

ORDINANCE NO. 539

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK REPEALING AND REPLACING CHAPTERS 15.02, 15.08, 15.09, 15.10, 15.12, 15.16, 15.17, 15.18, 15.20, 15.22, AND 15.23 OF TITLE 15 “BUILDINGS AND CONSTRUCTION” OF THE NEWARK CITY MUNICIPAL CODE IN ORDER TO ADOPT BY REFERENCE, WITH MODIFICATIONS TO ADDRESS UNIQUE LOCAL CONDITIONS, THE 2022 EDITIONS OF THE CALIFORNIA BUILDING CODE, THE CALIFORNIA ADMINISTRATIVE CODE, THE CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA FIRE CODE, THE ELECTRICAL CODE, THE CALIFORNIA HISTORICAL BUILDING CODE, THE CALIFORNIA ENERGY CODE, AND THE CALIFORNIA REFERENCED STANDARDS CODE.

WHEREAS, the California Building Standards Commission has adopted a new Title 24 of the California Code of Regulations, also referred to as the 2022 California Building Standards Code, that will become effective statewide on January 1, 2023; and

WHEREAS, currently Title 15 “Buildings and Construction” Article I “Building Regulations” of the City of Newark Municipal Code adopted the building standards contained in the 2019 versions of the California Building Code, the California Residential Code, the California Fire Code, the California Green Building Standards Code, the California Plumbing Code, the California Mechanical Code, and the California Electrical Code, California Administrative Code, as such Codes are approved by the State Building Standards Commission (collectively, the “California Building Standards Code”); and

WHEREAS, the updated California Building Standards Code becomes effective within the City on January 1, 2023, and Title 15 is updated by default to incorporate the California Building Standards Code without local amendments; and

WHEREAS, Section 17922 of the California Health and Safety Code requires local agencies to adopt the building standards contained in the California Building Standards Code; and

WHEREAS, Section 17958.7 of the California Health and Safety Code allows local agencies to enact modifications to those building standards provided that such modifications are reasonably necessary because of local climatic, geological or topographical conditions so long as a local agency adopts such findings; and

WHEREAS, the City adopted findings, by resolution, justifying local modifications based on local climatic, geologic, and topographic conditions; and

WHEREAS, a duly noticed public hearing was advertised as required by Government Code sections 6066 and 65090; and

WHEREAS, the City Council held a public hearing related to this Ordinance on November 10, 2022 and considered the staff report and public testimony received; and

WHEREAS, the City Council finds that no additional environmental review is necessary because this Ordinance is not a project that has the potential to cause substantial or potentially substantial, adverse change in the environment and qualifies for an exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), and further, the Ordinance establishes standards for the approval of ministerial projects that are not themselves subject to CEQA review; and

WHEREAS, the City Council finds that the adoption of 2022 Edition of the California Building Standards Code helps protect public health, safety, and welfare.

THE CITY COUNCIL OF THE CITY OF NEWARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The forgoing Recitals are true and correct and incorporated herein by this reference.

SECTION 2. Code Revisions.

Chapters 15.02,15.08, 15.09, 15.10, 15.12, 15.16, 15.17, 15.18, 15.20, 15.22, and 15.23 of Title 15, Buildings and Construction, of the Newark Municipal Code are hereby repealed and replaced in their entirety by the following:

Title 15
BUILDINGS AND CONSTRUCTION

Article:

I. Building Regulations

- 15.02 Administrative Code
- 15.08 Building Code
- 15.09 Residential Code
- 15.10 Mechanical Code
- 15.12 Electrical Code
- 15.16 Plumbing Code
- 15.17 Fire Code
- 15.18 California Referenced Standards Code
- 15.20 California Historical Building Code
- 15.22 California Energy Code
- 15.23 California Green Building Standards Code

Chapter 15.02

ADMINISTRATIVE CODE

Sections

15.02.010 California Administrative Code adopted by reference.

A certain document, entitled “2022 California Administrative Code,” Chapters 1 through 13 inclusive, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Administrative Code, is adopted by reference as the building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.08

BUILDING CODE

Sections

- 15.08.010 California Building Code adopted by reference.**
- 15.08.020 Amendments.**
- 15.08.042 Licensed professional.**
- 15.08.060 Drainage disposal.**

15.08.010 California Building Code adopted by reference.

A certain document, entitled “2022 California Building Code, Volumes 1 and 2,” including Appendix Chapter F relating to rodent proofing, Appendix Chapter I relating to patio covers, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Building Code, is adopted by reference as the building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter which includes all items adopted by BSC, SFM, HCD1, HCD2, HCD1/AC, and DSA/AC of the adoption matrices.

15.08.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

- A. Section 402.5 dealing with automatic fire sprinkler systems in malls is amended by deleting the exception.
- B. Section 404.3 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.
- C. Section 410.6 dealing with automatic sprinkler systems at stages is amended by deleting all exceptions.
- D. Section 501.2, which deals with address identification, by adding; Addressing shall also comply with Chapter 15.06.110 of Newark’s Municipal Code.
- E. Section 903.2, 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.10, 903.2.13 are amended to read as follows and 903.2.22 is added to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in locations described in Sections 903.2.1 and 902.2.13.

903.2.1 Group A Occupancies. An automatic sprinkler system shall be installed in all Group A occupancies exceeding 1000 square feet.

903.2.2 Ambulatory care facilities. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis or where one or more care recipients are incapable of self-preservation. Shall have installed and maintained in an operable condition throughout the entire building an automatic fire sprinkler system.

903.2.3 Group E Occupancies. An automatic sprinkler system shall be installed in all Group E Occupancies exceeding 1000 square feet.

903.2.4 Group F Occupancies. An automatic sprinkler system shall be installed in all Group F occupancies exceeding 1000 square feet.

903.2.7 Group M Occupancies. An automatic sprinkler system shall be installed in all Group M occupancies greater than 1000 square feet.

903.2.8 Group R Occupancies. An automatic sprinkler system shall be installed in all Group R occupancies.

903.2.9 Group S-1. An automatic sprinkler system shall be installed in all S-1 occupancies exceeding 1000 square feet.

903.2.10 Group S-2. An automatic sprinkler system shall be installed in all S-2 occupancies exceeding 1000 square feet.

903.2.2.22 Group B and U occupancies. An automatic sprinkler system shall be installed in all B and U occupancies exceeding 1000 square feet.

15.08.042 Licensed professional.

While the nature of the work applied for affects the safety of a building or its occupants, design documents shall be prepared by an engineer or architect licensed by the state to practice as such as required by State of California Business and Professions Code Sections 5500 and 6700. In other buildings the Building Official is authorized to require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.

Chapter 15.09

RESIDENTIAL CODE

Sections

- 15.09.010 California Residential Code adopted by reference.**
15.09.020 Amendments.

15.09.010 California Residential Code adopted by reference.

A certain document, entitled 2022 California Residential Code published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Residential Code, is adopted by reference as the residential code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, adopt chapters 1 through 10, chapter 44, and appendix AK except as modified in this chapter including.

15.09.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

- A. Section R301.1.3.2 is amended by adding the following section;
R301.1.3.2.1 Woodframe structures two stories in height. The building official is authorized to require the structural portions of construction documents to be prepared, stamped and signed by a California licensed architect, civil engineer, or structural engineer for all dwellings with two stories.
- B. Section R313 dealing with automatic fire sprinkler systems is amended follows;
a. R313.1 deleting the exception,
b. R313.2 replacing Exception 1 with:

An automatic sprinkler system shall be required where additions or alterations result in either of the following conditions:

More than 50% of the exterior walls and the roof are being removed or replaced.

Where an addition to a single-family home or townhome results in a square footage exceeding 3600 square feet.

- C. Section R328.8 Protection from impact is amended as follows;
R328.8 Protection from impact. ESS installed in a location subject to vehicle damage in accordance with R328.8.1 or R328.8.2 or as declared by the Building Official shall be provided with impact protection in accordance with section R328.8.3.

- D. Section R328.8.1 Garages is amended as follows;
 - a. Deleting the “(See Figure R328.8.1)” reference.
 - b. Item 1 is replaced with “On the interior face of the back wall and/or located within 36 inches (914 mm) to the left or to the right of the normal driving path.”
 - c. Deleting the exception.

- E. Section R328.8.3 Impact protection options, option 2.2 is amended by adding the following; Premanufactured wheel barriers shall be placed 54” in front of the ESS and designed for resisting 2000-lb impact.

- F. Chapter 10 dealing with chimneys and fireplaces is amended by adding the following section:

R1000 Prohibited Fireplaces. Open hearth masonry and factory built wood burning fireplaces are prohibited. Prohibition applies to new construction, additions, and existing fireplace replacements.

Chapter 15.10

MECHANICAL CODE

Sections:

15.10.010 California Mechanical Code adopted by reference.

15.10.030 Temporary connection of natural gas utilities.

15.10.010 California Mechanical Code adopted by reference.

A certain document entitled, “2022 California Mechanical Code,” including Appendix B and C, published by the International Association of Plumbing and Mechanical Officials and amended and adopted by the state of California as the 2022 edition California Mechanical Code, is adopted by reference as the Mechanical Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.10.030 Temporary connection of natural gas utilities.

The Building Official may authorize temporary connection of natural gas utilities for a construction project prior to final inspection approval and issuance of the Certificate of Occupancy. The request for such connection shall be in writing on a form provided by the City. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed, and a statement, signed by the property owner and tenant of the premises, authorizing the City to disconnect the natural gas utilities if final inspection approval and Certificate of Occupancy have not been issued by the expiration date of the request.

Chapter 15.12

ELECTRICAL CODE

Sections:

- 15.12.010 California Electrical Code adopted by reference.**
- 15.12.090 Temporary connection of electric utilities.**
- 15.12.120 Building official authority.**
- 15.12.140 Maintenance Permit.**
- 15.12.190 Connection to installation.**

15.12.010 California Electrical Code adopted by reference.

A certain document, entitled “2022 California Electrical Code,” published by the National Fire Protection Association amended and adopted by the state of California as the 2022 edition California Electrical Code, is adopted by reference as the electrical code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter, including adoption per matrices by BSC, HCD-1, HCD-2, DSA-AC, and entirety of Articles 110, 517, and 550.

15.12.090 Temporary connection of electric utilities.

The building official may authorize temporary connection of electric utilities for a construction project prior to final inspection approval and issuance of the certificate of occupancy. If required by the Building Official the request for such connection shall be in writing. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed and a statement, signed by the property owner, tenant of the premises, or contractor, authorizing the city to disconnect the electric utilities if final inspection approval and certificate of occupancy have not been issued by the expiration date of the request.

15.12.120 Building official authority.

A. The building official is authorized to disconnect or order discontinuance of electrical service to any electric wiring, devices, appliances or equipment found to be in violation of this chapter under any of the following conditions:

1. Failure of the owner or his agent to secure the required electrical permit;
2. Hazardous electrical work found to be dangerous to life or property due to defective wiring, devices, appliances or equipment;
3. Electrical work connected to service without the approval of the building official.

B. Any order issued pursuant to this section may be made either to the person using and maintaining the condition or to the person responsible for its use and maintenance and shall specify the date or time for compliance with its terms.

15.12.190 Connection to installation.

- A. It is unlawful for any person, firm or corporation to make connection from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment for the installation of which a permit is required, unless such person, firm or corporation has obtained a certificate of approval issued by the building official.
- B. It is unlawful for any person, firm or corporation to make connections from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered by the building official to be discontinued until a certificate of approval has been issued by authorizing the reconnection and use of such wiring, devices, appliances or equipment. The building official shall notify the serving utility of the order to discontinue use.
- C. When electrical service to a commercial occupancy or place of employment is de-energized for any reason, approval of the building official must be secured by the serving utility prior to re-energizing of said service. "Commercial occupancy" or "place of employment," for the purposes of this chapter, shall include dwellings used as model homes and/or tract offices.
- D. Any order issued pursuant to this section shall be in writing and shall be made to the person, firm or corporation using and maintaining the condition or to the person, firm or corporation responsible for its use and maintenance, and to the utility company providing the service. Delivery of the order shall be accomplished upon deposit in the United States mail or written notice directed to the person, firm or corporation using, maintaining or responsible for the use and maintenance of the condition at the last known address of the person, firm or corporation. Failure to comply with the order of the building official, as set out above, is a misdemeanor subject to the penalties as set out in Chapter 15.28 of this title.

Chapter 15.16

PLUMBING CODE

Sections:

- 15.16.010 California Plumbing Code adopted by reference.**
- 15.16.020 Amendments.**

15.16.010 California Plumbing Code adopted by reference.

A certain document entitled, “2022 California Plumbing Code,” including all Appendix Chapters published by the International Association of Plumbing and Mechanical Officials and adopted by the state of California as the 2022 edition California Plumbing Code, is adopted by reference as the Plumbing Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.16.020 Amendments.

The California Plumbing Code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

- A. Section 412.3 Added stating, In public multiple accommodation toilet rooms urinals shall be located so the urinal and the person using the urinal can not be viewed from outside the toilet room.
- B. Section 422.2 dealing with separate toilet facilities is amended by adding the following.
422.2.3 Single Use, Family or Assisted-Use , and Gender Neutral/All-Gender. The total count for single use facilities shall be calculated as the full occupant load counted as females in the use/occupancy of the space per table 422.1.
- C. Section 612 dealing with residential fire sprinkler systems is amended to read: Refer to Chapter 15.09 of the Newark Municipal Code.
- D. Section 1101.12 dealing with roof drains is amended by adding the following:
1101.12.3 Roof Drainage Discharge. Roof drainage shall discharge to an approved location by the City Engineer.

Chapter 15.17

FIRE CODE

Sections

15.17.010 California Fire Code adopted by reference.

15.17.020 Amendments.

15.17.010 California Fire Code adopted by reference.

A certain document, entitled “2022 California Fire Code” including Sections 104, 113, 311.2, 503, Appendix Chapter D relating to fire apparatus access roads, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Fire Code, is adopted by reference as the fire code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.17.020 Amendments.

- A. Section 104.6 Official Records is amended by replacing it in its entirety with the following:

The fire department shall keep a record of fires occurring within the City of Newark and of facts concerning the same, including statistics as the extent of such fires and the damage caused thereby.

The City of Newark shall keep the records of approvals, inspections, permits, and alternative means.

- B. Chapter 2, Definitions is amended by adding the following definitions:

Fire Department. The City of Newark Fire Department or a duly authorized fire department as contracted by the City of Newark.

Alarm User. An alarm user means any person of whose premises an alarm system is maintained within the City.

- C. Chapter 2, Definitions is amended by replacing the following definitions:

False Alarm. A false alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, maintenance or operation or the negligence of the owner, lessee, or their employees or agents. Such terminology does not include, for example, alarm activation caused by earthquakes, violent storms, power fluctuations, or other violent uncontrollable acts or nature.

Fire Code Official. The Fire Code official shall be appointed by the Fire Chief of the jurisdiction.

D. Section 903.2, 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.10, 903.2.13 are amended to read as follows and 903.2.22 is added to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in locations described in Sections 903.2.1 and 902.2.13.

903.2.1 Group A Occupancies. An automatic sprinkler system shall be installed in all Group A occupancies exceeding 1000 square feet.

903.2.2 Ambulatory care facilities. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis or where one or more care recipients are incapable of self-preservation. Shall have installed and maintained in an operable condition throughout the entire building an automatic fire sprinkler system.

903.2.3 Group E Occupancies. An automatic sprinkler system shall be installed in all Group E Occupancies exceeding 1000 square feet.

903.2.4 Group F Occupancies. An automatic sprinkler system shall be installed in all Group F occupancies exceeding 1000 square feet.

903.2.7 Group M Occupancies. An automatic sprinkler system shall be installed in all Group M occupancies greater than 1000 square feet.

903.2.8 Group R Occupancies. An automatic sprinkler system shall be installed in all Group R occupancies.

903.2.9 Group S-1. An automatic sprinkler system shall be installed in all S-1 occupancies exceeding 1000 square feet.

903.2.10 Group S-2. An automatic sprinkler system shall be installed in all S-2 occupancies exceeding 1000 square feet.

903.2.2.22 Group B and U occupancies. An automatic sprinkler system shall be installed in all B and U occupancies exceeding 1000 square feet.

E. Section 903.6 dealing with the requirement for fire sprinkler systems in existing buildings and structures is amended by replacing subsection 903.6 in its entirety with the following:

903.6 Where Required. An automatic sprinkler system shall be provided in existing buildings and structures when required by Chapter 11, another section of this code, or when one of the following conditions exists:

More than 50% of the exterior walls and the roof are being removed or replaced.

Where the occupancy of an existing building changes to include H, I, L, S-1, or S-2.

Where an addition to a single-family home or townhome results in a square footage exceeding 3600 square feet.

F. Section 907 Fire Alarm and Detection Systems is amended by adding the following:

907.11 False Alarms

907.11.1 Malfunctions of any sprinkler alarm, or other fire protection or emergency alarm system resulting in an alarm and emergency dispatch of the Fire Department will be subject to a “false alarm” fee as established by resolution of the City Council.

907.11.2 During the thirty days following any new alarm installation, the Fire Code Official shall determine if the false alarms emanating from such new installation are excessive.

907.11.3 After the initial thirty day period following a new alarm installation, more than three false alarms within a calendar year are excessive and will be charged as false alarms.

G. Section 914.2.1 dealing with automatic fire sprinkler system in malls is amended by deleting the exception.

H. Section 914.4.1 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.

I. Section 914.6.1 dealing with automatic fire sprinkler systems at stages is deleted.

J. Chapter 56 is amended by adding Section 5614 as follows.

5614 Fireworks

5614.1 Definitions. For the purpose of this Chapter the phrases “fireworks,” “dangerous fireworks,” and “safe and sane fireworks” shall have the meanings ascribed to them in Sections 12511, 12505, and 12529 of the Health and Safety Code of the state of California.

5614.2 Storage of safe and sane fireworks:

5614.2.1 Safe and sane fireworks in excess of five pounds shall not be stored at any one location in the City of Newark.

EXCEPTIONS:

1. A maximum of one day's sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Article.
2. If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.
3. Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.
4. The City Community Development Director shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

5614.3 Prohibition

5614.3.1 The manufacture, sale, or discharge of safe and sane fireworks within the jurisdictional area is prohibited except under special permits as are required by local and state regulations.

EXCEPTIONS

1. A permit is not required for the discharge of safe and sane fireworks as described in Section 12529 of the Health and Safety Code.
2. Nothing in this section shall be construed to prohibit the discharge of safe and sane fireworks by railroads or other transportation agencies for signal purposes of illumination, or discharge of blank cartridges for a show or theater, or for use by military organizations.

5614.4 Sale of safe and sane fireworks

5614.4.1 Annual permit required: any organization desiring to sell or to offer for sale safe and sane fireworks shall annually make application to the Fire Code Official for a permit to sell safe and sane fireworks.

5614.4.2 Application for Permit:

1. Shall be made in writing at the office of the Fire Marshal of the City of Newark, accompanied by the permit fee.
2. Shall be made during regular office hours, between the fifteenth day of April and the fifteenth day of May of each year.

3. Shall set forth the proposed location of the safe and sane fireworks stand applied for.
4. Shall be accompanied by an assurance that if the permit is issued to the applicant, applicant shall, at the time of receipt of such permit, deliver to the Fire Code Official a general liability insurance policy or endorsement adding or specifying the City, its officers, employees, and volunteers as “insureds” and within the scope and limits as set by the Fire Chief.

5614.5 Annual Permit. An annual permit shall only be issued to any organization meeting the following requirements:

5614.5.1 Nonprofit organization organized primarily for veteran, patriotic, welfare, youth activity, civic betterment, or charitable purpose within the City of Newark.

5614.5.2 The organization shall have its principal place of business and permanent meeting place within the City limits of the City of Newark.

5614.5.3 The organization shall have been organized for a minimum of one (1) year continuously preceding the filing of the application for the permit.

5614.5.4 The organization shall have at least twenty (20) regular and active participants, volunteers, or members with a minimum of fifty percent (50%) of those regular and active participants, volunteers, or members being bona fide residents of the City of Newark. For purposes of this section, a “member” need not be a “member” as defined by California Corporations Code Section 5056.

5614.5.5 The organization shall obtain a business license from the City of Newark.

5614.6 Operation of Stand

5614.6.1 No person other than the permittee organization shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.

5614.6.2 No person other than individuals who are members, regular and active participants, volunteers, or other persons supportive of the activities of the permittee organizations, or a spouse or adult child of such a person, shall sell or otherwise participate in the sale of safe and sane fireworks at such stand.

5614.6.3 No person shall be paid any money or other consideration for selling or otherwise participating in the sale of safe and sane fireworks at such stand.

5614.6.4 All retail sales of safe and sane fireworks shall be permitted only from within a temporary safe and sane fireworks stand. The sale from any other building or structure is hereby prohibited.

5614.7 Temporary Safe and Sane fireworks Stands

5614.7.1 No safe and sane fireworks stand shall be located within 25 feet of another building or within 100 feet of any flammable liquid or gas storage or dispensing unit.

5614.7.2 All safe and sane fireworks stands shall be erected in a manner approved by the Fire Marshal in order to reasonably ensure the safety of attendants and patrons.

5614.7.3 No stand shall have a floor area in excess of 300 square feet.

5614.7.4 Each stand shall have at least two remote exits three feet in width and not less than six feet eight inches in height. All doors shall swing out.

5614.7.5 Each stand shall be provided with two 2-A rated fire extinguishers bearing a valid inspection tag and in good working order. Extinguishers shall be easily accessible for use in case of fire.

5614.7.6 “No smoking” signs shall be conspicuously posted at the stand.

5614.7.7 Merchandise shall be displayed in such a manner that it cannot be handled by patrons reaching over the selling counter or through other openings in the stand.

5614.7.8 All electrical wiring will require a permit from the City Building Inspection Division prior to any installation.

5614.7.9 Decorative material, canvas tops, screening, etc., shall be flame retardant or rendered to the satisfaction of the Fire Code Official.

5614.7.10 All weeds and combustible material shall be cleared from within a 25 foot minimum area surrounding the stand.

5614.7.11 Each stand shall be located only at those locations in compliance with the City Zoning Ordinance.

5614.7.12 A maximum of one day’s sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Chapter.

5614.7.13 If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.

5614.7.14 Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.

5614.7.15 The Fire Code Official shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

5614.8 General Requirements

5614.8.1 The sale of safe and sane fireworks shall be from 12:00 noon to 9:00 p.m. on the 28th day of June and 8:00 a.m. to 9:00 p.m. June 29 through July 4. The use of safe and sane fireworks shall be from midnight June 30 to midnight July 4.

5614.8.2 All unsold stock and accompanying litter shall be removed from the location by 12 Noon on the sixth day of July.

5614.8.3 The safe and sane fireworks stand shall be removed from the location by the twelfth of July.

5614.8.4 The sale of safe and sane fireworks shall not be made to any person or persons under the age of 18.

5614.8.5 Prior to the sale, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), the permittee shall require the prospective purchaser to show proof of age by displaying a motor vehicle operator's license, a registration certificate issued by the Federal Selective Service Act, an identification card issued to a member of the Armed Forces, or a similar document bearing the picture or likeness of the purchaser. Any permittee that sells safe and sane fireworks to any person under the age of 18 or, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), fails to require the prospective purchaser to show proof of age as required herein, shall be guilty of an infraction. Pursuant to Title 7 of the Newark Municipal Code, an Administrative Citation may be issued for the violation. Each sale to any person under the age of 18 shall be deemed a separate violation. In addition the sale of safe and sane fireworks to any person under the age of 18 is declared a public nuisance subject to abatement pursuant to Title 7 of this Code subjecting the permittee to administrative penalties up to \$1,000 per day per violation to a maximum of \$100,000, and to recovery of all costs of abatement and enforcement as provided in Title 7.

5614.8.6 In addition to the foregoing, in the event of multiple violations or other evidence of a course of conduct in conscious or reckless disregard of the requirements of this section, the permittee may be deemed ineligible for a safe and sane fireworks booth permit in subsequent years. The Fire Code Official shall make the decision of ineligibility. The permittee may appeal that decision by requesting an administrative hearing to be held by the City Manager's designated Hearing Officer. The hearing shall be conducted pursuant to the rules of procedure set forth in Chapter 7.22 of the Newark Municipal Code. The Hearing Officer's decision shall be the final decision of the City of

5614.9 Fireworks Display

5614.9.1 General. Outdoor fireworks displays, use of pyrotechnics before a proximate audience and pyrotechnic special effects in theatrical and group entertainment productions shall comply with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

5614.9.2 Scope. Fireworks and temporary storage, use, and handling of pyrotechnic special effects material used in motion pictures, television, and theatrical and group entertainment productions shall be in accordance with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

5614.9.3 Permits Required. The permittee shall furnish a general liability insurance policy of endorsement adding the City, its officers, employees, and volunteers as “insureds” and within the scope and limits as set by the Community Development Director. Said policy is to cover payments for all damages, which may be caused to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees, or subcontractors.

5614.9.4 Fireworks other than safe and sane fireworks prohibited.

Except as provided in this section, it is unlawful for any person, corporation, or entity to possess, store, offer for sale, expose for sale, sell at retail or wholesale, use, discharge, or explode any fireworks except “safe and sane fireworks” as described in Section 12529 of the Health and Safety Code. Violation of this section is punishable as an infraction.

Chapter 15.18

CALIFORNIA REFERENCED STANDARDS CODE

Sections:

15.18.010 California Referenced Standards Code adopted by reference.

A certain document entitled, "2022 California Referenced Standards Code," published by the International Code Council is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., State of California.

Chapter 15.20

CALIFORNIA HISTORICAL BUILDING CODE

Section:

15.20.010 California Historical Building Code adopted by reference.

A certain document entitled, “2022 California Historical Building Code,” published by the International Code Council and amended and adopted by the state of California as the 2022 edition of the California Historical Code, is adopted by reference as the historical building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.22

CALIFORNIA ENERGY CODE

Section:

15.22.010 California Energy Code adopted by reference.

A certain document entitled, “2022 California Energy Code,” published and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.23

CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections

15.23.010 California Green Building Standards Code adopted by reference.

A certain document, entitled “2022 California Green Building Standards Code”, published and adopted by the state of California, is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California. Including all matrices BSC-CG, HCD-1, HCD-2, and CEC.

SECTION 3. References To Prior Uniform Building and Construction Codes.

Unless superseded and expressly repealed, references in City forms, documents, and regulations to chapters and sections of the prior adopted Uniform Building Codes shall be construed to apply to the corresponding provisions contained in the chapters and sections of Title 15 of the Newark Municipal Code adopted by this Ordinance and all other ordinances or parts of ordinances in conflict herewith are hereby superseded and expressly repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. Adoption.

This Ordinance shall take effect on the later of thirty (30) days after passage or on January 1, 2023, and shall within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California.

The foregoing ordinance was introduced and read before the City Council of the City of Newark by Council Member Freitas at the regular meeting of the City Council of the City of Newark on October 13, 2022

This ordinance was read at the regular meeting of the City Council held November 10, 2022. Council Member Freitas moved that it be adopted and passed, which motion was duly seconded, and said ordinance was passed and adopted.

AYES: Council Members Bucci, Collazo, Freitas, Vice Mayor Hannon and Mayor Nagy

NOES: None

ABSENT: None

SECONDED: Vice Mayor Hannon

APPROVED:

s/ALAN L. NAGY
Mayor

ATTEST:

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
City Attorney