



Legislation Text

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ORDINANCE AMENDING TITLE XLI, CHAPTERS 1 THROUGH 5, NEWARK ZONING AND LAND USE REGULATIONS AND NEWARK ZONING MAPS OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY CREATING AN MX-3 ZONE, WHICH WILL ALLOW A BLEND OF HIGH DENSITY RESIDENTIAL AND COMMERCIAL USES.

PUBLIC HEARING TO BE HELD ON DECEMBER 11, 2018

Deferred 6PSF-h 120518

Deferred 6PSF-b (s) 121118

PUBLIC HEARING TO BE HELD ON JANUARY 9, 2019

WHEREAS, the Municipal Council, pursuant to N.J.S.A. 40:55D-62, may adopt or amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, the Municipal Council of the City of Newark is proposing an Ordinance to amend the Newark Zoning and Land Use Regulations (NZLUR), Title XLI of the Municipal Code. This Ordinance proposes the establishment of a new zone, the MX-3 Mixed Use Residential/Commercial (High Density) District.

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

SECTION 1: Title 41, Chapters 1 through 5 of the City of Newark Municipal Code are hereby amended as follows:

Bold and underlined is new text not present in the current zoning ordinance.

Strike through is text deleted from the current zoning ordinance.

Chapter 1. Purpose & Intent Introduction

41:1-2. Introduction to Zones Zoning Districts

MX-3 Mixed-Use 3: Residential & Commercial (High Density)

Mixed Use 3: Residential & Commercial (MX-3) zoning allows for a blend of high density residential and commercial uses in the same building or district, within a half (1/2) mile from Newark Penn Station. It builds upon Newark's strength as a multimodal transportation hub to support the Downtown Core District, expand housing and economic opportunities along the area's major streets and transportation corridors and protect adjacent low-density

neighborhoods. It promotes a walkable neighborhood with a vibrant commercial/retail zone. The district's bulk standards allow taller buildings - up to one hundred forty-five (145) feet high with a minimum lot area per dwelling unit of two hundred (200) square feet.

Commercial development in MX-3 zones allows for ground-floor commercial use with commercial or residential uses above.

MX-3 zoning is applied in areas where there is some existing mix of residential, commercial and industrial uses, such as along Lafayette Street, Union Street and Ferry Street and in under-utilized areas near Newark Penn Station where the predominant use is surface parking, such as along New Jersey Railroad Avenue, Bruen Street, McWhorter Street, Prospect Street and Congress Street.

Learn more about the specific uses that are permitted and prohibited in MX-3 zones in Section 41:4-4. Permitted Uses in Mixed-Use and Other Districts.

Learn more about the size and design of buildings permitted in MX-3 zones in Section 41:5-2. General Bulk and Design Standards.

Chapter 2. Definitions

Artisans and Craft Workspace shall mean space for skilled craft workers, who create things by hand that may be functional or decorative in nature, including, but not limited to: art, furniture, sculptures, clothing and jewelry. The display and sale of these crafts is permitted as an accessory use.

Active Ground Floor Uses shall mean retail, cultural venue, artisans and craft workspaces, live-work units, makers spaces, recreation rooms, entertainment venues, fitness rooms, production areas, and workshops.

Brewery, Limited shall mean a commercial facility, which shall not sell or serve food or operate a restaurant, which brews any malt alcoholic beverage in quantities for which it is licensed by the Alcoholic Beverage Commission pursuant to N.J.S.A. 33:1-10. The limited brewery may sell the product at retail to consumers on the licensed premises of the brewery for consumption on the premises, but only in connection with tours of the brewery, or for consumption off premises in a quantity of not more than 15.5 fluid gallons per person, and to offer samples for sampling purposes only. "Sampling" shall mean the selling at a nominal charge or the gratuitous offering of an open container not exceeding four ounces of any malt alcoholic beverage produced on the premises. In addition, uses which manufacture 10,000 barrels of beverage or less, but do not meet the one or more requirements of N.J.S.A 33:1-10 and N.J.S.A 33:1-12, shall be considered as limited brewery.

Brewery, Restricted shall mean a commercial establishment, commonly known as Brewpub, that brews any malt alcoholic beverage on site and that meets the requirements of N.J.S.A. 33:1-10 and N.J.S.A 33:1-12. The restricted brewery shall operate in conjunction with a "Sit-Down Restaurant", as defined herein. The restricted brewery may not manufacture more than ten thousand (10,000) of thirty-one (31) gallons capacity per year. The restricted brewery may sell, transport and deliver malt alcoholic beverages to wholesalers licensed in accordance with N.J.S.A. 33:1-10.

Commercial Recreation, Small Scale shall mean a building used for recreational purposes and operated as a business and open to the public for a fee, including, but not limited to karate or martial arts studios, dance studios, music instruction, bowling alleys, indoor play areas, recreation centers, and arcades. Facilities larger than three thousand (3,000) square feet shall be considered **“Commercial Recreation, Large Scale”**.

Commercial Recreation, Large Scale shall mean a building, group of buildings or outdoor facilities used for recreational purposes and operated as a business and open to the public for a fee, including **but not limited** to skating and roller rinks, **go-cart raceway**, bowling alleys, pool and billiard halls, indoor batting cages, rock climbing, indoor play areas, sports fields, recreation centers, and indoor swimming pools or tennis courts, arcades, paintball and laser tag.

Living Wall or Green Wall shall mean a wall covered with greenery and vegetation that may include a growing medium, such as soil or a substrate.

Height of Building - measured to the highest point of the roof from the mean elevation of the finished grade from all exterior walls shall mean the vertical distance measured from the mean elevation of the finished grade from all exterior walls to the highest point of the roof.

Live-Work Unit (Non-Nuisance Producing) shall mean a dwelling unit where the living space is separated from the work space. The work space shall be located on the street level and the living space may be located on the street level (behind the work component) or on any other level of the building above the basement. A minimum of one (1) residential unit in a building with live-work use shall be occupied by the person operating the street-level business. The work use shall not be incidental to the dwelling unit, non-resident employees may be present on the premises and customers may be served on site.

Live/work space, includes, but is not limited to: customary home occupations; retail sales; photographic studio; studio for arts, crafts, writing, acting, advertising, industrial design, media facility, architecture, interior design, recording studio; theater, film or video production; gallery, auction house, set shop; lighting, engineering, or musical instrument manufacturing; sheet music printing, framing, arts supply, arts restoration, and neighborhood light manufacturing uses.

Makers Space shall mean a building with multiple live-work spaces producing retail goods (NOT services), that may contain a shared retail sales space located on the street level of the building. The building may also contain rooms for common workshop space, containing tools and equipment to be shared among building residents. This common workshop shall not include and must be separate and apart from any residential unit.

In the case of a makers space, each live-work unit may combine the “work” and “live” components into a single combination workspace/dwelling unit.

All final sales of goods must be confined to the first-floor retail area. Customers may only be served in this first-floor space. The first floor area may also contain a workshop space where residents of the building can hold demonstration workshops or host other events of an educational nature.

Shared Kitchen shall mean any establishment that is used as a place of business for the

exclusive or primary purpose of utilizing, leasing or renting its commercial kitchen space to individuals, or business entities, for food preparation, temporary extra production capacity, menu planning, training, taste testing, product development, food packaging, food storage or any other food-related purpose; and is licensed as per any applicable local, state or federal law.

Usable roof area shall mean the roof area excluding roof area covered by heating, electric and mechanical equipment, solar energy panels, skylights and any other similar appurtenances.

Chapter 3. Zoning Districts

401:3-1. Establishment of zZoning dDistricts

For the purpose of limiting and restricting to specified districts, and regulating therein buildings and structures according to their construction and the nature and extent of their use, and the nature and extent of the use of land, and to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use and extent of use of buildings and structures and land, for trade, industry, residence or other purposes excluding municipally owned and operated or municipally operated buildings and related premises used for governmental purposes, the City of Newark is hereby divided into districts, of which there shall be twenty-two (22) in number, **as more specifically set forth in the zoning map annexed as Exhibit E:**

R-1	Detached Single-Family Residential
R-2	Single- and Two-Family Residential
R-3	One- to Three-Family and Town House Residential
R-4	Low-Rise Multifamily Residential
R-5	Mid-Rise Multifamily Residential
R-6	High-Rise Multifamily Residential
C-1	Neighborhood Commercial
C-2	Community Commercial
C-3	Regional Commercial
I-1	Light Industrial
I-2	Medium Industrial
I-3	Heavy Industrial
MX-1	Mixed Use, Residential/Commercial
MX-2	Mixed Use, Residential/Commercial/Industrial
MX-3	<u>Mixed Use, Residential/Commercial (High Density)</u>
EWR	Airport
EWR-S	Airport Support
PORT	Port
INST	Institutional
PARK	Park
CEM	Cemetery

RDV/SD Redevelopment Zones and Special Districts

Chapter 4: Permitted Uses by District

401:4-4. Permitted Uses in Mixed-Use and Other Districts

Table 4-4: Mixed-Use & Other Districts						
P = Permitted - = Not Permitted C = Conditional Use Only Any use not listed below is also prohibited						
	MX-1	MX-2	MX-3*	INST	PARK	CE M
Principal Uses						
Single-Family Dw	P	P	-	-	-	-
Two-Family Dw	P	P	-	-	-	-
Three-Family Dw	P	P	-	-	-	-
Town House, Dw	P	P	-	P	-	-
Low-Rise Multi-F	P	P	P	P	-	-
Mid-Rise Multi-F	-	-	P	P	-	-
High-Rise Multi-	-	-	P	-	-	-
Artisans and C	-	P	P	-	-	-
Artist Live/Work	-	C	-	-	-	-
Active Recreatio	P	P	P	P	P	-
Animal Boarding	-	C	-	-	-	-
Animal Daycare	C	C	C	-	-	-
Automobile Rep-	-	P	-	-	-	-
Bar/Lounge, Cig- Standards)	-	-	-	-	-	-
Bars, Taverns, LC	C	C	C	-	-	-
Body Art Studio	-	C	-	-	-	-
Brewery, Limite	-	P	P	-	-	-
Brewery, Restr	P	P	P	-	-	-
Business, Spec	-	P	P	-	-	-
Cemeteries (Se-	-	-	-	-	-	P
Child Care Cent	P	P	P	P	-	-
Colleges and Ur-	-	-	-	P	-	-
Commercial Rec-	-	P	P	-	-	-
Commercial Re	P	P	P	-	-	-
Community Cen	P	P	P	P	-	-
Community Gar	P	P	-	P	P	-

Consignment St	P	P	<u>P</u>	-	-	-
Consumer Repa	P	P	<u>P</u>	-	-	-
Convenience Re	P	P	<u>P</u>	P	-	-
Data Center	-	P	<u>P</u>	-	-	-
Dormitory	-	-	-	P	-	-
Dry Cleaning an	C	C	<u>C</u>	C	-	-
Emergency Foo	C	C	-	-	-	-
Finance, Insura Consumer Servi	P	P	<u>P</u>	-	-	-
Fish, Meat and	P	P	<u>P</u>	-	-	-
Fitness Centers	P	P	<u>P</u>	P	-	-
Fresh Food Mar	P	P	<u>P</u>	P	-	-
Funeral Home o	C	C	-	-	-	-
Government (No	-	P	<u>P</u>	P	-	-
Homeless Shelt	C	C	-	C	-	-
Hospital or Med	-	-	-	P	-	-

***In MX-3, for residential and commercial uses, building height shall not exceed 145 feet, inclusive of structured parking. For properties bordering on Ferry Street, no portion of any building within 100 feet of Ferry Street shall exceed 5 stories or 60 feet. All dwelling units fronting on Ferry Street shall be located above ground floor retail, office or service use.**

Table 4-4: Mixed-Use & Other Districts						
P = Permitted - = Not Permitted C = Conditional Use Only Any use not listed below is also prohibited						
	MX-1	MX-2	MX-3	INST	PARK	CE M
Principal Uses (continued)						
Hotels (See Sec	-	-	<u>P</u>	-	-	-
Laundromat	P	P	<u>P</u>	-	-	-
Live-Work Unit	-	-	<u>P</u>	-	-	-
Makers Space	-	-	<u>P</u>	-	-	-
Manufacturing, I	-	P	<u>P</u>	-	-	-
Massage Facilit	C	C	<u>C</u>	-	-	-
Medical Clinic o	-	P	<u>P</u>	-	-	-
Medical Offices	P	P	<u>P</u>	-	-	-
Methadone Mai	-	C	-	-	-	-
Municipal Uses	P	P	<u>P</u>	P	-	-
Museums	-	-	-	P	-	-
Offices	P	P	<u>P</u>	P	-	-

Passive Recrea	P	P	<u>P</u>	P	P	-
Personal Servic	P	P	<u>P</u>	-	-	-
Places of Worsh	C	C	<u>C</u>	C	-	-
Primary and Sec	C	C	<u>C</u>	C	-	-
Private Clubs (S	C	-	<u>C</u>	-	-	-
Recycling Cente	-	C	-	-	-	-
Resale or Thrift	C	C	<u>C</u>	-	-	-
Research and D-	-	P	<u>P</u>	P	-	-
Retail Sales, Ge	P	P	<u>P</u>	P	-	-
Shared Kitcher	P	P	<u>P</u>	<u>P</u>	-	-
Sit-Down Resta	P	P	<u>P</u>	-	-	-
Substance Abus-	-	C	-	-	-	-
Supermarket	P	P	<u>P</u>	-	-	-
Take-Out Resta	P	P	<u>P</u>	-	-	-
Theater	-	-	<u>P</u>	P	-	-
Veterinary Clinic	-	C	<u>C</u>	-	-	-
Warehousing, W-	-	P	-	-	-	-
Wholesale Bake-	-	P	-	-	-	-

Table 4-4: Mixed-Use & Other Districts

P = Permitted - = Not Permitted C = Conditional Use Only Any use not listed below is also prohibited

	MX-1	MX-2	MX-3	INST	PARK	CE M
Accessory Uses						
Automotive Lifts	-	P	-	P	-	-
Child Care Cent	P	P	<u>P</u>	P	-	-
Coldframe	P	P	-	P	P	-
Columbarium	-	-	-	-	-	P
Composting (Se	P	P	-	P	P	P
Crematorium, Ar	-	-	-	-	-	C
Crematorium, H-	-	-	-	-	-	C
Donation Bin (Se	P	P	-	P	-	-
Emergency Food	C	C	<u>C</u>	-	-	-
Farm Stand	P	P	<u>P</u>	P	-	-
Greenhouse	P	P	<u>P</u>	P	P	-
Home Occupatio	P	-	<u>P</u>	-	-	-
Home Professio	C	C	<u>C</u>	-	-	-
Hoophouse	P	P	<u>P</u>	P	P	-

Maintenance Bu-	-	-	-	P	P	P
Massage Faciliti	C	C	<u>C</u>	-	-	-
Mausoleum	-	-	-	-	-	P
Mausoleum, Far-	-	-	-	-	-	P
Offices	P	P	<u>P</u>	P	-	P
Outdoor storage-	-	C	-	C	-	C
Parking, Structur	P	P	<u>P</u>	-	-	-
Parking, Garage	P	P	-	-	-	-
Place of Worship-	-	-	-	-	-	P
Sidewalk Café (a	P	P	<u>P</u>	P	-	-
Section 401:4-6.						
Solar Energy Sy	C	C	<u>C</u>	C	-	C
Solar Energy S	P	P	<u>P</u>	P	-	-
41:4-6. Additiona						
Tombstones and-	-	-	-	-	-	P
Wind Energy Sy	C	C	<u>C</u>	C	C	C

***In MX-3 Structured Parking shall not exceed two(2) stories in height, and total building height shall not exce**

401:5-1. Permitted Building Types by Zoning District

Table 5.1. Building Types Permitted by Zone																	
P = permitted, see Bulk & Design requirements Note: This table pertains only to building design requirements and not																	
BUILD	R1	R2	R3	R4	R5	R6	C1	C2	C3	I1	I2	I3	MX-1	MX-2	MX-3*	INS T	EWR-
RESIDENTIAL																	
One-fa	P	P	P	P									P	P			
Two-fa		P	P	P									P	P			
Three-			P	P									P	P			
Townh		P	P	P									P	P		P	
Low-ri				P	P	P	P						P	P	<u>P</u>	P	
Four-f																	
Mid-ri					P	P									<u>P</u>	P	
High-ri						P									<u>P</u>		
COMMERCIAL																	
Ground comm comm reside				P	P	P	P	P	P				P	P	<u>P</u>	P	
Detac									P	P			P	P	<u>P</u>		P
INDUS										P	P	P		P			P
CIVIC/INSTITUTIONAL																	

Table 5.-32. General Bulk & Design Standards

	Min Lot Size for Subdivision	Min Lot Width for Subdivision	Max Building Height	Front Yard	Side Yard	Min Rear Yard	Min Lot Area per Dwelling	Max Lot Coverage by Building
High-rise multifamily Dwellings in all permitted zones with the exception of MX-3 <u>Zone: for high-rise multifamily with active ground floor, use Ground-floor commercial with commercial or residential above standards.</u>	10000 square feet	100 feet	10 stories and 120 feet. An additional 1 story per 12 feet of height shall be permitted for each additional 1,000 SF of lot area up to 20,000 SF, for a maximum height of 20 stories and 243 feet..	Front setback shall be shorter front setback than two closest principal buildings on same block as the project. For through lots, see Note 2 in this Chapter. For lots, see Note 4 in this Chapter.	10 feet minimum	30 feet	300 SF/du	60%
Ground-floor commercial with commercial or residential above *For ground-floor commercial with commercial or residential above in residential districts, see the following standards: <u>In R-4 - low-rise multifamily.</u> <u>In R-5 - mid-rise multifamily.</u> <u>In R-6 - high-rise multifamily.</u>	3,500 square feet <u>In MX-3: 10,000 square feet</u>	35 feet <u>In MX-3: 100 feet</u>	In C1 district: 4 stories and 48 feet. In C2 district: <u>minimum 2 stories and maximum 5 stories and 60 feet</u> . In C3 and INST districts: 8 stories and 96 feet. In MX-1 & MX-2 districts: 4 stories and 48 feet. <u>In MX-3 districts: In MX-3, building height shall not exceed 145 ft. A 10-foot setback is required after 8 stories or 96 feet along all front street facing facades.</u>	Minimum: 0 feet. <u>In MX-3: Front setback shall match the front setback of closest principal buildings on each side of the site or 6 feet prevailing setback.</u> Regarding exceptions: windows, balconies, porches, and other architectural changes see Note 2 in this Chapter. For lots, see Note 4 in this Chapter.	<u>0 feet minimum and maximum in MX-3: 5 feet minimum for buildings up to 8 stories and 10 feet minimum for buildings more than 8 stories tall.</u>	Abutting a residential district or residential use: 25 feet. Abutting a non-residential district: 20 feet.	In C1, <u>MX-1, and MX-2</u> districts: 580 SF/du. In C2 district: 340 SF/du. In C3 and INST districts: 310 SF/du. <u>In MX-3 zone: 200 SF/du; 150 SF/du if 50% of the total units are 1 bedroom and/or studio units; 130 SF/du if 75% of the total units are 1 bedroom and/or studio units.</u>	80% <u>In MX-3 zone: 85%</u>

	Max Impervious (Paved) Yard Area	Min Building Transparency	Orientation of primary entrance	Active Ground Floor Requirements
High-rise multifamily	Front Yard: 55% Rear Yard: 30%	Primary Front Façade: 50% <u>40% in MX-3</u> . Secondary Street-Facing Side Façade & Rear Façades: 35%. Non-Street-Facing Façades: 20% or the maximum allowed by construction code, whichever is greater. All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement. If there is retail, office or personal services on the ground floor between zero (0) and 14 feet, the front façade must have 65% transparency.	Primary street-facing façade must include primary entrance. All units must be accessible from front or side façade. Rear primary entrances are prohibited. If there is one or more units of retail, office, or personal services on the ground floor between zero (0) and 14 feet, each unit must have its own primary entrance on the street-facing façade.	If there is one or more units of retail, office or personal services on the ground floor, the ground floor shall have a 14 feet <u>max min</u> , floor-to-floor height.

<p>Ground-floor commercial with commercial or residential above</p>	<p>Front Yard: n/a Rear Yard: 50% In MX-3 zone: Front Yard: 55% Rear Yard: 30%</p>	<p>Ground-level street-facing façade below 14 feet in height: 65% Ground-level windows must allow views of indoor non-residential space or product display areas. Corner uses having frontage on two streets shall meet this requirement for each of the street frontages. Primary Front Façade (excluding ground-level façade): 40% in MX-3 and 50% in all other zoning districts Street-Facing Side & Rear Façades: 35% Non-Street-Facing Walls: 15% All transparent glazing areas on door panels count towards this requirement, but door panels themselves do not count towards this requirement. Reflective, mirrored, smoked and dark tinted glass are prohibited on façades facing a public street.</p>	<p>Primary street-facing façade must include primary entrance. Buildings may have more than one principal façade and/or entry. Entries to non-residential uses shall have their own individual entrance from a sidewalk or walkway; mall-style interior retail entrances are prohibited.</p>	<p>Ground floor shall have a 14 feet min floor-to-floor height. In MX-3 zone: Active ground floor with active streetfront design required for all building frontages.</p>
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Note: In MX-3 additional sustainability standards shall apply, see section 41:5-3.

41:5-3: Additional sustainability standards for MX-3.

The following standards shall apply for building over eight (8) stories high:

1. **Provide open spaces (greens, squares, plazas, courts and pocket parks/playgrounds) equal to ten percent (10%) of total lot area or ten percent (10%) of the ground-floor floor area whichever is greater on the site, with public access directly from the sidewalk at ground level or from the public right of way. Open space must meet landscaping and other design requirements as listed in this ordinance.**
2. **Provide green roof equal to fifty percent (50%) or more of the total Usable Roof Area including both principal and accessory structures.**
3. **Provide a Living Wall or Green Wall equal to 300 square feet or more.**
4. **Install appropriate gray water recycling system so that onsite gray water is reused for landscaping maintenance and other non-potable systems.**
5. **Incorporate additional on-site stormwater management measures and Low Impact Development (LID) strategies, that reduces stormwater flow generated from proposed development, including all proposed graded and fill areas, by fifty percent (50%) or greater. The plans must provide calculations showing stormwater runoff rates of development with the new stormwater management measures and without them.**
6. **All new electrical or electronic appliances provided by the developer, owner or management Company shall meet Energy Star compliant requirements.**
7. **Provide one (1) bicycle parking space for every five (5) residential units.**
8. **Provide one (1) electric vehicle charging station for every ten (10) parking spaces.**

List of Attached Exhibits

- 1) Exhibit A - Map 1: Rezoning Boundary
- 2) Exhibit B - Map 2: Existing Zoning
- 3) Exhibit C - Map 3: Proposed Zoning
- 4) Exhibit D - Map 4: Existing Land Uses (Newark Master Plan)
- 5) Exhibit E - Map 5: Proposed Land Uses

SECTION 2:

Severability: If any Section, Subsection, sentence, clause, phrase or portion of these Chapters are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3:

Repealer: All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4:

This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance amends and supplements the City of Newark's Zoning and Land Use Regulations Ordinance and Newark Zoning Maps, Title XLI, Chapters 1 through 5, to create an MX-3 Zone, which will allow a blend of high density residential and commercial uses.