

MEETING OF MARCH 19, 2014

MINUTES OF A MEETING OF THE COUNCIL OF THE CITY OF HOBOKEN, NEW JERSEY, HELD IN THE COUNCIL CHAMBERS, CITY HALL, HOBOKEN, NEW JERSEY, WEDNESDAY, MARCH 19, 2014 AT 7:00 PM

President Giattino opened the meeting at 7:04 PM. and stated, "I would like to advise all those present that notice of this meeting has been provided to the public in accordance with the provisions of the Open Public Meeting Act, and that notice published in the Jersey Journal and on the City website, copies were provided in the Hoboken Reporter, The Record, The Newark Star-Ledger and also placed on the bulletin board in the lobby of City Hall. If any Councilperson or member of the public believes that this meeting, or any portion thereof, is in violation of the Open Public Meetings Act, they are requested to so advise the City Council and City Clerk at this time, or at the time of the believed violation, in accordance with N.J.S.A. 10:4-17. Written objections, if any shall be made in writing to the City Clerk.

Then the Clerk called the Roll: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino.

CLOSED SESSION

Councilwoman President Giattino motions and seconded by the Governing Body to enter into Closed Session

Council President announces to the public that the Governing Body is entering into Closed Session for 8:22 PM for 30 minutes.

To vote to enter into Closed Session:

YEAS: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and Council President Giattino.

At 8:22 P.M. The Governing Body entered into a closed session.

Special Counsel Mark Tabakin from Weiner Lesniak attended.

14-171

RESOLUTION AUTHORIZING CLOSED SESSION TO DISCUSS MATTERS PURSUANT TO N.J.S.A. 10:4-12 AND ATTORNEY CLIENT PRIVILEGE RELATING TO LITIGATION IN THE MATTER OF BELFIORE AND THE WAIVER OF ATTORNEY CLIENT PRIVILEGE OF RELATED DOCUMENTS

WHEREAS, the Council of the City of Hoboken is authorized to go into closed executive session for the reasons set forth in the Open Public Meetings Act, including without limitation N.J.S.A. 10:4-12, for legal guidance on pending litigation, and attorney client privilege; and

WHEREAS, one of these reasons is to receive advice from legal counsel regarding litigation strategies of pending litigation (specifically the Matter of **Belfiore**), including but not limited to

waiver of privileged information relating to the matter ; and

WHEREAS, one of the reasons to go into closed session is to receive advice from legal counsel, which is subject to attorney client privilege and which is offered to advance the status of the litigation (specifically the Matter of **Belfiore**), and,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Hoboken that it enter into closed session for said purposes; and,

BE IT FURTHER RESOLVED that when the need for confidentiality no longer exists the discussions had therein will be made available to the public

**** At 8:52 P.M. Special Counsel Tabakin has no other business during Closed Session ****

At 8:53 P.M. the Governing Body on a motion by Council duly seconded by the Councilwoman Castellano comes out of Closed Session.

Council President reopens the meeting back to the public at 8:53 PM

Special Counsel Tabakin comments

Councilman Doyle comments

Councilman Russo comments

RESOLUTION

14-172

---By President Giattino

RESOLUTION TO AUTHORIZE AND CONSENT TO A WAIVER OF THE ATTORNEY CLIENT PRIVILEGE WITH REGARDS TO, AND SOLELY LIMITED TO:

- (1) THE LEGAL MEMORANDUM FROM DAVID F. CORRIGAN TO STEVEN KLEINMAN ENTITLED "RE: SEVERANCE PAYMENT OFFER TO POLICE AND FIRE EMPLOYEES; OUR FILE NO. 122008-03" DATED JANUARY 23, 2008
- (2) THE LEGAL MEMORANDUM FROM MICHAEL KATES TO MAYOR DAWN ZIMMER AND MEMBERS OF COUNCIL ENTITLED "VOLUNTARY SEVERANCE INCENTIVE PROGRAM; NJ DIVISION OF PENSIONS AND BENEFITS; ASSESSMENT OF \$4.2 MILLION" DATED MARCH 12, 2010

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 5 – NAYS: 2 - ABSENT: 1 - PRESENT: 1

---Yeas: Council persons Bhalla, Cunningham, Doyle, Mello and President Giattino

---Nays: Castellano, Russo

---Absent: Mason

---Present: Occhipinti

Councilwoman Mason would like to recuse herself at the meeting

Councilwoman Castellano comments to go into Closed Session

14-173

---By President Giattino

RESOLUTION TO AUTHORIZE AN AMENDMENT TO THE PROFESSIONAL SERVICE CONTRACT WITH MARAZITI FALCON HEALEY AS SPECIAL LEGAL COUNSEL- OUTSTANDING AND GENERAL LITIGATION TO THE CITY OF HOBOKEN TO COMMENCE JANUARY 1, 2014 AND EXPIRE DECEMBER 31, 2014 FOR AN INCREASE IN THE NOT TO EXCEED AMOUNT BY \$100,000.00 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$340,000.00

The speaker who spoke: Special Counsel Maraziti.

--Motion duly seconded by Councilman Bhalla

--Adopted by the following vote: YEAS: 6 – NAYS: 3

--Yeas: Council persons Bhalla, Cunningham, Doyle, Mello, Occhipinti and President Giattino

--Nays: Castellano, Mason, Russo

14-174

--By Councilman Bhalla

RESOLUTION TO APPROVE A “LICENSE AGREEMENT” BETWEEN THE CITY OF HOBOKEN AND 258 8TH STREET HOB, LLC, AS THE OWNER OF BLOCK 170 LOT 41 (a/k/a 258 Eighth Street), FOR USE AND MAINTENANCE OF A PORTION OF THE PUBLIC RIGHT OF WAY ADJACENT TO SAID PROPERTY

The speakers who spoke: Onofrio Cheleni, Leah Healey.

--Motion duly seconded by Councilman Cunningham

--**FAILED** by the following vote: YEAS: 3 – NAYS: 4 - ABSENT: 2

--Yeas: Council persons Castellano, Occhipinti and Russo

--Nays: Bhalla, Cunningham, Mello and President Giattino

--Absent: Doyle, Mason

Councilman Doyle has recused himself at 7:20 PM before discussion of resolution.

Councilman Doyle has returned to the meeting at 7:54 PM

Councilwoman Mason has recused herself at 7:21 PM before discussion of resolution.

Councilwoman Mason has returned to the meeting at 7:54 PM.

SECOND READING/PUBLIC HEARING AND FINAL VOTE

AN ORDINANCE AMENDING §133 (NOISE CONTROL) REGARDING PENALTY FOR VIOLATIONS (sponsored by Council President Giattino and seconded by Councilman Doyle) (Z-281)

(WAITING ON APPROVAL FROM DEPARTMENT OF ENVIRONMENTAL PROTECTION) (CARRIED TO APRIL 2, 2014)

The speaker who spoke: Todd Gekoski.

Councilman Russo has left the table at 7:54 PM
Councilman Russo has returned to the table at 7:55 PM

Councilman Bhalla has left the table at 7:56 PM

PUBLIC COMMENTS

The speakers who spoke: Patricia Waiters, Bill Bullock from Hoboken Family and Planning, Perry Belfiore, Franz Paetzold, Todd Gekoski, Elizabeth Adams Melissa Blanco.

14-175

Communication from Mayor Dawn Zimmer to City Council regarding 2014 budget, Adjustment of Open Space Tax, Sanitation, Shop Hoboken Property Tax Reward Program, Fire Department O/T, possible grants for planning, and the Capital Improvement Plan.

Received and Filed.

14-176

APPLICATION FOR MISCELLANEOUS LICENSES

PARKING FACILITIES-----4 items

RAFFLES-----2 items

---Councilman Bhalla moved that the licenses be granted.

---Adopted by the following vote: YEAS: 9 – NAYS: 0

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

---Nays: None.

14-177

A report from the Municipal Tax Collector Sharon Curran for taxes collected for the month of

February 2014 **\$12,552,769.58 (Abatement Totals – \$10,394.30)**

Received and filed.

14-178

A report from Municipal Court indicating receipts for the month of February 2014 as \$412,036.61.

Received and filed.

14-179

CLAIMS

---By Councilman Bhalla

Total for this agenda ~~\$958,351.91~~ (adjusted to **\$955,796.91**)

---Motion duly seconded by Councilman Cunningham

---**Adopted AS ADJUSTED** by the following vote: YEAS: 6 – NAYS: 3: ABSTAIN: 1

Yeas: Council persons Bhalla, Cunningham, Doyle, Mello, Occhipinti and President Giattino

Nays: Castellano, Mason, Russo

Abstain: Mason (13-00131, 13-00129, 14-00328, 14-00337, 14-00329)

Councilwoman Castellano comments on 14-00343 for \$13,992.00

BA comments

Councilman Occhipinti comments

Councilman Bhalla comments

Councilwoman Mason comments on numerous Special Counsel claims

BA Wiest comments

Councilman Russo comments on 13-00129 for \$5,806.42 Weiner Lesniak

Councilman Russo comments on 14-00337 for \$11,458.55 Lite DePalma Greenberg, LLC

Councilman Doyle comments 13-00129, 14-00328 that there is no conflict

Councilman Occhipinti comments

BA Wiest comments

Councilman Occhipinti comments

Corporation Counsel comments

Councilman Russo comments

BA Wiest comments to adjust

Corporation Counsel comments

14-180

PAYROLL

---By Councilman Bhalla

For the two week period starting February 13, 2014 – February 26, 2014

Regular Payroll	O/T Pay	Other Pay
\$1,588,972.06	\$73,935.60	\$214,616.56

Total \$1,877,524.22

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 – NAYS: 1:

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

---Nays: Mason O/T

Councilman Russo comments on O/T in HFD

BA Wiest comments

PUBLIC PORTION ON RESOLUTIONS

The speakers who spoke: Melissa Blanco, Patricia Waiters.

ORDINANCES

Introduction and First Reading

14-181

Z-287

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.

President Giattino moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 2, 2014** at 7:00 PM.

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 6 – NAYS: 3

---Yeas: Council persons Bhalla, Cunningham, Doyle, Mello Occhipinti and President Giattino

---Nays: Castellano, Mason, Russo

CONSENT AGENDA –13-16, 19 & 21

Pulled from the agenda for discussion: **6 -11, 12, 17, 20, 22**

Removed by Administration: **18 (removed) and 22 (carried to 4/2/14)**

RESOLUTIONS

14-182

---BY Councilman Bhalla

RESOLUTION AUTHORIZING TRANSFERS BETWEEN APPROPRIATION RESERVES

WHEREAS, various bills have been presented for payment in 2014 which represent obligations of 2013 and were not covered by purchase order and/or recorded at the time of transfers between line items in the 2013 budget in the last two months of 2013; and

WHEREAS, N.J.S. 40A:4-59 provides that all unexpended balances carried forward after the close of the fiscal year are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding fiscal year, and allows transfers to be made from unexpended balances to those which are expected to be insufficient during the first three months of the succeeding year;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hoboken, in the County of Hudson, State of New Jersey, (*not less than two-thirds of all the members thereof affirmatively concurring*), that the transfers in the amount of \$730,000.00 be made between the 2013 Budget Appropriation Reserves as follows:

	FROM	TO
OPERATIONS WITHIN "CAPS"		
Police Salaries and Wages	\$ 75,000.00	
Police OE	\$ 80,000.00	
Fire Dept. Salaries and Wages	\$275,000.00	
General Liability Insurance	\$150,000.00	
DEFERRED CHARGES AND STATUTORY EXPENDITURES WITHIN "CAPS"		
Unemployment Compensation Insurance	\$150,000.00	
Police/Firemen's Retirement (PFRS)		\$730,000.00

---Motion duly seconded by Councilman Cunningham
 ---Adopted by the following vote: YEAS: 8 – NAYS: 1
 ---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti and President Giattino.
 ---Nays: Russo

Director Steplight addressed Council.
 Councilwoman Castellano has left the table at 9:42 PM
 Councilman Doyle has left the table at 9:42 PM
 Councilwoman Castellano has returned to the table at 9:44 PM
 Councilman Doyle has returned to the table at 9:44 PM

14-183
 ---By Councilman Bhalla

RESOLUTION AUTHORIZING TEMPORARY APPROPRIATIONS FOR THE CALENDAR YEAR 2014

WHEREAS, temporary appropriations for calendar year 2014 were previously made pursuant to N.J.S.A. 40A:4-19; and
WHEREAS, N.J.S.A. 40A:4-19.1 provides for additional temporary appropriations when budget dates have been extended; and
WHEREAS, the New Jersey Division of Local Government Services has extended the deadline for the

adoption of the calendar year 2014 budget;

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the City of Hoboken that additional temporary appropriations totaling \$16,443,125 for the current fund and \$1,258,465 for the parking utility be made and that a certified copy of this resolution be transmitted to the Chief Financial Officer for his records:

(see attached)

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 7 – NAYS: 2

---Yeas: Council persons Bhalla, Cunningham, Doyle, Mason, Mello, Occhipinti and President Giattino

---Nays: Castellano, Russo

BA Wiest comments that this extends to April

14-184

---By Councilman Bhalla

INTRODUCTION OF THE CY 2015 BUDGET

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 – NAYS: 0

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino.

---Nays: None.

Director Steplight gives a power point presentation.

14-185

---By Councilman Bhalla

RESOLUTION TO AUTHORIZE A SERVICE CONTRACT WITH MSS VENDING AS VENDING MACHINE OPERATOR TO THE CITY OF HOBOKEN TO COMMENCE APRIL 1, 2014 AND EXPIRE MARCH 31, 2016 WITH A CITY COMMISSION OF 33% ON ALL TOTAL GROSS MONTHLY SALES

WHEREAS, service to the City as vending machine operator is a service contract subject to the competitive contracting requirements of state law as a concession; and,

WHEREAS, the City of Hoboken published a Request for Proposals for the Services in accordance with the state competitive contracting process and Hoboken Ordinance #DR-154, which MSS Vending responded to with the most advantageous response, pursuant to the evaluation committee; and,

WHEREAS, the Administration, therefore, advises a contract be entered into with MSS Vending for a two (2) year term, with a two year optional extension, with a term that the City shall be entitled to a 33% commission on all total gross monthly sales; and,

***WHEREAS**, MSS Vending is hereby required to continue to abide by the “pay-to-play” requirements of the Hoboken Public Contracting Reform Ordinance, codified as §20A-11 et seq. of the Administrative Code of the City of Hoboken as well as the Affirmative Action laws and policies under which the City operates; and,*

WHEREAS, certification of funds is not necessary for this contract.

NOW THEREFORE, BE IT RESOLVED, that a contract with MSS Vending to provide the City with vending machine services , for a term to commence April 1, 2014 and expire March 31, 2016, with an optional two year extension, with the City receiving 33% of all total monthly sales; and

BE IT FURTHER RESOLVED, the contract shall refer to and include by reference the RFP and **MSS Vending’s** responses, for purposes of describing the terms and obligation of the agreement with regards to scope of work, and other terms; and,

BE IT FURTHER RESOLVED that the City Council of the City of Hoboken specifically finds that compliance with Hoboken Ordinance #DR-154 (codified as §20A-4 of the Code of the City of Hoboken), and any and all state Pay to Play laws, is a continuing obligation of **the vendor**; and

BE IT FURTHER RESOLVED the City Clerk shall publish this resolution as required by law and keep a copy of the resulting contract on file in accordance with N.J.S.A. 40A:11-1 et seq.; and,

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer and Corporation Counsel for action in accordance therewith and to take any other actions necessary to complete and realize the intent and purpose of this resolution; and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

--Motion duly seconded by Councilman Cunningham

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-186

--By Councilman Bhalla

RESOLUTION TO APPROVE A “LICENSE AGREEMENT” BETWEEN THE CITY OF HOBOKEN AND SEBECITY 3 LLC, AS THE OWNER OF BLOCK 196 LOT 29 (a/k/a 942 Bloomfield Street), FOR USE AND MAINTENANCE OF A PORTION OF THE PUBLIC RIGHT OF WAY ADJACENT TO SAID PROPERTY

WHEREAS, the City of Hoboken requires property owners to maintain the public right-of-way adjacent to their property, including but not limited to sidewalks, stairs, stoops, fences, areaways, trees and other landscaping; and

WHEREAS, the City of Hoboken encourages property owners to landscape and otherwise improve said right-of-way to enhance the urban landscape; and

WHEREAS, the City of Hoboken and the City Council, by resolution, provides for the issuance of license agreements for the aforementioned purpose; and

WHEREAS, the City of Hoboken desires to grant to Sebecity 3 LLC, owner of Block 196 Lot 29, more commonly known as 942 Bloomfield Street, Hoboken, such a license, by and through its authorized agent, Xavier Says.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hoboken, as follows:

- 1) Approval of the attached "License Agreement" between the City of Hoboken and Sebecity 3 LLC, owner of Block 196 Lot 29, more commonly known as 942 Bloomfield Street, shall be subject and limited to the specifications included in Exhibit "A" (Prime Draft Studio architectural drawings with photographs and specifications (2 pages) dated 02/14/2014);
- 2) The Mayor or her agent is hereby authorized to enter into the attached agreement; and
- 3) This resolution shall become effective immediately upon adoption.

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 8 – NAYS: 1

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti and President Giattino

---Nays: Russo

Councilman Russo comments

Director Forbes comments

~~11.* RESOLUTION TO APPROVE A "LICENSE AGREEMENT" BETWEEN THE CITY OF HOBOKEN AND 121 HARRISON REALTY, LLC, AS THE OWNER OF **BLOCK 26 LOTS 13-16 (a/k/a 121-127 Harrison Street)**, FOR USE AND MAINTENANCE OF A PORTION OF THE PUBLIC RIGHT OF WAY ADJACENT TO SAID PROPERTY (submitted by administration)~~

(CARRY TO 4/2/14)

Councilman Russo comments to motion to table seconded by Councilwoman Castellano

---Motion duly seconded by Castellano

---Adopted by the following vote: YEAS: 7 – NAYS: 2

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Occhipinti and Russo

---Nays: Mello, President Giattino

14-187

---By Councilman Bhalla

RESOLUTION TO AUTHORIZE A PROFESSIONAL SERVICE CONTRACT WITH REMINGTON VERNICK ENGINEERS AS LSRP TO THE CITY OF HOBOKEN FOR A REMEDIAL INVESTIGATION OF THE MULTI-SERVICE CENTER TO COMMENCE JANUARY 1, 2014 AND EXPIRE DECEMBER 31, 2014 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$13,000.00

WHEREAS, service to the City as Licensed Site Remediation Professional (LSRP) is a professional service as defined by N.J.S.A. 40A:11-1 et seq. and as such, is exempt from public bidding requirements pursuant to N.J.S.A. 40A:11-5; and,

WHEREAS, the City of Hoboken published a Request for Qualifications for the Professional Services of LSRP in accordance with the Fair and Open Process and Hoboken Ordinance #DR-154, which Remington Vernick responded to; and,

WHEREAS, the evaluation committee previously determined that Remington Vernick was an suitable vendor for such services, and therefore authorized Remington Vernick to be included in the CY2014 LSRP pool, and the administration, therefore, advises a contract be entered into with Remington Vernick for a one (1) year term with a not to exceed amount of Thirteen Thousand (\$13,000.00) Dollars for the LSRP services described in the CY2014 RFP, specifically for the Remedial Investigation at the Multi-Service Center; and,

WHEREAS, *Remington Vernick is hereby required to continue to abide by the “pay-to-play” requirements of the Hoboken Public Contracting Reform Ordinance, codified as §20A-11 et seq. of the Administrative Code of the City of Hoboken as well as the Affirmative Action laws and policies under which the City operates; and,*

WHEREAS, certification of funds is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$13,000.00 is available in the following appropriation 4-01-31-461-000 in the temporary CY2014 appropriations; and I further certify that this commitment together with all previously made commitments and payments does not exceed the funds available in said appropriation for the CY2014 temporary appropriation; and I further certify that the funds available in the said appropriation are intended for the purpose herein committed.

Signed: _____, George DeStefano, CFO

NOW THEREFORE, BE IT RESOLVED, that a contract with Remington Vernick to represent the City as LSRP for the Remedial Investigation at the Multi-Service Center be awarded, for a term to commence January 1, 2014 and expire December 31, 2014, for a total not to exceed amount of Thirteen Thousand Dollars (\$13,000.00); and

BE IT FURTHER RESOLVED, the contract shall refer to and include by reference the RFQ Remington Vernick 's response to the RFP, and Remington Vernick's November 7, 2013 proposal for the said project, attached hereto, for purposes of describing the terms and obligation of the agreement with regards to scope of work, hourly wages, and allowable fees and charges; and,

BE IT FURTHER RESOLVED, the contract shall expressly state that said firm shall be obligated to provide prompt written notice to the City when its invoicing reaches 80% of the not to exceed amount, if the firm believes additional funds will be necessary, and the City shall have no liability for payment of funds in excess of the not to exceed amount; and

BE IT FURTHER RESOLVED that the City Council of the City of Hoboken specifically finds that compliance with Hoboken Ordinance #DR-154 (codified as §20A-4 of the Code of the City of Hoboken), and any and all state Pay to Play laws, is a continuing obligation of Remington Vernick; and

BE IT FURTHER RESOLVED the City Clerk shall publish this resolution as required by law and keep a copy of the resulting contract on file in accordance with N.J.S.A. 40A:11-1 et seq.; and,

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer and Corporation Counsel for action in accordance therewith and to take any other actions necessary to complete and realize the intent and purpose of this resolution; and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

--Motion duly seconded by Councilman Cunningham

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-188

--By Councilman Bhalla

RESOLUTION TO ACCEPT AN AWARD OF \$20,000.00 FROM THE ARBOR DAY FOUNDATION AND TD BANK FOR THE 2014 TD GREEN STREETS GRANT PROGRAM

WHEREAS, the Administration applied for an Arbor Day Foundation and TD Bank grant through the TD Green Streets grant program; and

WHEREAS, the award information, copies of which are attached, describes the terms and conditions of the grant funding, which does not require a municipal match; and

WHEREAS, due to timing constraints, the Mayor was required to approve the attached grant application for submission by Friday, February 14, 2014.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hoboken as follows:

- A. This resolution accepts this grant in the amount of \$20,000.00, as described in the award information.
- B. This resolution is hereby retroactive to the date that the Mayor approved the attached grant application for submission; and
- C. The Mayor or her agent is hereby authorized to take action to accept the grant award and obtain the provisions contemplated herein; and
- D. This resolution shall take effect immediately upon passage.

--Motion duly seconded by Councilman Cunningham

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-189

---By President Giattino

RESOLUTION TO REVOKE THE AWARD OF A PROFESSIONAL SERVICE CONTRACT WITH SCHENCK PRICE SMITH & KING, LLP FOR THE SERVICES OF KATE GILFILLAN, ESQ. AS SPECIAL LEGAL COUNSEL TO RETAIN THE FIRM FOR THE MASON OPRA LITIGATION

WHEREAS, on February 19, 2014 the City Council awarded a contract to Kate Gilfillan, Esq. and the firm of Schenck Price Smith & King LLP for services as Special Counsel in the Mason v. City of Hoboken OPRA matter, and the City now seeks to revoke that contract award immediately and in its entirety; and,

WHEREAS, certification of funds is not necessary for this contract amendment.

NOW THEREFORE, BE IT RESOLVED, that the contract award with **Schenck Price Smith & King LLP** for the services of Kate Gilfillan, Esq., to represent the City as Special Legal Counsel shall be immediately and entirely revoked; and

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer and Corporation Counsel for action in accordance therewith and to take any other actions necessary to complete and realize the intent and purpose of this resolution; and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 7 – NAYS: 0 – ABSTAIN: 2

---Yeas: Council persons Castellano, Cunningham, Doyle, Mello, Occhipinti, Russo and President Giattino

---Nays: None.

---Abstain: Bhalla, Mason

14-190

---By Councilman Cunningham

RESOLUTION TO AUTHORIZE THE SUBMISSION OF A GRANT APPLICATION TO THE URBAN YOUTH CORPS PROGRAM ADMINISTERED BY THE N.J. DEPARTMENT OF TRANSPORTATION

WHEREAS, the N.J. Department of Transportation's Urban Youth Corps Program is designed to enhance gateways in urban areas, to engage youth in meaningful activities and to compliment New Jersey's ongoing urban initiatives; and

WHEREAS, the attached correspondence describes the terms and conditions of applying for the grant funding; and

WHEREAS, the grant funding does not require a municipal match; and

WHEREAS, the Administration wishes to apply for these grant funds;

WHEREAS, the City Council accepts the terms of the grant funding and authorizes the Administration to submit the attached grant application to the Urban Youth Corps Program.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hoboken as follows:

A. This resolution authorizes the submission of the attached grant application to the Urban Youth Corps Program; and

14. This resolution shall take effect immediately upon passage.

--Motion duly seconded by Councilman Bhalla

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-191

--By Councilman Bhalla

RESOLUTION AWARDING A CONTRACT TO SHI INTERNATIONAL CORPORATION TO PURCHASE A COMPUTERIZED RECORDS KEEPING SYSTEM FOR THE HOBOKEN FIRE DEPARTMENT IN ACCORDANCE WITH STATE CONTRACT M-0003/A77560 IN THE TOTAL AMOUNT OF \$47,639.02

WHEREAS, N.J.S.A. 40A:11-5 permits municipalities to award public contracts without public bidding when the vendor is an approved state contractor, and SHI International Corporation has been approved as a State Contractor pursuant to Contract Number M-0003/A77560; and,

WHEREAS, the Hoboken Fire Department requires a computerized record keeping system to enhance public safety and properly respond to emergencies; and

WHEREAS, pursuant to the recommendation of the Purchasing Department, which is attached hereto, the City wishes to contract for the goods specified pursuant to State Contract M-0003/A77560; and

WHEREAS, SHI International Corporation has provided the City with a quotation dated February 24, 2014 for \$47,639.02, a copy of which is attached hereto;

WHEREAS, certification of funds is available as follows:

I, George DeStefano, Chief Financial Officer of the City of Hoboken, hereby certify that \$47,639.02 is available in the following appropriation T-13-10-000-000; and I further certify that this commitment together with all previously made commitments and payments will not exceed the funds available in said appropriation; and I further certify that the funds available in the said appropriation are intended for the purpose herein committed.

Signed: _____, George DeStefano, CFO

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Hoboken that the below-listed vendor is authorized to provide the goods described in its February 24, 2014 Quotation to the Purchasing Department, which is attached hereto, at cost not to exceed those listed in the Quotation, and for a total not to exceed amount of Forty Seven Thousand Six Hundred Thirty-Nine Dollars and Two Cents (\$47,639.02), as follows:

1. The above recitals are incorporated herein as though fully set forth at length.
2. The Council hereby authorizes the Mayor or her designee to execute any and all documents and take any and all actions necessary to complete and realize the intent and purpose of this Resolution.
3. The Mayor or her designee is hereby authorized to execute an agreement, voucher and/or purchase order for the abovementioned goods and/or services based upon the following information:

SHI International Corporation
290 Davidson Avenue
Somerset, NJ 08873

--Motion duly seconded by Councilman Cunningham

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-192

---By Councilman Bhalla

A RESOLUTION REQUESTING PERMISSION TO ESTABLISH A DEDICATED TRUST BY RIDER FOR Saint Patrick's Day Donations and Gifts PURSUANT TO N.J.S.A. 40A:5-29 REQUIRED BY N.J.S.A. 40A:4-39

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

WHEREAS, N.J.S.A. 40A:5-29 permits municipalities to accept bequests, legacies and gifts made to it and utilize such bequests, legacies and gifts in the manner set forth in the condition of the bequest, legacy, or gift; and

WHEREAS, N.J.S.A. 40A:4-39 provides that the Director of the Division of Local Government Services may approve expenditures of funds by dedication by rider;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Hoboken, County of Hudson, New Jersey as follows:

1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures for *Saint Patrick's Day (or other events which occur on or about the same day and are reasonably understood to be associated with St. Patrick's Day)* in accordance with the provisions of N.J.S.A. 40A:5-29 as per N.J.S.A. 40A:4-39; and

2. The Clerk of the City of Hoboken, County of Hudson is hereby directed to forward two certified copies of this Resolution to the Director of the Division of Local Government Services.

--Motion duly seconded by Councilman Cunningham

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None

~~18.* RESOLUTION TO AUTHORIZE THE SUBMISSION OF A GRANT APPLICATION TO THE DISTRACTED DRIVING CRACKDOWN CAMPAIGN 2014 ADMINISTERED THROUGH THE N.J. DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAY TRAFFIC SAFETY (submitted by administration)~~

(REMOVED BY THE GOVERNING BODY)

14-193

--By Councilwoman Castellano

RESOLUTION AUTHORIZING THE HOBOKEN ITALIAN FESTIVAL, INC. TO CONDUCT ITS 88th ANNUAL FEAST IN HONOR OF MADONNA DEI MARTIRI

WHEREAS, The Hoboken Italian Festival, Inc., with offices at 332 Adams Street, Hoboken has requested permission to conduct their annual Feast in honor of their patron saint, Madonna Dei Martiri for four consecutive days starting on Thursday, September 4, 2014 through and inclusive to Sunday, September 7, 2014 on Sinatra Drive and Sinatra Park, and

WHEREAS, Hoboken Italian Festival, Inc. has indicated its agenda and requirement to successfully conduct the feast:

- (1) To solicit contributions from the general public, to be used solely to pay part of the expenses and religious contributions.
- (2) To have a procession with the statue of “Madonna Dei Martiri” – “Mother of Martyrs” through the streets of Hoboken.
- (3) To install electric lights on Sinatra Drive from the corner of Fourth Street and River Street up to the Union Dry Dock Property.
- (4) To erect a bandstand in Sinatra Park to hold nightly concerts between Thursday, September 4, 2014 through Sunday, September 7, 2014. The hours of live music will be limited to the following schedule: Thursday, September 4th from 5:00 pm to 10:00 pm, Friday, September 5th from 5:00 pm to 11:00 pm, Saturday, September 6th from 12:00 noon to 11:00 pm and Sunday, September 7th from 12:00 noon to 10:00 pm. Recorded music will be permitted at moderate levels and speakers positioned not to disturb area residents and will be discontinued at 11:00 pm. The bandstand will be directed in a northern direction in an effort to minimize the noise levels in the southern waterfront residential areas.
- (5) To erect concession stands and trucks on Sinatra Drive, for vendors of food, novelties, games and rides.
- (6) To hold a raffle to be drawn on Sunday, September 7th, 2014, as well as a nightly 50/50 raffle.
- (7) To have a procession through sections of Hoboken which is led by the feast committee, the guest of honor, the band, the statue of the saint and the members of the society and

devotees on Saturday, September 6th, 2014 to begin at 10:00 am. The rain date is Sunday, September 7th, 2014.

- (8) On Saturday, September 6th, 2014 at about 9:00 pm to shoot a special pyrotechnic fireworks show on the riverfront at Pier A Park, subject to the approval of the U.S. Coast Guard and local Fire Permits.
- (9) To maintain two lanes of traffic with a minimum of 12 feet for each lane of travel when streets are to be open to traffic.
- (10) Beginning on Wednesday, September 3, 2014 9:00 AM through and inclusive of Sunday, September 7, 2014 12:00 Midnight parking will be prohibited on the following streets to set up and break down of bandstand and concession stands, as well as clean up of the area:
 - a. Sinatra Drive (both sides) from 3rd Street to 9th Street,
 - b. 5th Street (both sides) from River Street to Sinatra Drive.
- (11) Parking will be prohibited on Saturday, September 6, 2014 on 3rd Street (both sides) between Madison Street and Jefferson Street.
- (12) Parking will be prohibited from Thursday September 4, 2014 8:00 AM through Monday September 8, 2014 5:00 PM in front (Adams Street) and along side (4th Street – south side only) the property of the Hoboken Italian Festival Inc. (332 Adams Street).
- (13) Vehicular traffic shall be denied travel in and upon the herein locations on the following days and hours by means of physical barriers to be provided by the Signal & Traffic Division:
Thursday, September 4, 2014 from 10 AM to 12:00 Midnight
Friday September 5, 2014 from 3:00 PM to 12:00 Midnight
Saturday September 6, 2014 from 10:00 AM to 12:00 Midnight
Sunday September 7, 2014 from 10:00 AM to 12:00 Midnight

The Signal & Traffic Division shall notify motorists of this regulation by the posting of temporary/emergency no parking signs.

The Police Department shall enforce this regulation.

WHEREAS, The City Council of the City of Hoboken endorses this program provided the Hoboken Italian Festival, Inc. secure all the necessary permits, licenses and insurance in a form to be approved by Corporation Counsel;

NOW THEREFORE, BE IT RESOLVED, The City Council hereby grants permission to the Hoboken Italian Festival, Inc. to conduct its feast and fireworks display on the above dates and wishes them success for a happy event subject to the applicant's compliance with all requirements regarding permits, licenses and insurance and further subject to the approval of the U.S. Coast Guard.

---Motion duly seconded by Councilman Russo

---Adopted by the following vote: YEAS: 9 – NAYS: 0

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

---Nays: None

14-194

---By Councilman Cunningham

RESOLUTION TO REFUND CITY TOWING ADMINISTRATIVE FEE OVERPAYMENTS IN THE AMOUNT OF \$20.00 PER PERSON LISTED HEREIN

WHEREAS, the City has determined that it overcharged for the tow release City administrative fee, in the amount of \$20.00 per individual, against each of the individuals listed in the attached spreadsheet; and,

WHEREAS, the City now seeks to proactively reimburse each individual for the overpayment.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hoboken, that a warrant be drawn on the City Treasury to the order of the following sum opposite the name, as reimbursement for overcharged towing release City administrative fees:

NAME	ADDRESS	AMOUNT
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See attached spreadsheet

BE IT FURTHER RESOLVED the City Clerk shall publish this resolution as required by law and keep a copy of the resulting contract on file in accordance with N.J.S.A. 40A:11-1 et seq.; and,

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be provided to Mayor Dawn Zimmer, Corporation Counsel, and the CFO for action, including a warrant for payment to the above mentioned individuals, in accordance therewith and to take any other actions necessary to complete and realize the intent and purpose of this resolution; and,

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

--Motion duly seconded by Councilman Bhalla

--Adopted by the following vote: YEAS: 9 – NAYS: 0

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

--Nays: None.

14-195

--By Councilman Bhalla

RESOLUTION AUTHORIZING THE REFUND OF TAX OVERPAYMENTS (PAYABLE TO THE INDIVIDUALS LISTED ON THE RESOLUTION FOR THE AMOUNT OF \$6,997.88)

WHEREAS, an overpayment of taxes has been made on property listed below; and

WHEREAS, Sharon Curran, Collector of Revenue recommends that refunds be made;

NOW THEREFORE BE IT RESOLVED, that a warrant be drawn on the City Treasurer made payable to the following totaling **\$ 6,997.88**

<u>NAME</u>	<u>BL/LT/UNIT</u>	<u>PROPERTY</u>	<u>QTR/YEAR</u>	<u>AMOUNT</u>
Bruno, Shawn A. 812 Grand Street#417 Hoboken, NJ 07030	91/1.02/CP022	812 Grand St	1/14	\$ 119.95
Fusaro, Chris J.	115/9.01/C0P13	1317-27 Grand/	4/13	\$ 121.15

10 E. Elbrook Dr.
Allendale, NJ 07401-1107

1326 Clinton Sts

Ludvigson, Deborah
C & Botticelli. A
1125 Maxwell Lane#440
Hoboken, NJ 07030

261.03/1/CP368

1125 Maxwell Lane 1/14

\$ 119.95

Muir, Ernest
29071 Marcello Way
Naples, FL 34110

261.03/1/CP045

1125 Maxwell Lane 1/14&2/14

\$121.15

Investors Bank
101 Wood Ave S.,
Islen, NJ 08830

243/24

1112 Hudson Street 1/14

\$6,515.68

Attn: Terry Warren, Loan Servicing Associate

---Motion duly seconded by Councilman Cunningham

---Adopted by the following vote: YEAS: 9 – NAYS: 0

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

---Nays: None.

~~22.* RESOLUTION TO ADOPT THE MINUTES OF THE MEETINGS OF THE CITY COUNCIL DATED: REGULAR MEETING OF JANUARY 7, 2014, SPECIAL MEETING OF JANUARY 22ND, REGULAR MEETING OF JANUARY 22ND, SPECIAL MEETING OF FEBRUARY 5, 2014 AND REGULAR MEETING OF FEBRUARY 5, 2014 (HAS BEEN REVIEWED AND APPROVED AS TO LEGAL FORM AND CONTENT) (submitted by City Clerk)~~

(PULLED FOR NEXT CITY COUNCIL MEETING)

ORDINANCES

Introduction and First Reading

14-196 Z-288

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 ~~strike through~~, 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 SSPR 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 57e 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-49e 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 APPLICABLE 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 ~~strike~~through, additions to the current ordinance are noted in underline.

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	All	All	\$500	\$2,500

Action Requested	Project Type	Project Size	Application Fee	Escrow Fee
approval				
Appeals, Interpretations, Variances				
Appeals, per N.J.S.A. 40:55D-70a	All	All	\$300	\$1,000
Interpretations, per N.J.S.A. 40:55D-70b	All	All	\$300	\$1,000
Hardship variance, per N.J.S.A. 40:55D-70e	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

Action Requested	Project Type	Project Size	Application Fee	Escrow Fee
	Nonresidential	5,000-9,999 square feet	\$200	None
	Nonresidential	10,000-49,999 square feet	\$400	None
	Nonresidential	50,000 square feet and over	\$500	None
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 notwithstanding 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.

President Giattino moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 2, 2014** at 7:00 PM.

--Motion duly seconded by Councilman Russo

--Adopted by the following vote: YEAS: 8 – NAYS: 1

--Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Russo and President Giattino

--Nays: Occhipinti

14-197
Z-289

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.~~

(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.

President Giattino moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 2, 2014** at 7:00 PM.

---Motion duly seconded by Councilmen Bhalla, Occhipinti

---Adopted by the following vote: YEAS: 9 – NAYS: 0

Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

Nays: None.

14-198 Z-290

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	Sout h	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
First Street	Sout h	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	Sout h	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
<u>Newark Street</u>	<u>Nort</u> <u>h</u>	<u>Beginning at a point 92 feet west of the westerly curbline of Washington Street and extending 25 feet westerly therefrom</u>	<u>Hoboken Police Department Vehicles only Monday through Friday, 8:00a.m. to 8:00p.m.</u>
Newark Street	Nort h	Beginning at the westerly curbline of Washington Street and <u>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</u>	Official business vehicles of the City government offices, by permit <u>issued at the discretion of the Director of Transportation and Parking</u> , 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.

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President Giattino moved that the ordinance pass its first reading as read and be laid of the table for public inspection to be further considered for final passage at a meeting of the Council to be held on **April 2, 2014** at 7:00 PM.

---Motion duly seconded by Councilman Bhalla

---Adopted by the following vote: YEAS: 9 – NAYS: 0

---Yeas: Council persons Bhalla, Castellano, Cunningham, Doyle, Mason, Mello, Occhipinti, Russo and President Giattino

---Nays: None.

NEW BUSINESS

Councilwoman Mason comments on the bar on 13th and Park Ave., access to document file

Councilwoman Mason comments on the meeting minutes, given the issues of legal and other redaction issues and financial documents needed, the fact that we are far behind on minutes, the legal minutes are till the next meeting

Council President comments

Councilwoman Castellano comments on voting “No” on Claims and the vote for the towing, emails on ticketing and towing, and how to operate at a snow storm

Councilman Russo comments and thanking Director Morgan on parking permits for visitors, BA Wiest what is the status of noise complaints for Public Storage, maybe look into sub-committee

Councilman Russo comments on the license agreement and fearful for it to haunt us

Councilman Doyle comments on the minutes

Councilman Doyle comments on Director Forbes on the licenses vs. easement issue and tried to have consistency and tackle other future issues

Councilman Occhipinti comments that the Chili Cookoff raised \$11M and thank Councilman Doyle for attending, there will be a public safety meeting tomorrow at the Multi-service Center at 7PM, the Mayor and representatives from the Police Department regarding incidents in the 4th Ward

Councilman Occhipinti comments that there were no New Business at the last meeting regarding boots on residential vehicles that have a residential decal, seems to be a miscommunication between the Parking Utility and residents on the notices on renewals, it became electronic, could have been overlooked by the residents. Would like to look at this practice in sub-committee, attended the Housing Authority and move forward on hiring a consultant for additional Sandy funding and let the Council bring forward a resolution of need to fill their application for hiring this consultant to apply for grant funding for Sandy Aid

Councilman Mello comments and congratulate all the families of the HOLA community for their charter being expanded in 3 grades and advocate with the State regarding the funding of charter schools and the school budgets which turns communities against each other and

Councilman Cunningham comments that there were a few sub-committee meetings such as Community Development and Transp. and Parking, would like it set up weekly, glad the annual renewal parking sticker and the handicapped Taxi license were voted on first reading and wish his Council colleagues and let us know what the hot issues in your wards and take those items up, where are we with 12th and Clinton (reconfigure) and Willow extended the traffic light and its not enough, the Community Development sub-committee regarding Water Music and discussing with the property owner and progress is being made, the next meeting for T & P will be 7:00 PM next Thur. and 5:30PM for Community Development

Director Morgan comments that there will be a traffic study now that the snow is gone we can start that pilot program within 2 weeks

Councilman Bhalla comments doesn't agree with this resolution of need for Sandy Relief Funding and I was there for this debate 1.5 year ago, there was not a single presentation of Sandy Relief, only 20/20 redevelopment

Councilman Bhalla comments that budget hearings will be scheduled soon and discuss the sub-committee for a win win for local businesses which is called Shop Hoboken Property Tax Reward Program which could help resident tax payers and business owners and see if it's a good fit for Hoboken

Council President comments This Sat. will be a swing speakeasy at the Hoboken Historical Museum this Sat. at 7 PM

Council President comments that the budget hearings will be March 29 2-7 PM for Adm. And Corp. Counsel, March 31 for HPU and Comm. Dev 6-9, April 9th for Health and Human Services and Environment

Council President comments the the Library Tax is up \$1M and will look into if there's a cap.

At 11:36P.M. the Governing Body on a motion by Council duly seconded by the Councilman Doyle

Council President President Giattino then adjourned the meeting at 11:3 P.M.

PRESIDENT OF THE COUNCIL

CITY CLERK