

No. 6FE 1st Reading

JUN 15 2016

Ordinance

Date to Mayor JUL 08 2016Date Returned JUL 11 2016

No. Public Hearing

Date Resubmitted
To CouncilNo. 6PSF-E JUL 07 2016 City of Newark, N.J.Date Advertised
1st Reading

No. Reconsidered

Final Reading

Approved as to Form and Legality on Basis of Facts Set Forth

Factual contents certified to by

Corporation Counsel

Title

Council Member C. J. Kelly presents the following Ordinance:

AN ORDINANCE AMENDING TITLE 41, ZONING AND LAND USE REGULATIONS, REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING A NEW CHAPTER 19 ENTITLED "ENVIRONMENTAL JUSTICE AND CUMULATIVE IMPACTS" TO PROVIDE ADDITIONAL INFORMATION TO THE NEWARK ENVIRONMENTAL COMMISSION, CENTRAL PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT AND TO REQUIRE ADDITIONAL DOCUMENTATION FROM DEVELOPMENT APPLICANTS IN ORDER TO BUILD AN IMPROVED BASIS OF INFORMATION ON WHICH TO CREATE SOUND ENVIRONMENTAL AND LAND USE POLICY.

WHEREAS, the City of Newark ("the City") seeks to promote the health and welfare of those who live, work, do business, and visit within the City, and to protect the quality of the urban environment for the benefit of current and future generations; and

WHEREAS, conditions affecting the existing structures built, natural and social environments in Newark have an impact on human health and welfare, and may in some cases contribute to illness or mortality if left unaddressed; and

WHEREAS, existing environmental conditions reflect a history of industrial use that includes a number of sources of pollution such as: a dense transportation network including highways, a major seaport and airport, and rail hubs; regional infrastructure for transporting and incinerating solid waste and processing wastewater; current industrial and commercial uses with significant environmental impacts from operations and contaminated properties, all of which may have an adverse impact on human health and the environment; and

WHEREAS, patterns of racial, ethnic and economic inequality in the United States result in the geographic concentration of environmentally hazardous land uses and sources of pollution that disproportionately burden the health of low-income communities and communities of color, including communities in Newark, which outcome is known as environmental injustice, and which has been addressed in federal and state policy through Presidential Executive Order 12898, State of New Jersey Executive Order #96 (February 18, 2004), and State of New Jersey Executive Order #131 (February 5, 2009); and

WHEREAS, the City is one of approximately fifty communities identified by the U.S. Environmental Protection Agency ("EPA") as "environmentally overburdened, underserved, and economically distressed" as part of EPA's "Making a Visible Difference in Communities" strategic priority; and

WHEREAS, the City has been recognized by the New Jersey Department of Environmental Protection as an area where there are "disproportionate impacts from multiple sources of pollution;" and

WHEREAS, measurements to determine "non-attainment" with federal ambient air quality standards are taken at the regional level such that it is possible for particular neighborhoods or groups of neighborhoods to experience high levels of exposure to criteria pollutants even if the concentration of those pollutants is deemed acceptable for the region as a whole; and

WHEREAS, the combined total effect of many sources of pollution, from stationary sources such as power plants to mobile sources such as cars and trucks creates a cumulative impact that may be more harmful to human health than the impact of any one source of pollution in isolation; and

WHEREAS, State law and regulation on environmental pollution currently focuses primarily on individual rather than cumulative impacts from proposed projects when assessing eligibility for permits related to the environment, limiting the ability of State agencies to provide protection from the cumulative impacts of pollution on human health; and

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1 **WHEREAS**, the City wishes to create stronger environmental and land use policy tools
2 at the local level to prevent and mitigate additional pollution associated with new development
3 projects; and
4

5 **WHEREAS**, the creation of such stronger policy tools is permitted for municipalities
6 under State laws that provide for municipal oversight of decisions on land use, including those
7 pertaining to environmental health via N.J.S.A. 40:48-2, which states, "Any municipality may
8 make, amend...and enforce such ordinances, regulations, rules and by-laws not contrary to
9 the laws of this State or of the United States, as it may deem necessary and proper for the
10 good government, order and protection of persons and property, and for the preservation of
11 the public health, safety and welfare of the municipality and its inhabitants..." and via the
12 Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes municipalities to "guide
13 the appropriate use or development of all lands in this State, in a manner which will promote
14 the public health, safety, morals and general welfare," and to "secure safety from fire, flood,
15 panic and other natural and man-made disasters," to "promote the establishment of
16 appropriate population densities and concentrations that will contribute to the well-being of
17 persons, neighborhoods, communities and regions and preservation of the environment," "to
18 "promote the conservation of...open space, energy resources and valuable natural resources
19 in the State and to prevent urban sprawl and degradation of the environment through improper
20 use of land," among other goals and purposes; and
21

22 **WHEREAS**, the Municipal Land Use Law, at N.J.S.A. 40:55D-28b, provides: "The
23 master plan shall generally comprise a report or statement and land use and development
24 proposals, with maps, diagrams and text, presenting...where appropriate, the following
25 elements...: (9) An economic plan element considering all aspects of economic development
26 and sustained economic vitality, including (a) a comparison of the types of employment
27 expected to be provided by the economic development to be promoted with the characteristics
28 of the labor pool resident in the municipality and nearby areas and (b) an analysis of the
29 stability and diversity of the economic development to be promoted; ... (16) A green buildings
30 and environmental sustainability plan element, which shall provide for, encourage, and
31 promote the efficient use of natural resources and the installation and usage of renewable
32 energy systems; consider the impact of buildings on the local, regional and global
33 environment; allow ecosystems to function naturally; conserve and reuse water; treat storm
34 water on-site; and optimize climatic conditions through site orientation and design"; and
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36 **WHEREAS**, it is the express intent of Newark's Master Plan, adopted September 24,
37 2012, to "prevent additional air pollution, especially in overburdened neighborhoods, and
38 mitigate existing polluting sources" by "reduc[ing] vehicle idling and emissions," by requiring
39 "facilities infrastructure improvements to avoid truck idling," by "adopt[ing] land use and zoning
40 rules that increase the efficiency of truck travel and minimize the impact of diesel emissions
41 on vulnerable populations," by "amend[ing] the zoning ordinance to screen new projects for
42 cumulative impacts on air quality," for the purpose of helping Newark "[b]ecome a 'city of
43 choice' where a diverse range of people will want to live, work, learn, and play by improving
44 environmental quality..." and
45

46 **WHEREAS**, Newark's Master Plan recognizes that "[i]n collecting information about air
47 quality and greenhouse gas emissions, the City can measure whether its policies are having a
48 positive impact on human safety and livability"; and
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50 **WHEREAS**, it is the express intent of Newark's Master Plan to address adverse
51 impacts on groundwater and soil from stormwater runoff; and
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53 **WHEREAS**, it is the express intent of Newark's Master Plan to "move toward
54 becoming a 'zero waste' city - a place that burns and buries as close to nothing as possible;"
55 and
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57 **WHEREAS**, pursuant to the Municipal Land Use Law, at N.J.S.A. 40:55D-25 b., "The
58 Planning Board may...(2) Assemble data on a continuing basis as part of a continuous
59 planning process;" and "(3) Perform such other advisory duties as are assigned to it by
60 ordinance or resolution of the Governing Body for the aid and assistance of the Governing
61 Body or other agencies or officers"; and
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63 **WHEREAS**, pursuant to the Municipal Land Use Law, at N.J.S.A. 40:55D-70, "No
64 variance or other relief may be granted...without a showing that such variance or other relief
65 can be granted without substantial detriment to the public good and will not substantially
66 impair the intent and the purpose of the zone plan and zoning ordinance;" and
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68 **WHEREAS**, the Newark Environmental Commission was established pursuant to
69 N.J.S.A. 40:56A-1 to 40:56A-12 "for the protection, development or use of natural resources,"
70 and empowered to "to conduct research into the use and possible use of the open land areas
71 of the municipality," and "may...prepare, print, and distribute books, maps, charts, plans and
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pamphlets which in its judgment it deems necessary for its purposes...and may from time to time recommend to the Planning Board... plans and programs for inclusion in a master plan and the development and use of such areas;" and

WHEREAS, pursuant to Section 2:2-41.4c. of the Municipal Code of the City of Newark, the Newark Environmental Commission is further charged with establishing its own "priorities with due consideration of the City's needs for...a Green City Plan which addresses the need for sustainable development and the reduction of air pollutants in the City;" and

WHEREAS, the Newark Environmental Commission has the power pursuant to N.J.S.A. 40:56A-6 to "study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna;" and

WHEREAS, N.J.S.A. 40:55D-27b. provides that "whenever the Environmental Commission has prepared and submitted to the Planning Board and Board of Adjustment an index of the natural resources of the municipality, the Planning Board or the Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either board;" and

WHEREAS, the Newark Environmental Commission intends to prepare and submit such an index in the form of a Natural Resources Index as described below; and

WHEREAS, the Association of New Jersey Environmental Commissioners has expressed support for the Newark Environmental Commission in advising the Planning Board and Zoning Board of Adjustments on the environmental impact of proposed development projects, which support it currently provides to a number of New Jersey municipalities; and

WHEREAS, additional information about environmental impacts of proposed new development projects in the context of the cumulative impact of all pre-existing development, along with advisory input from the Newark Environmental Commission on same, will assist City policy-makers and the public in advancing goals expressed in the Newark Master Plan and Sustainability Action Plan and improving long-term planning.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. Amend Title 41, Zoning and Land Use Regulations of the Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, by adding a new Chapter 19, Environmental Justice and Cumulative Impact shall include the following:

1.1 . Purpose: The City of Newark Municipal Code is hereby amended to include the requirements enumerated herein, which shall assist the Environmental Commission, Newark Central Planning Board and Zoning Board of Adjustment in better understanding the environmental impacts of development projects, and support improved long-term planning in order to enhance, protect and preserve a healthy urban environment for the benefit of all present and future residents and workers.

1.2. Policy Statement: The goal of the Environmental Justice & Cumulative Impacts Ordinance is to advance Environmental Justice (as defined herein), good stewardship, and sustainable economic development in furtherance of the priorities outlined in the Newark Sustainability Action Plan and the Newark Master Plan. Through this Ordinance, the City of Newark seeks to:

- a. Protect the health of all residents, regardless of race, culture or income, from exposure to pollution linked to adverse health effects, including the cumulative impacts that may be worsened as an unintended by-product of new development or redevelopment, and to ensure the enforcement of laws, regulations, and policies in a manner consistent with the principles of Environmental Justice.
- b. Take appropriate action to avoid, minimize and mitigate pollution from all sources within Newark's jurisdiction through partnerships, innovation, and enforcement.
- c. Encourage proposals for development or redevelopment that contribute positively to Newark's environmental, economic, and social health or, at minimum, that do not contribute net new pollution to the environment or adversely impact public health.
- d. To the extent permitted by law, discourage and advocate against development or redevelopment proposals that contribute net additional

pollution; particularly, types of pollution linked to human health problems, and avoid taking actions or decisions that add to the total amount of pollution impacting an area deemed disproportionately impacted by pre-existing pollution.

e. To create a better basis of information for decision-making with regard to public health and the environment with regard to new project proposals, and to require development and redevelopment applicants seeking approval for projects that have the potential to generate additional pollution to provide information in the form of an Environmental Review Checklist as provided herein, which shall be added to the checklist requirements and provided to development and redevelopment applicants pursuant to N.J.S.A. 40:55D-10.3.

f. To create a better basis of information for decision-making with regard to public health, the environment and pre-existing pollution by developing a Natural Resources Index that identifies areas that can be considered disproportionately burdened with existing pollution pursuant to standards of Environmental Justice and that, upon approval, will become a required reference document for the Environmental Review Checklist.

g. Promote meaningful public participation and transparent decision-making by identifying risks to public health and the environment, and by providing an opportunity to select alternatives and/or mitigation measures that remedy, avoid or minimize such risks.

1.3. Definitions

a. **Covered Applicant** - Shall mean an applicant for major site plan approval from the Newark Central Planning Board or a variance from the Newark Zoning Board of Adjustment that (i) is seeking approval for a Commercial, Light Manufacturing or Industrial Use project, as defined under Paragraphs 3.g, 3.h and 3.i hereinafter; and (ii) requires one or more approvals or permits from the U.S. Environmental Protection Agency ("EPA") or the New Jersey Department of Environmental Protection, or requires inclusion in the Essex County Solid Waste Management Plan, upon advice from the Essex County Solid Waste Advisory Council. Said approvals or permits shall include, but shall not be limited to, any approval or permit required pursuant to the Clean Air Act, 42 U.S.C. §7401 et seq.; the Clean Water Act, 33 U.S.C. §1251 et seq. (including any approval or permit issued thereunder by the U.S. Army Corps of Engineers); the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.; the Water Quality Planning Act, N.J.S.A. 58:11A-1, et seq.; the Waterfront Development Law, N.J.S.A. 12:5-3 et seq.; the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.; the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. A Covered Applicant shall include an applicant that is seeking approval for a mixed-use project which includes a residential use.

b. **Criteria Pollutants** - Shall mean any pollutants listed by the EPA Administrator pursuant to Section 108(a) of the Clean Air Act, 42 USC Section 7408(a) as Criteria Air Pollutants which includes carbon monoxide, lead, nitrogen dioxide, ozone, particle pollution (PM 10 and PM 2.5) and sulfur dioxide.

c. **Environmental Justice** - Shall mean the fair treatment of and right of all persons, regardless of race, color, national origin, ethnicity, income or other demographic or geographic characteristics, to have access to a safe, healthy living environment. Fair treatment means that no group of people, including racial, ethnic, or socioeconomic groups, should bear disproportionately high exposure to pollution or adverse human health or environmental impacts; which disproportionately high exposure is known as Environmental Injustice, as further described in Presidential Executive Order 12898, State of New Jersey Executive Order #96 (February 18, 2004), and State of New Jersey Executive Order #131 (February 5, 2009).

d. **Natural Resources Index ("NRI")** - Shall mean a document that compiles and analyzes information about baseline environmental and socio-economic conditions in the City of Newark, for purposes of long-term planning that promotes public health, vibrant communities, and sustainable economic development. The NRI may include maps, tables, and narrative describing the extent, type, and location of factors that may affect environmental health both positively and negatively.

e. **Hazardous Air Pollutants** - Shall mean any air pollutants listed in Section 112(b) of the Clean Air Act, 42 USC 7412(b) and amended by 40 CFR 63, Subpart C.

f. **Environmental Review Checklist ("Checklist")** - Shall mean an informational document covering specific environmental impact information, as

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specified herein, that must be submitted by Covered Applicants in addition to other required submissions for major site plan approval from the Newark Central Planning Board or approval of a variance from the Zoning Board of Adjustment. This document shall provide information to be used by the Newark Environmental Commission, City staff and members of the Central Planning Board and Zoning Board of Adjustment to improve public understanding of the potential cumulative environmental impacts of proposed development and provide a basis for more informed policy decisions on municipal land use. This Checklist will be in the format attached hereto as Exhibit A.

g. Commercial - shall have the same definition as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2.

h. Industrial - shall have the same definitions for "Manufacturing, Heavy," and "Manufacturing, Medium" as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2.

i. Light Manufacturing - shall have the same definition as provided in the Newark Zoning and Land Use Regulations, Title 41, Chapter 2.

j. Greenhouse Gas - shall have the same definition as provided in the Global Warming Response Act, N.J.S.A. 26:2C-37 et seq.

k. Administrative Officer - shall generally mean the respective Board Secretary or Board Clerk assigned to receive applications and plan documents on behalf of the Central Planning Board or Zoning Board of Adjustment.

1.4. Natural Resources Index (NRI)

a. The Newark Environmental Commission, in consultation with City of Newark departmental staff, as coordinated by the Mayor's Office of Sustainability, is hereby directed to research, draft, and present to the Planning Board and Zoning Board of Adjustment a Natural Resources Index (NRI), pursuant to N.J.S.A. 40:55D-27b. The NRI will include data on built, natural, environmental, health and demographic features that occur within Newark's boundaries. The NRI will also seek to make visible to the public geospatial information about environmental features, both positive and negative, as juxtaposed to demographic and health data, in order to develop a better understanding of the relationships among environment, land use, public health, and neighborhood quality of life. The NRI is intended to be a work in progress, bringing diverse sources of information together to form the basis of improved policy making over time. The NRI shall include information on:

(i) Natural resources and physical infrastructure within the boundaries of the City of Newark, including but not limited to: highways, railyards, railways, roadways, designated truck routes, industrial areas, seaports, airports, utilities, waterways, trees, parks, wetlands, and gardens;

(ii) Available health indicators data, including asthma rates, lung cancer, low birth weight infants, cardiovascular disease, and other illnesses associated with environmental hazards;

(iii) Existing permitted, point, non-point and area sources of pollution, toxins registered or required to be registered with the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq., Superfund (CERCLA) and Brownfield sites, hazardous waste storage facilities, and other known sources of pollution affecting Newark residents, which may be obtained from City, federal or state databases such as those created or maintained by the EPA;

(iv) Location of vulnerable populations and land uses, including flood zones, location of schools, daycares, senior centers, hospitals, jails, dialysis centers, recreation centers, public housing and detention centers;

(v) Data on socio-economic conditions of residents, including poverty, income, race, ethnicity, gender, unemployment, and age including information on the number and location of residents over 65 and under 5 years old;

(vi) Any other information deemed appropriate or necessary by the Newark Environmental Commission.

b. An NRI shall be developed and approved by the Newark Environmental Commission within twelve (12) months of the passage of this Ordinance. The approved NRI shall be forwarded to the Planning and Zoning Boards.

c. The Newark Environmental Commission shall organize and hold at least one public hearing to solicit public information and increase public awareness on the NRI prior to preparation of the final draft thereof.

d. The NRI shall be updated every three years.

e. The NRI shall be a required reference document for any Environmental Review Checklist submitted following the publication of an approved version of the NRI by the City of Newark.

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1.5. Newark Environmental Review Checklist ("Checklist"):

a. Covered Applicants shall prepare and submit an Environmental Review Checklist to the Planning Board or Zoning Board, as appropriate, as a required component of any application for major site plan approval or for a variance in the form attached to this Ordinance as Exhibit A. The checklist for projects which meet the criteria of Paragraph 3.a hereof shall be amended to include said Environmental Review Checklist and shall be provided to all Covered Applicants.

b. In the event that the Covered Applicant fails to submit a complete Environmental Review Checklist, the application shall be deemed incomplete.

c. A conforming copy of the Environmental Review Checklist shall also be submitted by the Covered Applicant to the Administrative Officer within the Newark Planning Office.

d. Upon receipt, the Administrative Officer shall forward a copy of the Environmental Review Checklist to the Chair(s) of the Newark Environmental Commission, the Director of the Office of Sustainability, the Director of Engineering, the Director of Community Health and Wellness, and the Director of Neighborhood and Recreational Services or its successor Department. The Environmental Review Checklist will be made available as part of the complete major site plan application or variance application to members of the public.

e. Upon receipt of the Newark Environmental Review Checklist, the Newark Environmental Commission members shall review the material and provide a written advisory opinion as soon as reasonably practicable to the Secretary of the Boards for transmittal to the members of the Planning Board or Zoning Board of Adjustment, as appropriate.

f. Nothing in this Ordinance shall limit the statutory powers of the Planning Board or Zoning Board of Adjustment under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

g. Nothing in this ordinance shall limit the statutory powers of the Newark Environmental Commission under Title 40, Chapter 56A, of the New Jersey Statutes.

1.6. Escrow Fees for Covered Redevelopment Projects:

a. For projects which meet the criteria of Paragraph 3.a. hereof, and which are also redevelopment projects subject to a redevelopment plan adopted pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., a Covered Applicant shall be required, as a potential redeveloper, to comply with the provisions of the Chapter entitled "Escrow Fees for Redevelopment Matters" in Title 41 of the City of Newark Municipal Code entitled "NEWARK ZONING AND LAND USE REGULATIONS"

1.7. Environmental Justice Policy Review: Based on the trends and patterns in the NRI and the Environmental Review Checklists for each new development or redevelopment project, the Newark Environmental Commission shall make annual recommendations to the Mayor and the Municipal Council regarding projects and policies that may serve to (i) reduce health-harmful pollution, (ii) improve the environmental impacts of private development projects, and (iii) promote the adoption of best practices for reducing environmental impacts into City capital projects, as well as appropriate updates to the NRI.

Section 2. Exhibit A: Environmental Review Checklist**1. Cover Sheet**

- Name of applicant entity
- Contact information (name, email, phone, address)
- Location of Proposed Project (address and block and lot)
- Summary description of proposed project (one paragraph only) including proposed dimensions of any buildings and total project cost
- Existing land use at project site and existing land use zoning designation
- Requested variance, if any

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2. Permits:

- List of all Permits and Approvals needed
- Copy of any permits already obtained from the United States Environmental Protection Agency, the New Jersey Department of Environmental Protection, or evidence of inclusion in the Essex County Solid Waste Management Plan after advice of the Essex County Solid Waste Advisory Council.

3. BASIC FORM - For Covered Applicants with a Commercial or Light Manufacturing Use, including those uses within an MX-1 or MX-2 Zone

A. Environmental Impact Activities: Information should be excerpted from documents filed elsewhere; e.g., environmental permit applications, approved permits or stormwater management plans, as applicable. If project involves a permit for any category below, applicant shall identify such permit. Applicant shall provide information for a category only if a permit is involved for the category. Applicant is not required to provide information for the residential component of a mixed-use project.

i. **AIR POLLUTION:** Chart listing tons per year of all Criteria Pollutants and Hazardous Air Pollutants to be emitted as a result of project operation.

ii. **STORMWATER RETENTION & DISCHARGE:** Brief narrative summary of on-site stormwater capture including total volume to be controlled; Brief narrative summary of permitted sewer and stormwater discharge including total volume to be discharged.

iii. **HAZARDOUS or TOXIC MATERIALS:** List, including name and estimated quantity of, any substance used or stored on-site that must be registered with either the State or a local emergency responder office pursuant to State or Federal law, such as the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A.34:5A-1 et seq. State whether an emergency management plan has been filed with the City's Office of Emergency Management.

iv. **TRUCK TRIPS:** Estimated number of truck trips per day anticipated during normal operations. Indicate if trucks will be owned or contracted.

v. **FUEL USE:** List type of fuel to be used for heating, cooling, and operations (e.g., Number 4 or 6 Heating Oil; Natural Gas, Solar or Wind)

vi. **HAZARDOUS AND SOLID WASTE & RECYCLING:** Provide copy of applicable Waste Permit or application, if applicable and available. Brief narrative description of plan for compliance with City of Newark Recycling Ordinance Title XV, Chapter 12.

B. Optional - Additional Information on Environmental Mitigation Activities: At the applicant's discretion, information may be submitted to highlight elements of design, construction or operation intended to mitigate, minimize, or avoid negative environmental impacts. Information should be in the form of a brief narrative description in each relevant category. The list below is intended to serve as a suggested menu of possible topics and is not exhaustive.

- i. Air pollution reduction technologies for stacks, exhaust pipes, cooking equipment, or other such equipment or facilities
- ii. On-site or off-site Green Stormwater Infrastructure
- iii. Energy efficiency or renewable energy elements
- iv. Waste minimization or re-use programs
- v. Water conservation measures
- vi. Green supply chain efforts

- vii. Clean fleet (alternative fuel, retrofitted diesel engines, or other such fuel types or engines)
- viii. Indoor air quality controls
- ix. Plans to minimize noise, dust, odor and light pollution
- x. Public space design and landscaping elements
- xi. Voluntary arrangement to provide a first-interview opportunity for employment to Newark residents, beyond that required by Newark ordinances
- xii. Voluntary contribution (in-kind or funding) to support community initiatives
- xiii. Measures taken to inform or engage neighbors about the project prior to submission of plans

4. FULL FORM - For Covered Applicants with an Industrial Use:

A. Detailed Project Description: Brief summary of types of products or services to be produced, a physical description of proposed building and grounds, including any pre-improvement contamination issues and clean-up plans, and overview of anticipated environmental impact, controls to comply with environmental regulations, and any voluntary activities undertaken to go beyond legally required environmental control standards.

B. Pre-existing Environmental Conditions Description: To the extent such information is available in an approved NRI, a brief summary of pre-existing environmental conditions within a half-mile radius of proposed project site, including name and location of any other properties in that area with air pollution emission permits from the federal or state government; location of known contaminated sites and properties storing or using toxic chemicals; location of receptor populations including schools, day-cares, residential blocks, detention centers or prisons, and senior centers; and location of any environmentally-sensitive areas such as wetlands, waterways or parks.

C. Environmental Impact Description: Information should be excerpted from documents filed elsewhere; e.g., environmental permit applications, approved permits or stormwater management plans, as applicable. If project involves a permit for the category below, applicant should identify such permit. Applicant must provide a description for each category regardless of whether a permit is involved, to the extent such information is available or can be readily obtained.

- i. **AIR POLLUTION:** Chart listing tons per year of all Criteria Pollutants, Hazardous Air Pollutants, and Greenhouse Gas emission equivalents. Include maximum permitted tons per year and anticipated actual tons per year.
- ii. **STORMWATER RETENTION & DISCHARGE:** Brief narrative summary of on-site stormwater capture including total volume to be controlled; Brief narrative summary of permitted sewer and stormwater discharge including total volume to be discharged and any onsite treatment technology.
- iii. **WATER USE:** Estimate of volume of water to be used annually for operations.
- iv. **ENERGY USE:** Estimate of kilowatt hours of energy to be used annually for operations.
- v. **HAZARDOUS or TOXIC MATERIALS:** List, including name and estimated quantity of, any substance used or stored on-site that must be registered with either the State or a local emergency responder office pursuant to State or Federal law such as the Toxics Release Inventory or the New Jersey Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.

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1 State whether an emergency management plan has been filed with the
2 City's Office of Emergency Management.

3
4 **vi. TRUCK TRIPS:** Estimated number of truck trips per day anticipated during
5 normal operations. Indicate if trucks will be owned or contracted. Provide
6 information about how deliveries and pick-ups will comply with the City of
7 Newark's truck route regulations.

8
9
10 **vii. FUEL USE:** List type of fuel to be used for heating, cooling, and operations
11 (e.g. Number 4 or 6 Heating Oil; Natural Gas, Solar or Wind)

12
13 **viii. WASTE & RECYCLING:** Provide copy of applicable Waste Permit or
14 application, if applicable and available. Brief narrative description of plan for
15 compliance with City of Newark Recycling Ordinance Title XV, Chapter 12.

16
17 **ix. NUISANCE ISSUES:** Provide a brief description of both projected impact of
18 and plans to avoid, minimize, and control the following:

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20 a. Dust

21
22 b. Noise

23
24 c. Light

25
26 d. Odors

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28 **D. Economic Opportunity Description:** List estimated number of new jobs to be
29 generated as a result of both construction and operation of the proposed project.
30 Include a brief narrative description of any activities undertaken to provide Newark
31 residents with access to these job opportunities.

32 **E. Public Engagement Description:** Briefly describe any efforts undertaken prior to
33 filing for major site plan and/or variance approval to inform or engage the residents
34 living and businesses operating in the vicinity of the proposed project.

35 **F. Quality of Life and Public Health Protection Measures:** Briefly describe any
36 efforts to avoid, minimize, and mitigate any pollution emissions or environmental
37 impacts both during construction and during operation. Such efforts may include but
38 are not limited to:

39 i. Pollution reduction technologies

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41 ii. Stormwater management via Green Infrastructure

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43 iii. Energy efficiency or renewable energy elements

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45 iv. Waste minimization and/or re-use programs

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47 v. Water conservation measures

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49 vi. Green supply chain

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52 vii. Clean fleet commitments (2010 or newer truck engines, retrofit filters on older
53 trucks, alternative fuel, zero emissions vehicles or other such commitments)

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55 viii. Indoor air quality controls

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57 ix. Tree canopy expansion or vegetative buffers

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59 x. Greenhouse Gas emission reduction technology or design

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61 **G. Alternative Design (Optional):** Provide a brief comparative description of at least
62 one alternative design scheme, site location, engineered system, equipment choice or
63 operational approach that was considered for reductions in negative environmental or
64 public health impacts or increases in positive public impacts such as increased green
65 space, energy reduction, air quality, water quality, storm water runoff absorption and
66 waste reduction.

67
68 **H. Optional:** Provide additional information about community benefits; for example, a
69 relationship with a local organization to receive trained potential candidates for job
70 openings, voluntary measures taken to inform or engage the neighborhood residents
71 prior to finalization of plans, or an in-kind or funding contribution to a project with
72 community benefits in the neighborhood of the proposed project site.

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Section 3. Severability: If any portion, clause, or section or subsection of this ordinance is determined by a court of competent jurisdiction to be unlawful, ultra vires or unenforceable, it is the intention of the City of Newark that the remaining portions shall continue in full force and effect and be severed from the portion struck down by the court.

Section 4. This Ordinance shall take effect upon final approval and publication in accordance with the laws of the State of New Jersey.

STATEMENT

Ordinance amending Title 41, City of Newark Municipal Code, entitled "Newark Zoning and Land Use Regulations" to provide additional information to the Newark Environmental Commission, Central Planning Board and Zoning Board of Adjustment and to require additional documentation from Development Applications in order to build an improved basis of information on which to create sound environmental and land use policy.

CERTIFIED TO BY ME THIS
JUL 11 2016

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE										RECORD OF COUNCIL VOTE FOR RECONSIDERATION									
Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB
Amador Vice President				✓	Osborne S	✓				Amador Vice President					Osborne				
Gonzalez	✓				Quintana	✓				Gonzalez					Quintana				
James	✓				Ramos, Jr.	✓				James					Ramos, Jr.				
Chaneyfield Jenkins	✓				Crump President M	✓				Chaneyfield Jenkins					Crump President				
McCallum, Jr.	✓									McCallum, Jr.									
✓ - Indicates Vote					AB - Absent					NV - Not Voting									

JUN 15 2016

Adopted on first reading at a meeting of the Council of the City of Newark, N.J., on
Adopted on second and final reading after hearing on JUL 07 2016

Approved
Rejected By
Mayor
Council President
City Clerk