

Present Use / Description:

Have there been any previous, known applications involving these premises? ☐ Yes ☐ No

If yes, nature of application, date and determination:

Is there adjacent property in common ownership? ☐ Yes ☐ No If yes, address of property and description of its present use:

Are there any restriction, covenants, easements, association by-laws, existing or proposed on the property?

☐ Yes [copies must be attached to the application] ☐ No ☐ Proposed [describe nature of agreement and status below]

2. APPLICANT INFORMATION:

☐ Corporation ☐ Partnership ☐ Individual

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Applicant's signature:

3. OWNER INFORMATION:

☐ Corporation ☐ Partnership ☐ Individual

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Owner's signature:

4. OWNERSHIP DISCLOSURE STATEMENT

Pursuant to N.J.S.A. 40:55d-48.1, the names and addresses of all persons owning 10% or more of the stock in a corporate applicant or 10% or greater interest in any partnership application must be disclosed. In accordance with N.J.S.A. 40:55D-48.2 that disclosure requirement applies to any corporation or partnership which owns 10% or more interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed. (Attache additional pages as necessary to comply).

Additional pages attached: ☐ Yes ☐ No

Name:		Address:		% Interest:	
Name:		Address:		% Interest:	
Name:		Address:		% Interest:	
Name:		Address:		% Interest:	
Name:		Address:		% Interest:	

5. APPLICANT'S ATTORNEY (Corporations must be represented by an attorney):

Name: Address:

Phone: Fax: E-mail:

6. APPLICANT'S ARCHITECT:

Name: Address:

Phone: Fax: E-mail:

7. APPLICANT'S ENGINEER (if applicable):

Name: Address:

Phone: Fax: E-mail:

8. APPLICANT'S PLANNER (if applicable):

Name: Address:

Phone: Fax: E-mail:

9. NATURE OF THE APPLICATION (check all applicable items):

☐ Conceptual Subdivision Plan	☐ Conceptual Site Plan	☐ Conditional Use Approval
☐ Minor Subdivision	☐ Minor Site Plan	☐ "C" Variance(s)
☐ Major Subdivision; Preliminary	☐ Site Plan; Preliminary Residential	☐ "D" Variance(s)
☐ Major Subdivision; Final	☐ Site Plan; Preliminary Non-Residential	☐ Appeal of Administrative Decision
☐ Amendment to Approved Plat	☐ Site Plan Approval; Final	☐ Interpretation of Zoning Map or Ord.
☐ Wireless Telecommunication App.	☐ Amendment to approved Site Plan	☐

Other: _____

10. BRIEF DESCRIPTION OF PROJECT (Indicate type of use proposed, size of structure, hours of operation, number of employees, number of parking spaces, number of dwelling units, intention to sell or rent, and any other information for consideration of this application):

11. DOES THIS APPLICATION COMPLY WITH ALL REQUIREMENTS OF THE ZONE? If not, list all areas of noncompliance, the article, section and variance(s) requested and state the principal points on which the variance request is made. (Attach additional sheet if necessary, and note the attachment below.)

12. CHECK ALL OTHER PERMITS OR APPROVALS REQUIRED BY MUNICIPAL, COUNTY, STATE OR FEDERAL LAW AND THE STATUS OF EACH:

☐ NJ Department of Environmental Protection	☐ Approved	☐ Pending Approval	Date Submitted:
☐ NJ Department of Transportation	☐ Approved	☐ Pending Approval	Date Submitted:
☐ Hudson County Division of Planning	☐ Approved	☐ Pending Approval	Date Submitted:
☐ North Hudson Sewerage Authority	☐ Approved	☐ Pending Approval	Date Submitted:
☐ Hoboken Water Service (United Water)	☐ Approved	☐ Pending Approval	Date Submitted:
☐ Hoboken Flood Plain Administration	☐ Approved	☐ Pending Approval	Date Submitted:
☐ Hoboken Historic Preservation Commission	☐ Approved	☐ Pending Approval	Date Submitted:
☐ Hoboken Shade Tree Commission	☐ Approved	☐ Pending Approval	Date Submitted:
☐ _____	☐ Approved	☐ Pending Approval	Date Submitted:

ZONING BOARD OF ADJUSTMENT APPLICATION FOR APPEAL, INTERPRETATION OR VARANCE

In addition to sections 1-12 and 18, applicants to the Zoning Board of Adjustment must also completed sections 13 thru 16 (as applicable).

13. WHAT IS THE NATURE OF THIS BOARD OF ADJUSTMENT APPLICATION (check all that apply):

- ☐ Appeal from Zoning Officer based on or made in the enforcement of the zoning ordinance subject to N.J.S.A. 40:55D-70a (complete section 14)
- ☐ Interpretation of the zoning map or ordinance subject to N.J.S.A. 40:55D-70b (complete section 14)
- ☐ Certification of a non-conformity subject to N.J.S.A. 40:55D-68 (complete section 14)
- ☐ Hardship variance subject to N.J.S.A. 40:55D-70c(1) (complete sections 15 and 17)
- ☐ Flexible variance subject to N.J.S.A. 40:55D-70c(2) (complete sections 15 and 17)
- ☐ Variance for principal structure or use not permitted in the zone subject to N.J.S.A. 40:55D-70d(1) (complete sections 16 and 17)
- ☐ Expansion of a non-conforming structure or use subject to N.J.S.A. 40:55D-70d(2) (complete sections 16 and 17)
- ☐ Deviation from conditional use standards subject to N.J.S.A. 40:55D-70d(3) (complete sections 16 and 17)
- ☐ Increase in floor-area-ratio subject to N.J.S.A. 40:55D-70d(4) (complete sections 16 and 17)
- ☐ Increase in permitted density subject to N.J.S.A. 40:55D-70d(5) (complete sections 16 and 17)
- ☐ Height of a principal structure subject to N.J.S.A. 40:55D-70d(6) (complete sections 16 and 17)

14. APPLICATIONS FOR APPEAL, INTERPRETATION OR CERTIFICATION OF NON-CONFORMITY; in the space provided below, please list all documents attached hereto.

A. For appeals, attached documents must include a written statement of fact including pertinent dates, history of the property, and ordinance references, and a copy of the of the decision of the Zoning Officer.
B. For interpretations; attached documents must include a statement of interpretation of the map or ordinance in question, a copy of the zoning map or ordinance section subject to interpretation, and a copy of prior administrative decisions on subject property.
C. For certification of non-conformity, attachments must include a history of the property with substantiating documents, photographes, and any other materials providing proof that the non-conformity existed prior to adoption of the Ordinance.
D. If an application for variance is being submitted simultaneously with an application for appeal or interpretation, the application shall be completed, and all required documents submitted as if applying for the necessary "C" or "D" variances. Documents related to the appeal or interpretation should be submitted as a subset of the variance application.

15. APPLICATIONS FOR "C" VARIANCE (pursuant to N.J.S.A. 40:55D-70c(1) or (2)) COMPLETE THE FOLLOWING:

What are the exceptional circumstances or conditions applicable to the subject property preventing reasonable development and use of the property that do not apply generally to other properties in the same zone?

Describe the benefits that the proposed development application will provide to the community:

State how the proposed development application can be granted without substantial detriment to the public good:

State how the proposed development application can be granted without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance:

16. APPLICATIONS FOR "D" VARIANCE (pursuant to N.J.S.A. 40:55D-70d(1) thru (6)) COMPLETE THE FOLLOWING (attach additional pages only if necessary):

In the space provided below, identify each variance requested in conjunction with this application, the exact nature of each variance must be indicated and the statutory basis upon which the application is being made so noted.

State how the proposed development application can be granted without substantial detriment to the public good:

State how the proposed development application can be granted without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance:

17. ZONING BOARD OF ADJUSTMENT RIGHT OF ENTRY CONSENT:

I / We:

As owner(s) of Lot(s): in Block:

as shown on the Tax Map of the City of Hoboken which is the subject of an application for development to the Hoboken Zoning Board of Adjustment, do hereby consent to have the property inspected by members of the Zoning Board of Adjustment, consultants to the Zoning Board and/or other officials of the City of Hoboken pertaining to this application.

Applicant's signature:

Owner's signature:

Date:

Date:

18. CERTIFICATION AND SIGNATURES (all applicants):

A. AFFIDAVIT OF APPLICANT:

State of New Jersey :
: ss
County of _____ :

I, *(print name)* _____, of full age, being duly sworn according to law, on oath deposes and says, that all of the above statements and the papers submitted herewith are true.

Signature of Applicant: _____ Date: _____

Sworn and subscribed to before me this _____ day of _____, 20_____.

_____

B. AFFIDAVIT OF OWNERSHIP:

State of New Jersey :
: ss
County of _____ :

I, *(print name)* _____, of full age, being duly sworn according to law, on oath deposes and says, that the deponent resides at _____ in the City of _____, in the County of _____, and the State of _____, that _____ is the owner of all that certain lot, piece of land, situated, lying, and being in the municipality aforesaid, and known and designated as _____

_____

Signature of Applicant: _____ Date: _____

Sworn and subscribed to before me this _____ day of _____, 20_____.

_____

C. AUTHORIZATION OF OWNER:

If anyone other than the above owner is making this application, the following authorization must be executed. If the applicant is the owner of the property, this section should be left blank.

To the Planning Board / Zoning Board of Adjustment of the City of Hoboken:

As property owner, I do hereby authorize _____
to make the within application.

Signature of Owner: _____

Date: _____

Application No.: _____ Property Address: _____

CHECKLIST FOR SUBDIVISION APPLICATIONS

The followings items are required for submission of a complete application to the Planning Board or Zoning Board of Adjustment. Some items may not apply to all applications. The applicant may request that certain items be waived by the Board. This checklist contains a summary of the requirements specified in Chapter 44 - Land Use, of the Code of the City of Hoboken.

REQUIRED FOR ALL APPLICATIONS:

- ☐ 1. Completed application form and checklist: 2 copies for initial submission. Additional copies will be specified later.
- ☐ 2. Fees; administrative fees and escrow fees in two (2) separate checks payable to the City of Hoboken. Fee schedule is available on the city web site and from the Board Secretary.
- ☐ 3. Certification of taxes paid. Form available on the city's web site and from the Board Secretary.
- ☐ 4. Affidavit of non-collusion. Form available on the city's web site and from the Board Secretary.
- ☐ 5. Contribution disclosure statement: one affidavit and list of contributions form for each owner, applicant, developer, and professional associated with the application for development. Form available on the city's web site and from the Board Secretary.
- ☐ 6. Property survey; 2 original copies signed and sealed by a N.J.P.L.S. Survey shall show existing conditions, easements, deed restrictions and covenants where applicable, topographical contours, FEMA flood notations and elevations.
- ☐ 7. Elevation Certificate; 2 original copies signed and sealed by a N.J.P.L.S. Required if subject property is located within a Special Flood Hazard Area pursuant to Chapter 104 Flood Damage Prevention of the Hoboken Municipal Code.
- ☐ 8. Photographs of the property and any existing structures.
- ☐ 9. Plat map and plans signed and sealed by a N.J.P.L.S., N.J.P.E., N.J.P.P., N.J.R.A., or N.J.C.L.A., as required, in a size not to exceed 2' by 3', and folded with title block revealed: 2 printed, 1 electronic copies. Plat maps and plans shall include the following:
  - ☐ 10. Title block including: name of development; name, signature, address, and license number of the professional(s) who prepared the plans; and the name and address of the applicant and the owner.
  - ☐ 11. Date of original preparation and the dates of each revision, where applicable.
  - ☐ 12. Signature block or other appropriate place for the signatures of the Board Chair, Secretary and professionals.
  - ☐ 13. Scale (written and graphic) and north arrow with reference meridian.
  - ☐ 14. Key map showing the entire tract; the zone in which the subject property is located; all property and buildings within 200' of the subject property; and the Tax Map sheet, block and lot numbers and owners names for each parcel.
  - ☐ 15. The location of that portion which is to be subdivided in relation to the entire tract.
  - ☐ 16. A schedule indicating the acreage of the tract to be subdivided to the nearest tenth of an acre, the number of lots, the zone, minimum required lot areas, proposed area for each new lot, and the required and proposed setbacks, yards and dimensions clearly identifying all variances required.
  - ☐ 17. Existing tract boundary lines and all proposed lot lines with bearings and distances.
  - ☐ 18. Existing block and lot number(s) of the property to be subdivided as they appear on the Tax Map, and proposed block and lot number(s) as approved in writing by the Tax Assessor (approval letter to be attached).
  - ☐ 19. Locations, names, and right-of-way widths of all existing and proposed streets and sidewalks within a 200' radius of the lot or lots in question, and the distance in feet to the nearest intersection(s).
  - ☐ 20. All existing structures within the entire tract to be subdivided; their numerical dimensions, and an indications as to whether each structure is to be retained or removed.
  - ☐ 21. A tree removal and planting plan pursuant to § 169-7.2 of the Hoboken Municipal Code including the caliper and height of all existing and proposed trees.
  - ☐ 22. Location, type and size of all existing and proposed curbs, sidewalks, driveways, parking areas, off and on-street loading areas, streams or watercourses, floodplains, railroads, bridges, culverts, drain pipes, and any other natural features within the tract or within 200' thereof.
  - ☐ 23. Existing and proposed utility connections and source of service.
  - ☐ 24. A flood hazard map showing lands subject to flooding, FEMA designated flood zones and 100-year flood elevations, within the tract and within 200' thereof.

☐	25. A copy of any existing or proposed easements, covenants or deed restrictions applying to the land being subdivided, or certificate that non exist, shall be provided to the Board.
☐	26. A statement from the applicant noting if the subdivision will be perfected by deed or by map.
☐	27. If the subdivision is to be perfected by the filing of a map, the map must show all existing and proposed monuments, and must conform to all of the requirements set forth in the Map Filing Law (N.J.S.A. 46:26 et seq).
☐	28. If the subdivision is to be perfected by deed, then the appropriate deed documents, including metes and bounds, easements, covenants, restrictions and roadway and sight triangle dedications shall be submitted to the Board for approval prior to filing with the County Recording Officer.
☐	29. If the subdivision involves any street(s) which do not conform to the right-of-way widths specified in the Master Plan or on the Official Map of the City of Hoboken, a plan must be submitted showing the additional width of right-of-way to make the street(s) conforming which shall be granted to the Municipality or other agency having jurisdiction.

FOR MAJOR SUBDIVISION APPLICATIONS PROVIDE THE FOLLOWING:

(in addition to document 1-28 required for all applications, please provide documents 29-38 for Major Subdivision application)

☐	30. A detailed layout of the proposed subdivision showing all existing and/or proposed lots, street, utilities, curbs, sidewalks, traffic and street signs, street lighting and grading and drainage improvements, including plans, profiles, cross-sections and construction details.
☐	31. Present and proposed topography, based on NJ Geodetic Control Survey datum, at two-foot contour intervals, including 100 feet outside the site to show the relationship to adjoining properties.
☐	32. Location, type and size of existing and proposed catch basins and storm drainage facilities, both frame and invert elevations and all utilities, both above and below ground.
☐	33. A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area.
☐	34. An environmental impact statement.
☐	35. Soil erosion and sediment control plan in conformance with the requirements of the County Soil Conservations District.
☐	36. A traffic impact analysis.
☐	37. Statement of conformance to Residential Site Improvement Standards (RSIS).
☐	38. Copies of approvals of other government agencies as may be required or an affidavit indicating that application has been made to such agencies, i.e. NJDEP, Hudson County Planning Board, Hudson County Soil Conservation District, North Hudson Sewerage, etc.
☐	39. Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.

WAIVERS REQUESTED (provide detailed reason for request, add additional sheets if necessary):

Application No.: _____ Property Address: _____

CHECKLIST FOR SITE PLAN APPLICATIONS

The followings items are required for submission of a complete application to the Planning Board or Zoning Board of Adjustment. Some items may not apply to all applications. The applicant may request that certain items be waived by the Board. This checklist contains a summary of the requirements specified in Chapter 44 - Land Use, of the Code of the City of Hoboken.

REQUIRED FOR ALL APPLICATIONS:

- ☐ 1. Completed application form and checklist: 2 copies for initial submission. Additional copies will be specified later.
- ☐ 2. Fees; administrative fees and escrow fees in two (2) separate checks payable to the City of Hoboken. Fee schedule is available on the city web site and from the Board Secretary.
- ☐ 3. Certification of taxes paid. Form available on the city's web site and from the Board Secretary.
- ☐ 4. Affidavit of non-collusion. Form available on the city's web site and from the Board Secretary.
- ☐ 5. Contribution disclosure statement: one affidavit/list of contributions form for each owner, applicant, developer, and professional associated with the application for development. Form available on the city's web site and from the Board Secretary.
- ☐ 6. Property survey: 2 original signed and sealed copies. Survey shall show existing conditions, easements, deed restrictions and covenants where applicable, topographical contours, FEMA flood notations and elevations.
- ☐ 7. Elevation Certificate: 2 original signed and sealed copies. Required if subject property is located within a Special Flood Hazard Area pursuant to Chapter 104 Flood Damage Prevention of the Hoboken Municipal Code.
- ☐ 8. Photographs of the building(s) and/or property; front and rear views; side view (where visible).
- ☐ 9. Site plan drawings signed and sealed by a N.J.P.L.S., N.J.P.E., N.J.P.P., N.J.R.A., or N.J.C.L.A. as required, in a size not to exceed 2' by 3', and folded with title block revealed: 2 printed, 1 electronic copies. Complete drawing set shall include the following:
  - ☐ 10. Title block including: name of development; name, signature, address, and license number of the professional(s) who prepared the plans; and the name and address of the applicant and the owner.
  - ☐ 11. Date of original preparation and the dates of each revision, where applicable.
  - ☐ 12. Signature block or other appropriate place for the signatures of the Board Chair, Secretary and professionals.
  - ☐ 13. Zoning compliance table.
  - ☐ 14. Key map showing the entire tract; the zone in which the subject property is located; all property and buildings within 200' of the subject property; and the Tax Map block and lot numbers and owners names for each parcel.
  - ☐ 15. Scale and north arrow and key map relating the site to the streets in the surrounding area (for 200' radius).
  - ☐ 16. Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
  - ☐ 17. Detailed architectural plans and elevations including, at minimum: existing and proposed principal building or structure and all accessory buildings or structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said buildings or structures; complete floor plans; front and rear elevations with detailed facade specifications.

FOR MAJOR SITE PLAN APPLICATIONS PROVIDE THE FOLLOWING:

(in addition to document 1-16 required for all applications, please provide documents 17-36 for Major Site Plan application)

- ☐ 18. Location, size and nature of all existing and proposed rights-of-way, easements and other encumbrances which may affect the lot or lots in question.
- ☐ 19. Location, size and nature of the entire lot or lots in question and any contiguous lots owned by the applicant or in which the applicant has a direct or indirect interest.
- ☐ 20. Locations, names, and right-of-way widths of all existing and proposed streets and sidewalks abutting the lot or lots in question.
- ☐ 21. Property lines of all abutting properties, together with the names and addresses of the owners as disclosed on the City Tax Maps and tax rolls as of the date of the site plan application, and the location of the existing structures within 100 feet of the property line for properties abutting the site in question.

☐	22. Present and proposed topography, based on NJ Geodetic Control Survey datum, at two-foot contour intervals, including 100 feet outside the site to show the relationship to adjoining properties.
☐	23. Existing and proposed utility connections.
☐	24. Location, type and size of existing and proposed catch basins and storm drainage facilities, both frame and invert elevations and all utilities, both above and below ground.
☐	25. A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area.
☐	26. Stormwater management plan (required with applications for new construction or expansion of an existing structure).
☐	27. Soil erosion and sediment control plan for sites where over 5,000 square feet of ground area is being disturbed.
☐	28. Streetscape elevations of proposed buildings and all adjacent buildings along the same block frontage.
☐	29. Landscape plans showing materials and specifications of all fencing, patios, walls, screening and buffer areas; a legend and plant schedule listing the botanical and common names, sizes and quantity of each proposed plant type; and a tree removal and planting plan pursuant to § 169-7.2 of the Hoboken Municipal Code including caliper and height of all existing and proposed trees and shrubs prepared by an architect, engineer, professional planner or a licensed landscape architect.
☐	30. All existing and proposed exterior lighting, including size, nature of construction, location, height, the area and direction of illumination and the lumen power.
☐	31. Location, type and size of existing and proposed curbs, sidewalks, driveways, street pavement widening, parking space areas and the layouts (subject to § 196-40), and all off-street loading areas, together with the dimensions of all the foregoing for the site and the nearest portions of properties abutting the site. Non-residential development plans should include number of employees, total and maximum, on one shift.
☐	32. Solid waste storage and recycling plan pursuant to § 196-26.1 of the Hoboken Municipal Code.
☐	33. All existing and proposed signs and their size, nature of construction and location, including any proposed temporary signs to be utilized during construction.
☐	34. Cost estimates and proposed construction and maintenance bonds and construction time schedules related to building construction for any required improvements not proposed to be completed before the issuance of a certificate of occupancy.
☐	35. Plans for any off-tract improvements, including cost estimates and calculations of the share to be borne by the developer.
☐	36. Copies of approvals of other government agencies as may be required or an affidavit indicating that application has been made to such agencies, i.e. NJDEP, Hudson County Planning, North Hudson Sewerage, etc.
☐	37. Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.

WAIVERS REQUESTED (provide detailed reason for request, add additional sheets if necessary):

Application No.: _____ Property Address: _____

CHECKLIST FOR VARIANCE APPLICATIONS

The followings items are required for submission of a complete application to the Planning Board or Zoning Board of Adjustment. Some items may not apply to all applications. The applicant may request that certain items be waived by the Board. This checklist contains a summary of the requirements specified in Chapter 44 - Land Use, of the Code of the City of Hoboken.

REQUIRED FOR ALL APPLICATIONS:

- ☐ 1. Completed application form and checklist: 2 copies for initial submission. Additional copies will be specified later.
- ☐ 2. Fees; administrative fees and escrow fees in two (2) separate checks payable to the City of Hoboken. Fee schedule is available on the city web site and from the Board Secretary.
- ☐ 3. Certification of taxes paid. Form available on the city's web site and from the Board Secretary.
- ☐ 4. Affidavit of non-collusion. Form available on the city's web site and from the Board Secretary.
- ☐ 5. Contribution disclosure statement: one affidavit/list of contributions form for each owner, applicant, developer, and professional associated with the application for development. Form available on the city's web site and from the Board Secretary.
- ☐ 6. Property survey: 2 original signed and sealed copies. Survey shall show existing conditions, easements, deed restrictions and covenants where applicable, topographical contours at two-foot intervals, FEMA flood notations and elevations.
- ☐ 7. Elevation Certificate: 2 original signed and sealed copies. Required if subject property is located within a Special Flood Hazard Area pursuant to Chapter 104 Flood Damage Prevention of the Hoboken Municipal Code.
- ☐ 8. Photographs of the building(s) and/or property.
- ☐ 9. Site plan drawings signed and sealed by a N.J.P.L.S., N.J.P.E., N.J.P.P., N.J.R.A., or N.J.C.L.A. as required, in a size not to exceed 2' by 3', and folded with title block revealed: 2 printed, 1 electronic copies. Complete drawing set shall include the following:
  - ☐ 10. Title block including: name of development; name, signature, address, and license number of the professional(s) who prepared the plans; and the name and address of the applicant and the owner.
  - ☐ 11. Date of original preparation and the dates of each revision, where applicable.
  - ☐ 12. Signature block or other appropriate place for the signatures of the Board Chair, Secretary and professionals.
  - ☐ 13. Zoning compliance table.
  - ☐ 14. Key map showing the entire tract; the zone in which the subject property is located; all property and buildings within 200' of the subject property; and the Tax Map block and lot numbers and owners names for each parcel.
  - ☐ 15. Scale and north arrow and key map relating the site to the streets in the surrounding area (for 200' radius).
  - ☐ 16. Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
  - ☐ 17. Detailed architectural plans and elevations including, at minimum: existing and proposed principal building or structure and all accessory buildings or structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said buildings or structures; complete floor plans; front and rear elevations with detailed facade specifications.

APPLICATIONS FOR "C" VARIANCE PROVIDE THE FOLLOWING:

(in addition to documents 1-16 required for all applications, please provide documents 17-25 when applying for C variance)

- ☐ 18. A detailed description and visual representation of the exceptional topographic conditions or physical characteristics of the property, or the structures lawfully existing thereon, that preclude development as-of-right.
- ☐ 19. Proofs that the Municipal Land Use Law would be advanced by deviation from the zoning ordinance requirements; and
- ☐ 20. Proofs that the variance could be granted without detriment to the public good; and
- ☐ 21. Proofs that the benefits of the deviation would substantially outweigh any detriment; and
- ☐ 22. Proofs that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance.
- ☐ 23. Location, size and nature of the entire lot or lots in question and any contiguous lots owned by the applicant or in which the applicant has a direct or indirect interest.

☐	24. Streetscape elevation of proposed building(s) and all adjacent buildings along the same block frontage.
☐	25. Stormwater management plan including location, type and size of existing and proposed catch basins and storm drainage facilities on the subject lot and 100 feet outside the site to show the relationship to adjoining property.
☐	26. Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.

APPLICATIONS FOR "D" VARIANCE PROVIDE THE FOLLOWING:

(in addition to documents 1-16 required for all applications, please provide documents 26- when applying for D variance)

☐	27. Proof of "special reasons" which promote the purposes of zoning as specified in the MLUL, N.J.S.A. 40:55D-2.
☐	28. Location, size and nature of the entire lot or lots in question and any contiguous lots owned by the applicant or in which the applicant has a direct or indirect interest.
☐	29. Locations, names, and right-of-way widths of all existing and proposed streets and sidewalks abutting the lot or lots in question.
☐	30. Property lines of all abutting properties, together with the names and addresses of the owners as disclosed on the City Tax Maps and tax rolls as of the date of the site plan application, and the location of the existing structures within 100 feet of the property line for properties abutting the site in question.
☐	31. Present and proposed topography, based on NJ Geodetic Control Survey datum, at two-foot contour intervals, including 100 feet outside the site to show the relationship to adjoining properties.
☐	32. Existing and proposed utility connections.
☐	33. Location, type and size of existing and proposed catch basins and storm drainage facilities, both frame and invert elevations and all utilities, both above and below ground.
☐	34. A map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area.
☐	35. Stormwater management plan (required with applications for new construction or expansion of an existing structure.)
☐	36. Soil erosion and sediment control plan for sites where over 5,000 square feet of ground area is being disturbed.
☐	37. Streetscape elevations of proposed buildings and all adjacent buildings along the same block frontage.
☐	38. Landscape plans showing materials and specifications of all fencing, patios, walls, screening and buffer areas; a legend and plant schedule listing the botanical and common names, sizes and quantity of each proposed plant type; and a tree removal and planting plan pursuant to § 169-7.2 of the Hoboken Municipal Code including caliper and height of all existing and proposed trees and shrubs prepared by an architect, engineer, professional planner or licensed landscape architect.
☐	39. All existing and proposed exterior lighting, including size, nature of construction, location, height, the area and direction of illumination and the lumen power of each light.
☐	40. Location, type and size of existing and proposed curbs, sidewalks, driveways, street pavement widening, parking space areas and the layout (subject to § 196-40), and all off-street loading areas, together with the dimensions of all the foregoing for the site and the nearest portions of properties abutting the site. Non-residential development plans should include number of employees, total and maximum, on one shift.
☐	41. Solid waste storage and recycling plan pursuant to § 196-26.1 of the Hoboken Municipal Code.
☐	42. All existing and proposed signs and their size, nature of construction and location, including any proposed temporary signs to be utilized during construction.
☐	43. Cost estimates and proposed construction and maintenance bonds and construction time schedules related to building construction for any required improvements not proposed to be completed before the issuance of a certificate of occupancy.
☐	44. Plans for any off-tract improvements, including cost estimates and calculations of the share to be borne by the developer.
☐	45. Copies of approvals of other government agencies as may be required or an affidavit indicating that application has been made to such agencies, i.e. NJDEP, Hudson county Planning, North Hudson Sewerage, etc.
☐	46. Any and all other information and data necessary to meet any of the requirements of this chapter not listed above.

WAIVERS REQUESTED (provide detailed reason for request, add additional sheets if necessary):

Application No.: _____ Property Address: _____

CHECKLIST FOR CONDITIONAL USE & WIRELESS TELECOMMUNICATION SITE PLAN APPLICATIONS

The followings items are required for submission of a complete application to the Planning Board or Zoning Board of Adjustment. Some items may not apply to all applications. The applicant may request that certain items be waived by the Board. This checklist contains a summary of the requirements specified in Chapter 44 - Land Use, of the Code of the City of Hoboken.

REQUIRED FOR ALL APPLICATIONS:

- ☐ 1. Completed application form and checklist: 2 copies for initial submission. Additional copies will be specified later.
- ☐ 2. Fees; administrative fees and escrow fees in two (2) separate checks payable to the City of Hoboken. Fee schedule is available on the city web site and from the Board Secretary.
- ☐ 3. Certification of taxes paid. Form available on the city's web site and from the Board Secretary.
- ☐ 4. Affidavit of non-collusion. Form available on the city's web site and from the Board Secretary.
- ☐ 5. Contribution disclosure statement: one affidavit/list of contributions form for each owner, applicant, developer, and professional associated with the application for development. Form available on the city's web site and from the Board Secretary.
- ☐ 6. Property survey: 2 original signed and sealed copies. Survey shall show existing conditions, easements, deed restrictions and covenants where applicable, topographical contours, FEMA flood notations and elevations.
- ☐ 7. Elevation Certificate: 2 original signed and sealed copies. Required if subject property is located within a Special Flood Hazard Area pursuant to Chapter 104 Flood Damage Prevention of the Hoboken Municipal Code.
- ☐ 8. Photographs of the building(s) and/or property.
- ☐ 9. Site plan drawings signed and sealed by a N.J.P.L.S., N.J.P.E., N.J.P.P., N.J.R.A., or N.J.C.L.A. as required, in a size not to exceed 2' by 3', and folded with title block revealed: 2printer, 1 electronic copies. Complete drawing set shall include the following:
  - ☐ 10. Title block including: name of development; name, signature, address, and license number of the professional(s) who prepared the plans; and the name and address of the applicant and the owner.
  - ☐ 11. Date of original preparation and the dates of each revision, where applicable.
  - ☐ 12. Signature block or other appropriate place for the signatures of the Board Chair, Secretary and professionals.
  - ☐ 13. Zoning compliance table.
  - ☐ 14. Key map showing the entire tract; the zone in which the subject property is located; all property and buildings within 200' of the subject property; and the Tax Map block and lot numbers and owners names for each parcel.
  - ☐ 15. Scale and north arrow and key map relating the site to the streets in the surrounding area (for 200' radius).
  - ☐ 16. Zone district in which the lot or lots are located and the zone district or districts of all the immediately adjoining lots.
  - ☐ 17. Detailed architectural plans and elevations including, at minimum: existing and proposed principal building or structure and all accessory buildings or structures, if any, with dimensions showing present and finished grade elevations at all corners and entrances of said buildings or structures; complete floor plans; front and rear elevations with detailed facade specifications.

FOR CONDITIONAL USE APPLICATIONS PROVIDE THE FOLLOWING:

(in addition to documents 1-16 required for all applications, please provide documents 17-23 for conditional use application)

- ☐ 18. The present use and the proposed conditional use of the subject property.
- ☐ 19. A list of the standards and requirements for the specific use as set forth in § 196-38 of the Hoboken Municipal Code.
- ☐ 20. Documentation; written and pictorial (drawn and/or photographic) demonstrating how the standards for the particular conditional use have been or can be met.
- ☐ 21. A detailed description of the proposed use including but not limited to, hours of operation, number of employees, projected occupancy, intended programing, and security provisions.
- ☐ 22. A noise mitigation plan, where applicable.

☐	23. Photographic representation of all existing and proposed signs, their size, nature of construction and location, including any temporary signs to be utilized by the conditional use.
☐	24. Any and all other information and data necessary to meet the requirements of this chapter not listed above.

FOR WIRELESS TELECOMMUNICATION APPLICATIONS PROVIDE THE FOLLOWING:
(in addition to documents 1-16 required for all applications, please provide documents 24-34 for wireless telecom application)

☐	25. Proof that the applicant is a licensed by the FCC to provide of telecommunications services.
☐	26. Key map and written description of all existing and approved antennas and supporting structures within city boundaries.
☐	27. Key map showing all existing and approved tall structures within 1 mile of the subject site.
☐	28. Representation of how the subject site specifically relates to the overall objective of providing full wireless communication services within the City of Hoboken while, at the same time, limiting the number of supporting locations through the use of co-locations.
☐	29. List of all telecommunications equipment, by provider, already located at the subject site and at sites within 1,000' of the subject site.
☐	30. Representation of how the impact of the antennas, accessory equipment, and supporting structures will be minimized as to their impact on residences, streetscapes and view corridors.
☐	31. A supplemental zoning compliance table representing separation requirements, area of setback, and maximum height requirements for proposed installation.
☐	32. Affidavit of compliance with current FCC information concerning wireless telecommunication towers and radio frequency emissions standards.
☐	33. Itemized list of all abandoned or obsolete antennas and equipment to be removed from the subject site.
☐	34. Copies of approvals of other government agencies as may be required or an affidavit indicating that application has been made to such agencies; i.e. Hoboken Historic Preservation Commission, Hudson County Planning (where applicable).
☐	35. Any and all other information and data necessary to meet the requirements of this chapter not listed above.

WAIVERS REQUESTED (provide detailed reason for request, add additional sheets if necessary):

Appendix B

APPENDIX B

CITY OF HOBOKEN PLANNING BOARD & BOARD OF ADJUSTMENT

FEE SCHEDULE

SITE PLAN, SUBDIVISION and CONDITIONAL USE APPLICATIONS

Application	Project Type	Project Size	Application Fee	Escrow Fee
Minor Site Plan	All	All	$500	$5,000
Preliminary Site Plan (Major) or PUD	Residential	10 or more dwelling units	$750 plus $50 per dwelling unit	$10,000 plus $100 per dwelling unit
"	Non-Residential	4,999 SF or less	$750	$5,000
"	Non-Residential	5,000 to 9,999 SF	$1,000 plus $50 per 1,000 SF	$7,500
"	Non-Residential	10,000 to 24,999 SF	$1,500 plus $50 per 1,000 SF	$10,000
"	Non-Residential	25,000 SF or more	$2,000 plus $50 per 1,000 SF	$15,000
Final Site Plan	All	All	50% of Preliminary Fee	50% of Preliminary Fee
Amendment or Extension of Site Plan or Conditional Use Approval	All	All	$500	$2,500
Subdivision	Minor	All	$500 per lot	$1,000
"	Major	All	$500 per lot	$10,000
Conditional Use	All	All	$500	$2,500

APPEALS, INTERPRETATIONS and VARIANCE APPLICATIONS

Appeals	All	All	$300	$1,000
Interpretations	All	All	$300	$1,000
Certificates of Non-Conformity	All	All	$300	$1,000
Dimensional Variances	All	All	$300 for first; $150 for each additional	$1,000 if NOT part of Site Plan; $3,000 w/Site Plan
Use Variances	All	All	$500 for first; $250 for each additional	$1,000 if NOT part of Site Plan; $3,000 w/Site Plan

OTHER

Special Meeting Request	All	All	$1,000	None
Informal/Concept Review	All	All	$400	$500
Redevelopment Plan Amedment	All	All	$2,500	$5,000

1st reading 3-19-14

(3)

Sponsored by: Peter H. Cunningham
Seconded by: Ravi S. Bhalla

CITY OF HOBOKEN
ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 179A ENTITLED "TAXICABS" TO PROVIDE FOR HANDICAPPED ACCESSIBLE TAXICAB LICENSES

WHEREAS, the City has determined that the public would be best suited by the provisions of properly licensed and adequately regulated handicapped accessible taxis within the City of Hoboken; and,

NOW, THEREFORE, the City Council of the City of Hoboken does hereby ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

SECTION ONE: AUTHORIZATION FOR PUBLIC AUCTION OF FIVE (5) NEW "HANDICAPPED ACCESSIBLE" TAXICAB LICENSES

The City Council hereby authorizes the issuance of five (5) new City of Hoboken taxicab licenses, each of which shall be a Handicapped Accessible Taxicab License, in accordance with the herein ordained amendments to Chapter 179A of the City Code.

These five (5) licenses shall each be sold at public auction, during the month of May, 2014, after proper and adequate public notice thereof. The starting price for each license shall be Four Hundred Thousand Dollars ($400,000.00), which shall be the minimum set for the sale of said license.

SECTION TWO: HOBOKEN CITY CODE CHAPTER 179A AMENDMENTS TO CODIFY "HANDICAPPED ACCESSIBLE" TAXICABS

§ 179A-1.2 Definitions

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

...

HANDICAPPED ACCESSIBLE TAXICAB shall be a taxicab which meets the Federal ADA standards for wheelchair accessibility, including 49 C.F.R. 37 and accompanying F.R. vol. 76, No. 191 of 9/19/11 (or as hereafter supplemented). Only vehicles meeting this definition shall be entitled to carry wheelchair bound patrons.

HANDICAPPED ACCESSIBLE TAXICAB LICENSE shall be a specialized City of Hoboken taxicab license which shall be subject to all the benefits and obligations of a City of Hoboken taxicab license found within this Chapter, except where the benefits and obligations of the Handicapped Accessible taxicab license are herein described as divergent from that of a general City of Hoboken taxicab license.

...

*The remainder of this section shall remain unchanged.

§ 179A-2 Taxicab License Required ; Number of Taxicab Licenses

...

C. Number and types of taxicab licenses.

(1) The number of outstanding taxi licenses shall be limited to a total of ~~65~~ Seventy (70) taxicabs,

of which five (5) shall be Handicapped Accessible Taxicab Licenses .
~~(2) The 10 additional licenses created under this chapter shall be dedicated to vehicles using alternative fuels and shall be designated as "green" taxicab.~~
~~(3)~~ (2) Each year commencing on January 1, 2009, the fleet of taxicab licenses in the City of Hoboken shall be modified to require that 20% of the then existing taxicab fleet shall be "green" taxicabs, each licensee shall have an affirmative obligation to comply with this transition. If a licensee fails to comply with this requirement after 30 days written notice to cure said default, the license shall be reduced by the required 20% transition requirements and the revoked license(s) shall be auctioned off to a new licensee, with the requirement that the successful bidder utilizes only "green" vehicles.

*The remainder of this section shall remain unchanged.

§ 179A-19 Taxicab color scheme and insignia

...
G. Handicapped Accessible Taxicabs licensed by the City with a Handicapped Accessible Taxicab License shall include insignia, as provided by the Division of Taxi and Limousine, which indicates that said taxicab is licensed by the City of Hoboken as a Handicapped Accessible Taxicab. No other taxicabs licensed by the City, which do not hold a Handicapped Accessible Taxicab License, may provide for any insignia or signage on the taxicab which indicates handicapped accessibility.

*The remainder of this section shall remain unchanged.

SECTION THREE: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FIVE: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION SIX: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to

avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: March 19, 2014

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	✓			
Theresa Castellano	✓			
Jen Giattino	✓			
James Doyle	✓			
Elizabeth Mason	✓			
David Mello	✓			
Tim Occhipinti	✓			
Michael Russo	✓			
Peter Cunningham	✓			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
James Doyle				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
Peter Cunningham				

Approved as to Legal Form:

_____

Mellissa Longo, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2014

_____

James Farina, City Clerk

Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

-or-

Approved by the Mayor
On the ___ day of _____, 2014

_____

Dawn Zimmer, Mayor

1st reading
3-19-14

(4.)

Sponsored by: _____

Seconded by: _____

CITY OF HOBOKEN
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 190 ENTITLED "VEHICLES AND TRAFFIC" TO AMEND PARKING REGULATIONS RELATING TO RESTRICTED PARKING FOR OFFICIAL BUSINESS VEHICLES

WHEREAS, Chapter 190 of the General Code of the City of Hoboken establishes the rules and regulations associated with parking permits within City borders; and,

WHEREAS, the municipality has found that specific sections of Chapter 190 currently requires amendments in order to best effectuate parking in the City; and,

WHEREAS, the City Council wishes to more closely align the City's actual parking practices with the best practices for parking and transportation.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows (additions noted in underline, ~~deletions noted in strikethrough~~):

SECTION ONE: AMENDMENTS TO HOBOKEN CODE CHAPTER 190

§ 190-6.1. Restricted parking for Official City Business~~, by permit only.~~

The following streets or portions thereof shall be designated "RESTRICTED PARKING – OFFICIAL CITY BUSINESS – TOW AWAY ZONE", whereby the Official City Business at the below given locations shall at all times be in accordance with the restrictions described herein, and the permits provided for each below given location shall at all times be in accordance with the permitting process described herein: ~~; Police vehicles only; Official Business by Permit Only 8:00 a.m. to 8:00 p.m.; Tow-Away Zones"~~:

Name of Street	Side	Location	Restriction
~~First Street~~	~~South~~	~~Beginning at the easterly curbline of Bloomfield Street and extending to the westerly curbline of Washington Street~~	~~Official business vehicles of the City government offices, by permit, for the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday~~

Name of Street	Side	Location	Restriction
~~First Street~~	~~South~~	~~Beginning at a point of 35 feet east of the easterly curbline of Bloomfield Street and extending 44 feet east therefrom~~	~~Parking Utility vehicles 4:00 p.m. to 10:00 p.m. weekdays 8:00 a.m. to 6:00 p.m. Saturdays~~
First Street	South	Beginning at a point 35 feet east of the easterly curbline of Bloomfield Street and extending 115 feet easterly therefrom	Parking Utility vehicles only at all times
Newark Street	North	Beginning at a point 92 feet west of the westerly curbline of Washington Street and extending 25 feet westerly therefrom	Hoboken Police Department Vehicles only Monday through Friday, 8:00a.m. to 8:00p.m.
Newark Street	North	Beginning at the westerly curbline of Washington Street and extending to 92 feet west of the westerly curbline of Washington Street, and beginning 25 feet westerly therefrom and extending to the easterly curbline of Bloomfield Street	Official business vehicles of the City government offices, by permit issued at the discretion of the Director of Transportation and Parking, for the hours of 8:00 a.m. to 8:00 p.m., Monday through Friday

SECTION TWO: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION THREE: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION FIVE: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

Date of Introduction: March 19, 2014

Introduction:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla	/			
Theresa Castellano	/			
Jen Giattino	/			
James Doyle	/			
Elizabeth Mason	/			
David Mello	/			
Tim Occhipinti	/			
Michael Russo	/			
Peter Cunningham	/			

Final Reading:

Councilperson	Yea	Nay	Abstain	No Vote
Ravi Bhalla				
Theresa Castellano				
Jen Giattino				
James Doyle				
Elizabeth Mason				
David Mello				
Tim Occhipinti				
Michael Russo				
Peter Cunningham				

Approved as to Legal Form:

☐ Vetoed by the Mayor for the following reasons: _____

_____

_____

_____

_____

Mellissa Longo, Corporation Counsel

Adopted by the Hoboken City Council
By a Vote of ____ Yeas to ____ Nays
On the ____ day of _____, 2014

_____
James Farina, City Clerk

_____
-or-
☐ Approved by the Mayor
On the ___ day of _____, 2014

_____
Dawn Zimmer, Mayor