

*Township of Montclair, NJ
Monday, February 29, 2016*

Chapter 281. Site Plan Review

[HISTORY: Adopted by the Board of Commissioners (now Council) of the Town (now Township) of Montclair 4-15-1980 by Ord. No. 80-12 as Ch. 184 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Land use procedures — See Ch. **202**.

Subdivision of land — See Ch. **301**.

Zoning — See Ch. **347**.

§ 281-1. Definitions.

[Amended 7-12-2005 by Ord. No. 05-34; 10-4-2011 by Ord. No. O-11-53]

For the purposes of this chapter, the following terms shall have the meanings indicated:

MINOR SITE PLAN

A site plan of one or more lots only for approval of:

- A. Any change in use that triggers an increase in intensity of use as defined by the number of parking spaces required; and/or
- B. Erection or replacement or relocation of a fence or retaining wall in a nonresidential district or at an existing nonconforming, nonresidential use in a residential district; and/or
- C. Outdoor installation or relocation in a nonresidential district of:
 - (1) A refuse or solid waste storage and collection area and its screening; or
 - (2) An emergency power generator; or
 - (3) Freestanding signs; and/or
- D. Redesign of the layout or internal traffic flow of an existing parking area in a nonresidential district or at an existing nonconforming, nonresidential use in a residential district; and/or
- E. Site improvements to provide, increase or improve barrier free access for persons with disabilities, provided always that such site plan contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met and does not involve approval of:
 - (1) A use or other variance;
 - (2) A planned development;
 - (3) Any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:55D-42 or ordinance.

SITE DEVELOPMENT

Consists of any one of the following:

- A. Construction of any building or addition to a building having a floor area of over 100 square feet; and/or
- B. The conversion of any existing building to more dwelling units, other than detached one-family or two-family dwellings or buildings accessory to one-family or two-family dwellings; and/or
- C. The construction or redesign of parking areas and driveways for more than two vehicles, except in connection with a detached one-family or two-family dwelling; and/or
- D. The regrading, removal of vegetation or displacement of soil in an area of over 5,000 square feet.

§ 281-2. Jurisdiction of Planning Board and Zoning Board of Adjustment.

The provisions of this chapter shall be administered by the Township of Montclair Planning Board in accordance with N.J.S.A. 40:55D-37, except that the Zoning Board of Adjustment shall substitute for the Planning Board whenever the Zoning Board of Adjustment has jurisdiction over a site plan under the ordinance establishing a Planning Board and a Zoning Board of Adjustment, adopted February 1, 1977.^[1] In this chapter where reference is made to the Planning Board, the words "Board of Adjustment" shall be substituted in those situations where the Zoning Board of Adjustment has jurisdiction.

[1] *Editor's Note: See Ch. 202, Land Use Procedures.*

§ 281-2.1. Submission of a minor site plan.

[Added 10-4-2011 by Ord. No. O-11-53]

- A. A minor site plan application shall be filed in accordance with § 281-1 above and shall contain all data and information required in § 202-29.2. Minor site plan approval, with or without conditions, shall be deemed to be final approval of the site plan.
- B. Minor site plan approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor site plan approval.
- C. Whenever review or approval of the application by the County planning board is required by Section 8 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.6), the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.
- D. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two years after the date of minor site plan approval. The Planning Board shall grant an extension of this period for a period determined by the Board but not exceeding one year from what would otherwise be the expiration date, if the developer proves, to the reasonable satisfaction of the Board, that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before: what would otherwise be the expiration date; or the 91st day after the date on which the developer receives the last of the legally required approvals from other governmental entities, whichever occurs later.

§ 281-3. Submission of preliminary site plan.

- A. Any owner or developer of land within the Township of Montclair shall, prior to developing a site as defined in this chapter, submit to the administrative officer of the Planning Board a preliminary site plan and such other information as is required in Article IV below, in tentative form for preliminary approval. If any architectural plans are required, the preliminary plans and elevations shall be sufficient. If the application is found to be incomplete, as not meeting the requirements of § 281-7 below, the applicant shall be notified within a period of 45 days or it shall be deemed to be properly submitted. However, the applicant may confer with and submit sketch plans to the Board for discussion prior to the submission of a formal application.
[Amended 4-29-1980 by Ord. No. 80-20]
- B. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application for development shall be submitted and proceeded upon as in the case of the original application for development, and the time period within which the Planning Board shall be required to make a decision shall be computed from the date of the submission of the amendment to the administrative officer.
- C. The Planning Board shall, following public hearing as required in the ordinance establishing a Planning Board and a Zoning Board of Adjustment,^[1] if the proposed development complies with this chapter and N.J.S.A. 40:55D-1 et seq., grant preliminary site plan approval. If the application for development is under the jurisdiction of the Zoning Board of Adjustment, the hearing, review and approval procedures shall be included with and subject to the same requirements as for a zoning variance.
[1] *Editor's Note: See Ch. 202, Land Use Procedures.*
- D. Time limit for approval.
[Amended 4-29-1980 by Ord. No. 80-20]
- (1) Upon submission of a complete application for a site plan, the Planning Board shall grant or deny preliminary approval within the time specified in Chapter 202, Land Use Procedures, § 202-8, of the Montclair Code. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.
 - (2) Upon the submission to the administrative officer of a complete application for a site plan which involves 10 acres of land or less and 10 dwelling units or fewer, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission or within such further time as may be consented to by the developer. Upon the submission of a complete application for a site plan which involves more than 10 acres or more than 10 dwelling units, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan.
- E. Whenever review or approval of the application by the County Planning Board is required by N.J.S.A. 40:27-6.6, the Township Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the County Planning Board or the failure of such Board to report negatively thereon within the required time period.
- F. The Planning Board may waive in whole or in part the requirements for the submission of a preliminary or final site plan or waive the requirements of a public hearing where it is determined that the site development proposed is of a minor nature not having potentially adverse effects on adjoining properties or on the public health, comfort, safety and general welfare. The Planning Board may also simultaneously grant preliminary and final approval of a site plan based upon application complying with the requirements of § 281-7.
- G. The Planning Board, when acting upon applications for preliminary site plan approval, shall have the

power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of this chapter if the literal enforcement of one or more provisions of the chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

- H. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer's being required to make further application to the Planning Board or the Planning Board's being required to hold further hearings. The longest time period for action by the Planning Board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this subsection, notice of the hearing on the plat shall include reference to the request for such conditional use.

§ 281-4. Effect of preliminary site plan approval.

- A. Preliminary approval of a site plan shall protect the applicant, for a three-year period from the date of the preliminary approval, from changes in the general terms and conditions on which preliminary approval was granted, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and any requirements peculiar to such preliminary site plan approval. However, nothing herein shall be construed to prevent the township from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
- B. The applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary site plan.
- C. The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards shall govern.

§ 281-5. Submission of final or combined site plan.

The final site plan shall be submitted to the administrative officer of the Planning Board within the time limit specified in § 281-4. If the plan and related information are not complete as specified in § 281-7, the applicant shall be notified within 45 days after the date of submission, or the application shall be deemed to be complete. The Planning Board shall act upon the final site plan within 45 days of the submission of a complete application. A public hearing shall not be required, except that if any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing is made or is required, the plan shall again go through the procedure required for preliminary site plans.

§ 281-6. Completion and inspection of improvements.

The installation of improvements as required in §§ 281-8 and 281-9 hereunder and as included in the site plan shall not commence until after the approval of the final site plan. Such installation shall be subject to inspection by the Township Engineer, and approval shall be revoked if there is significant deviation from the site plan as approved. Performance and maintenance bonds shall be released, subject to approval by the Township Engineer and Township Council. All improvements shall be completed in a timely manner so as not to leave the site in an unfinished or unsightly condition, as determined by the Council, and if this is not done, the final approval shall be deemed to be revoked and the performance and maintenance bonds may be used by the township to restore the site to an acceptable condition. The issuance of building and

occupancy permits shall be conditioned on the completion of improvements as specified in the final site plan approval.

§ 281-7. Contents of site plan.

[Amended 10-6-1998 by Ord. No. 98-41; 5-9-2006 by Ord. No. 06-19; 7-25-2006 by Ord. No. 06-45; 12-19-2006 by Ord. No. 06-70; 2-11-2008 by Ord. No. 08-01; 11-10-2009 by Ord. No. 0-64-09; 10-4-2011 by Ord. No. O-11-53]

All site plan applications shall provide the information required in § **202-29.2**.

§ 281-8. Design standards.

[Amended 2-1-1977 by Ord. No. 77-3; 10-4-2011 by Ord. No. O-11-53]

The purpose of good site design is to create a functional and attractive development, to minimize adverse impacts, and to ensure a project will be an asset to the community. In project design and in reviewing project applications, the following principles of site design shall apply and shall be deemed to be the minimum standards and prerequisites for Planning Board or Zoning Board of Adjustment approval.

§ 281-8.1. General design standards.

[Added 10-4-2011 by Ord. No. O-11-53]

Each site plan shall provide for the following:

- A. The development shall be consistent with Chapter **347**, Zoning, except in those cases where application is being made to the Zoning Board of Adjustment for a variance from the terms and provisions of said Chapter **347**. In acting on an application, the Planning Board or Zoning Board of Adjustment shall also consider the application in the light of all other applicable codes and ordinances, including but not limited to Chapter **301**, Subdivision of Land, Chapter **186**, Health Standards, and Building Codes, and in relation to any portion of the Master Plan.
- B. Environmental impact. The site design and arrangement of streets, lots, parking areas, buildings, and units shall minimize cut and fill, reduce unnecessary impervious cover, and mitigate adverse effects of shadow, noise, odor, traffic, transportation, drainage, and utilities on neighboring properties.
- C. Energy conservation. To the extent consistent with the reasonable use of land, site design shall promote the conservation of energy through the use of planning practices designed to reduce energy consumption and to provide the maximum utilization of renewable energy sources. Significant solar access to roads and buildings are possible with variations from east/west orientations of up to 25%. Storm drainage facilities shall be designed as an integral part of the development, and arrange the design to use as much of the natural drainage as possible.
- D. Neighborhood context. The arrangement of buildings and structures on the site shall be designed so as to create a harmonious appearance with respect to each other and with existing structures in the immediate neighborhood. Consideration shall be given to topographic conditions, the relationship of open space between buildings both on and off the site and the effect the plan will have on properties in the immediate neighborhood. The use of different textures, complementary colors, detailing and contrasting shapes to create an appealing facade is strongly encouraged. The use of single colors and blank walls is discouraged. Each phase of a phased development project should be able to stand alone as architecturally and visually complete.
- E. Utilities. The site plan shall provide adequate water supply connections, drainage, sewage connections, electric and telephone lines and other utilities necessary for essential service to residents and

occupants. Electric and telephone lines shall be installed underground unless excepted by the Planning Board or the Board of Adjustment.

- F. Soil conservation. The site plan shall provide adequate protection and conservation of soils through an erosion and sedimentation control plan where over 5,000 square feet of ground area is being disturbed.
- G. Other improvements. Standards for the grading, improvement and construction of streets or driveways and for walkways, curbs, gutters, streetlights, screening, fire hydrants and water, drainage, sewerage facilities and other improvements found necessary shall be as required by the Township Engineer. Such improvements shall be installed by the developer and shall be subject to performance guaranty requirements and maintenance guaranty requirements before issuance of a building permit and a certificate of occupancy. Where certain utilities to be installed are under other governmental authority or jurisdictions, their requirements shall be adhered to by the developer. A letter approving the proposed installations and a statement as to who will carry out the construction shall be required.
- H. Exterior garbage and recycling storage areas. Exterior garbage and recycling storage areas for multifamily and commercial developments shall be screened around their perimeter by wood fence enclosures with a roof or by solid walls of compatible design with the adjacent facade materials. Chain link fences are not permitted. Such enclosures shall have a minimum height of five feet and a maximum height of seven feet and shall extend on three sides of the area with a wooden gate or solid door on the fourth side. The storage area shall have a concrete pad as its surface and shall be safely and easily accessible by recycling personnel and vehicles. The design and dimensions should be consistent with anticipated usage, current methods of garbage and recycling collection and any district recycling plan adopted pursuant to N.J.S.A. 13:1E-99.
- I. Rooftop equipment. All rooftop equipment shall be screened from view of public streets and adjoining properties.

§ 281-8.2. Landscaping and street trees.

[Added 10-4-2011 by Ord. No. O-11-53]

Each site plan shall provide for the following:

- A. Landscape design.
 - (1) General provisions. The following general provisions shall apply to the installation and design of landscapes and streetscapes:
 - (a) All land areas not covered with buildings, parking, or other impervious surfaces shall be landscaped with suitable materials. Landscaping shall consist of trees, shrubs, ground cover, perennials, and annuals singly or in common as well as other inanimate materials such as rocks, water, sculpture, art, walls, fences, and paving materials.
 - (b) A landscape design shall be provided as part of site plan and subdivision submissions. Every applicant for subdivision or site plan approval shall comply with the minimum standards as set forth in this section.
 - (c) The approving authority may require additional plant material to create an appropriate landscaping scheme for the site given the nature of the site and the proposed development.
 - (d) Where subdivisions only are applied for the minimum standards shall apply only to street trees and to common open space and areas proposed to be dedicated to the public.
 - (e) All landscape plants shall be typical in size and weight for their species and shall conform to the standards of the American Association of Nurserymen for quality and installation.

- (f) Plants with pervasive root systems shall not be located where they may cause damage to drainage pipes or other underground utilities and stormwater management facilities and should generally be no closer than 10 feet, measured horizontally.
- (g) All plants shall be tolerant of specific site conditions. The use of indigenous species is strongly encouraged. Exotic, nonnative invasive plant species shall not be permitted.
- B. Landscape design guidelines. The following guidelines are to be used when designing the landscape plan:
- (1) Landscaping shall be designed to achieve a thorough integration of the various elements of site design, including building and parking placement, the natural features of the site and the preservation of pleasing or aesthetic views. Landscaping shall be used to accent and complement the form and type of building(s) proposed.
 - (2) Every possible consideration shall be given and every possible measure taken in the interest of retaining all standing live trees with special emphasis on trees in excess of six inches diameter breast height (d.b.h.). All dead or diseased trees shall be removed.
 - (3) Landscaping shall be located to provide effective climatic control. The east and west walls of a building should be the most heavily vegetated to shade for summer sun and the north to northwest area for winter prevailing winds. The southerly facing side of a building should be shaded from summer sun but open for solar gain during the winter.
 - (4) Plants' susceptibility to disease, their colors, textures, shapes, blossoms, foliage characteristics and drought tolerance shall be considered in the overall design of a landscape plan.
 - (5) Local soil conditions and water availability shall be considered in the choice of landscaping.
 - (6) In the design process, the eventual maturity of the plant shall be considered for its effect on circulation patterns, solar access, site lighting, drainage, emergency access and relationship to buildings and the streetscape.
- C. Street trees. The following street tree standards shall be met in any application for development:
- (1) Location. Street trees shall be installed on both sides of all streets in accordance with an approved landscape plan, unless off tract. Trees shall be spaced evenly along the street between the curb or edge of cartway and sidewalk or bikeway.
 - (2) Spacing. Street trees should be planted at predetermined intervals along streets depending on the size of the tree.
 - (a) Street trees shall be planted to meet the following planting intervals:

Tree size at Maturity (height in feet)	Planting Interval (in feet)
Large trees (45+)	40
Medium trees (30 to 45)	30
Small trees (less than 30)	20
 - (b) Trees may be planted closer together in order to avoid interference with utilities, roadways, sidewalks, sight easements, and streetlights. Street tree species shall be as approved by the Township Arborist.
 - (3) Planting specifications. All street trees shall be deciduous varieties and have a minimum caliper as noted in § 281-8.2E. Street trees shall be substantially uniform in size and shape and shall have straight trunks. Trees shall be properly planted and staked in accordance with ANSI or American Association of Nurserymen. Provision shall be made by the developer for regular watering and

maintenance until the street trees are established. Dead or dying trees shall be replaced by the developer during the next suitable planting season.

- D. Landscape buffers. Landscaping buffers are areas that are required to minimize and visually screen any adverse impacts or nuisances from a site or from any adjacent area.
- (1) Landscape buffers shall consist of a combination of deciduous trees, conifers, shrubs, berms and, if appropriate, fences or walls in sufficient quantities and sizes designed to continuously limit the view of and/or sound from the site to adjacent sites or properties. Fences and walls may only be used for decoration or as supplements to required landscaping to achieve a higher degree of visual blocking.
 - (2) Landscape buffers shall be continuous except for access drives as approved by the approving authority.
- E. Minimum planting sizes. The following minimum plant sizes shall be required:
- (1) Deciduous trees. The minimum planting size (measured in calipers) shall be three inches for large trees, 2 1/2 inches for medium-sized trees and two inches for small trees, balled and burlapped.
 - (2) Coniferous and evergreen trees. The minimum planting size shall be five feet to six feet, except that, when used as a landscape buffer, plant material between residential and nonresidential uses shall be increased to a minimum planting size of six feet to eight feet.
 - (3) Large evergreen and deciduous shrubs. The minimum planting size for large evergreen and deciduous shrubs shall be three feet to four feet, except that arbovitae shall be a minimum of five feet to six feet in height.
 - (4) Small evergreen and deciduous shrubs. The minimum planting size for small evergreen and deciduous shrubs shall be 18 inches to 24 inches.

§ 281-8.3. Lighting.

[Added 10-4-2011 by Ord. No. O-11-53]

Each site plan shall provide for the following:

- A. Lighting plan. A lighting plan prepared by a qualified individual shall be provided with all major subdivision and site plan applications.
- B. Street lighting. Street lighting of a type supplied by or approved by the utility and of a type and number approved by the Board shall be provided for all street intersections and along all arterial, collector and local streets as deemed necessary for safety reasons. Wherever electric utility installations are required to be underground, the applicant shall provide for underground service for street lighting.
- C. Parking areas.
- (1) All parking areas and walkways thereto and appurtenant passageways, building entrances, loading areas and driveways required for nonresidential or multifamily uses shall be adequately illuminated during the hours of operation which occur after sunset.
 - (2) Any adjacent residential zone or use shall be shielded from the glare of illumination from site lighting and automobile headlights.
 - (3) Freestanding lights within parking lots shall be protected to avoid being damaged by vehicles. Freestanding lights at the perimeter of parking lots shall be aligned with the parking stall striping and located a minimum of 2 1/2 feet to the edge of curb. The exposed concrete light foundation

shall not exceed two inches above grade or six inches above grade if located within a lawn area.

- D. Security lighting. With the exception of light sources with twenty-four-hour businesses, commercial property shall provide security lighting required for safety not to exceed 40% of the site lighting or those required for safety as determined by the Montclair Township Police Department. Lighting in mixed or residential use areas shall be turned off between 11:00 p.m. and 6:00 a.m. in residential or mixed-use areas. This shall also apply to signage lighting. Provisions shall be made for reduction in the intensity of illumination to the minimum need for security purposes when a facility is not in operation.
- E. Lighting intensity.
- (1) The lighting plan shall show the proposed light intensity (including fixtures noted to remain) at ground level indicated where 0.5 footcandles occur.
 - (2) Dimensioned manufacturer's lighting details and specifications including footcandle distributions shall be provided.
 - (3) All lights shall be concealed source nonglare lighting and shall be focused downward so that the direct source of light is not visible from adjoining streets or properties. No light shall shine into building windows or onto streets and driveways so as to interfere with or distract driver vision.
 - (4) The lens of the light shall be flush with the fixture housing and shall be parallel to the ground. Movable fixture housings are prohibited.
 - (5) The minimum footcandle in areas used by the public shall be 0.5; the maximum footcandle is two. The light intensity shall not exceed 0.3 footcandles along any property line and shall be so arranged and shielded to reflect the light away from adjoining streets or properties.
- F. Height of fixture. Lighting shall be provided by fixtures with a mounting height not more than 15 feet or the height of the building, whichever is less, measured from the ground level to the centerline of the light source.
- G. Style. The style of any light or light standard shall be consistent with the architectural style of the principal building and, where appropriate, the architectural character of the surrounding area.
- H. Other.
- (1) Freestanding lights or light fixtures attached to utility poles are prohibited within the road right-of-way with the exception of street lights.
 - (2) Any other outdoor lighting, such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs and ornamental lighting, shall be shown on the lighting plan, in sufficient detail to allow a determination of effects upon adjacent properties, traffic safety and overhead sky glow.
 - (3) To achieve the above requirements, the intensity of light sources, light shielding and similar characteristics shall be subject to site plan approval.
 - (4) Shade trees shall be planted a minimum of 10 feet from any freestanding lighting fixture.

§ 281-8.4. Residential site and building design standards.

[Added 10-4-2011 by Ord. No. O-11-53]

Each site plan shall provide for the following:

- A. Multifamily residential design.

- (1) Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme with variations in design to provide an attractive development. The design shall include landscaping techniques, building orientation to the site and to other structures, topography and natural features.
 - (2) The exterior of each building wall shall be of brick or stone facing, solid brick or stone, or some other accepted durable material; provided, however, asbestos shingle or cinder block as an exterior finish is prohibited.
 - (3) In addition to any storage area contained inside individual dwelling units, there shall be provided for each dwelling unit 200 feet of storage area in a convenient, centrally located area in the basement or ground floor of the existing dwelling structure or elsewhere where personal belongings and effects may be stored without constituting a fire hazard and where the said belongings and effects may be kept locked and separated from the belongings of other occupants. There shall be a further minimum common storage area in each building for bicycles, strollers and similar types of equipment of 50 cubic feet per dwelling unit.
 - (4) Service features, garages and parking areas shall, where possible, be located on a side of the individual lot having access to an interior street or road.
 - (5) Building entrances units shall be oriented towards existing streets.
- B. Single-family attached residential site and building design standards.
- (1) Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme with variations in design to provide an attractive development. The design shall include landscaping techniques, building orientation to the site and to other structures, topography and natural features.
 - (2) Individual dwelling unit design features shall include staggering unit setbacks, providing changing roof lines and roof designs, altering building heights and shutters, doors, porches, colors and vertical or horizontal orientation of the facades, singularly or in combinations for each dwelling unit.
 - (3) No more than two adjacent dwelling units may be constructed without providing a front wall offset of not less than two feet.
 - (4) Each building shall contain eight dwelling units or less.
 - (5) All exterior and party walls of each dwelling unit shall be of masonry construction.
 - (6) All side and rear elevations shall be faced with brick or quarried stone; the balance of such area shall be faced with material suitable in terms of quality, durability and appearance, as approved by the Board; provided, however, asbestos shingle or cinder block as an exterior is prohibited.
 - (7) Not less than 50% of the total area of front elevation in each group of dwelling units shall be faced with brick or quarried stone; the balance of such area shall be faced with material suitable in terms of quality, durability and appearance, as approved by the Board; provided, however, asbestos shingle or cinder block as an exterior is prohibited.
 - (8) Building entrances units shall be oriented towards existing streets.

§ 281-8.5. Commercial design standards.

[Added 10-4-2011 by Ord. No. O-11-53]

The following standards apply upon construction or alteration of, or addition to, any business building or a

facade of such building.

A. Entrances.

- (1) All building entrances shall be oriented to the public street. On corner lots, building entrances shall be located at or near the corner.
- (2) Building entrances shall be emphasized through use of distinctive architectural treatment and/or awnings.

B. Windows.

- (1) A minimum of 60% of the street-facing facade must be transparent glass.
- (2) Opaque, dark-tinted or reflective glass is not permitted. Reflective glass with 50% tinting may be used to reduce sun glare.
- (3) Windows must be transparent and may not be covered with opaque material.
- (4) Through window/wall air-conditioning units may not be installed at any facade that faces the street or parking area.
- (5) Storefront windows shall provide interior visibility or merchandise display. Paper signs are not allowed except for advertising sales or special promotions on a temporary basis. They may be up for no longer than 21 business days and must be professionally designed.
- (6) Window display areas shall remain lighted from dusk until at least store closing or 10:00 p.m., whichever is later.

C. Awnings and canopies.

- (1) Canvas color-fast awnings, standing seam/metal or weathercoated fabric-like plastic awnings and glass canopies are the recommended materials.
- (2) Awnings and canopies must be mounted below the retail sign board if there is one. Internally illuminated awnings are prohibited.
- (3) Product brand advertising is not permitted on awnings or canopies.

D. Planters and greenery. All permanent (stay-out-overnight) pots and planters must be a minimum of 1.5 feet in height.

E. Sidewalk furniture. Outdoor furniture must be weighted or fixed to the ground to avoid pilferage or movement from the wind. All furniture should be made of metal, wood or of some combination of these materials.

F. Facade and building renovations; new construction applicability. All renovations and additions to business buildings and establishments, whether undertaken by an owner or tenant, construction of new buildings for business purposes. Construction of additions to buildings used for business purposes.

- (1) Existing facade: windows and doors.
 - (a) Existing window openings on facade may not be filled in unless finished materials are made to match adjacent finishes. Leaving brick and stone facades unpainted is encouraged.
 - (b) Windows and transoms on the facade(s) that have been blocked and covered over must be made to match adjacent finishes.
- (2) Facade divisions. A continuous facade greater than 100 feet and continuous facades created by

combining several smaller buildings into one long facade shall be subdivided by smaller vertically oriented sections or vertical relief (i.e., pilaster) expressed as individual buildings of traditional width.

§ 281-9. Parking areas and driveways.

[Added 1-4-1982 by Ord. No. 82-53]

- A. Garages and parking spaces shall be paved with a hard-surface paving and shall be accessible from similarly paved areas (herein called "aisles") which must be connected directly or by means of a similarly paved driveway to a public street. Any driveway used as an aisle must satisfy the aisle width requirements. All such paving shall be properly drained and maintained.
- B. Each parking space shall consist of a rectangular area having minimum dimensions of nine feet by 19 feet. Where vehicle overhang is unobstructed and does not interfere with pedestrian traffic, paved stall lengths may be reduced to 17.5 feet. However, vehicle overhang areas shall not be considered part of required setbacks or required landscaped areas.

[Amended 10-11-1983 by Ord. No. 83-34]

- C. The required minimum parking space dimensions may be waived and dimensions of eight feet by 17 feet permitted where the approving authority finds that such spaces can reasonably be reserved for use by small cars. Vehicles with lengths of 16 feet or less are considered small cars.
- D. Minimum parking lot aisle widths.

(1) Minimum parking lot aisle widths shall be as follows:

Parking Angle	Aisle Width (feet)
45° or less	12
60°	18
90°	24

(2) Required minimum parking lot aisle widths may be waived and widths of 21 feet and 16 feet permitted for ninety-degree and sixty-degree parking, respectively, where the approving authority finds that the abutting parking spaces can reasonably be reserved for use by small cars.

- E. Parking spaces reserved for small cars shall be delineated by pavement markings or signs not in excess of one square foot indicating "small cars only" or similar words.
- F. All off-street parking areas with provision for more than five vehicles and establishments with loading bays or spaces for the temporary parking of commercial vehicles shall be effectively screened on each side which adjoins a residential district or an institutional premises. Such screening shall be a solid wall or a solid fence not less than five feet in height or a compact evergreen hedge of not less than three feet in height at the time of planting. The fence, wall or hedge shall be maintained in good condition, and no advertising shall be placed thereon. The screening shall be so designed that vehicle sight distance shall not be affected at entrances, exits and street intersections. Where an off-street parking area abuts or adjoins another, a five-foot-wide planting strip maintained in good condition may be used in lieu of the required screening.
- G. All off-street parking areas shall be set back a minimum of four feet from side and rear property lines with the intervening space appropriately landscaped. All off-street parking areas shall be set back a minimum of four feet from front property lines with the intervening space appropriately landscaped. Corner lots shall be considered to have front property lines along each street frontage.

[Amended 10-11-1983 by Ord. No. 83-34]

- H. All off-street parking lots or groups of lots on the same property accommodating 50 or more cars in total shall provide landscaped areas within the pavement perimeter amounting to at least 5% of the paved area.
- I. A two-way driveway shall be not less than 18 feet wide, and a one-way driveway shall be not less than 12 feet wide. The maximum driveway gradient shall be 10%.
- J. Each required parking space shall consist of a suitably graded, drained and unobstructed rectangular area in the plane of which no straight line shall have a grade in excess of 6%.
- K. Required parking spaces parallel to or disposed at an angle of less than 30° from the axis of the aisles serving them shall be not less than 22 feet in length.

§ 281-10. Fees.

[Amended 7-12-2005 by Ord. No. 05-34]

Site plan submissions shall be accompanied by a fee to cover the cost of review services, the publication of notices and other required expenses as provided in Chapter 202, Land Use Procedures, Article III, § 202-28.

§ 281-11. Effect of failure of compliance.

Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit or certificate of occupancy, as the case may be, shall be construed to be a violation of this chapter and shall be grounds for the revocation of any building permit or certificate of occupancy, as the case may be. Written notice of revocation by the Construction Official, requiring compliance with conditions of site plan approval within a period of time not less than five days after receipt by the owner or developer, shall effectively revoke any building permit or certificate of occupancy, as the case may be, if compliance shall not be made within the time limit set.

§ 281-12. Violations and penalties.

[Amended 5-23-2000 by Ord. No. 00-19; 4-10-2007 by Ord. No. 07-17]

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$2,000, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge. Each day on which a violation of an ordinance exists shall be considered a separate and distinct violation and shall be subject to imposition of a separate penalty for each day of the violation as the Municipal Court Judge may determine.

Township of Montclair, NJ
Monday, February 29, 2016

Chapter 347. Zoning

[HISTORY: Adopted by the Board of Commissioners (now Council) of the Town (now Township) of Montclair 4-15-1980 by Ord. No. 80-12 as Ch. 224 of the 1979 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Urban renewal — See Ch. **60**.
 Affordable housing — See Ch. **65**.
 Boardinghouses — See Ch. **96**.
 Condominium and cooperative conversions — See Ch. **117**.
 Uniform construction codes — See Ch. **121**.
 Fees — See Ch. **136**.
 Flood damage prevention — See Ch. **161**.
 Housing — See Ch. **190**.
 Land use procedures — See Ch. **202**.
 Multifamily buildings — See Ch. **213**.
 Noise — See Ch. **217**.
 Signs — See Ch. **277**.
 Site plan review — See Ch. **281**.
 Special improvement districts — See Ch. **293**.
 Stormwater control — See Ch. **295**.
 Subdivision of land — See Ch. **301**.

347a Standards for Lot Widths 

347b Zoning Map 

Article I. General Provisions

§ 347-1. Purpose.

- A. This chapter is designed to encourage the most appropriate use of land throughout the Township of Montclair in accordance with the land use element of the Master Plan as adopted by the Township Planning Board.
- B. For this purpose, this chapter designates, regulates and restricts the location and use of buildings, structures and land for residential, commercial, public, semipublic and other purposes; the height and size of buildings and other structures hereinafter erected or altered; appurtenant off-street parking, signs and other facilities; and the size of yards and other open spaces.

[1] *Editor's Note: The Zoning Ordinance was originally adopted 1-23-1979 by Ord. No. 79-1 and amended 2-20-1979 by Ord. No. 79-7; 5-15-1979 by Ord. No. 79-20; 8-21-1979 by Ord. No. 79-31; 11-27-1979 by Ord. No. 79-45; 1-22-1980 by Ord. No. 79-49. Subsequent amendments noted in text.*

§ 347-2. Definitions of terms.

The following definitions shall be used in the interpretation and construction of this chapter:

ACCESSORY BUILDING OR USE

A building or use subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building, but in no event shall a trailer be used as an accessory building and no dwelling unit or guest quarters shall be located in an accessory building with the exception of carriage houses pursuant to §347-9.

[Amended 11-26-2002 by Ord. No. 02-52]

ADULT ENTERTAINMENT

An establishment offering entertainment of a sexual nature.

[Added 7-11-1995 by Ord. No. 95-28]

ANTENNA, DISH

A dish or parabolic-shaped device designed for the purpose of receiving electromagnetic waves.

[Added 10-2-1984 by Ord. No. 84-38]

APARTMENT

A portion of a building consisting of a group of rooms used as a dwelling for a family, including bath and cooking or kitchen facilities, and set apart as a separate unit from other units or portions of the building.

[Amended 7-29-1980 by Ord. No. 80-44]

ASSISTED-LIVING FACILITY

A facility licensed by the New Jersey Department of Health to provide apartment-style housing, congregate dining and personal services available when needed for four or more elderly persons unrelated to the proprietor. Apartment units offer at a minimum one unfurnished room, private bathroom, kitchenette without stove and lockable entrance door.

[Added 5-26-1998 by Ord. No. 98-17]

AUTO LAUNDRY

Any land, building or part of a building used for the washing of motor vehicles for monetary or other valuable consideration.

AUTOMOBILE RENTAL

An establishment primarily engaged in the renting of automobiles or other vehicles to the public.

[Added 7-11-1995 by Ord. No. 95-28]

AUTOMOBILE REPAIR

An establishment primarily engaged in furnishing automotive repair, service, maintenance, body work or painting, but not including wrecking, salvage or junkyard.

[Added 7-11-1995 by Ord. No. 95-28]

AUTOMOBILE SALES

The use of any building, land area or other premises for the display and sale of automobiles, vans and trucks but not recreational vehicles, including, as an accessory use, warranty repair work and service.

[Added 7-11-1995 by Ord. No. 95-28]

AUTOMOBILE SERVICE STATION

Any building, land area or other premises or portion thereof used primarily or intended to be used for the retail dispensing or sales of vehicular fuels and including, as an accessory use, minor repairs and the sale of and installation of lubricants, tires, batteries and similar accessories.

[Added 7-11-1995 by Ord. No. 95-28]

AUTOMOBILE WASH

Any establishment used for the washing of automobiles or any other vehicles.

[Added 7-11-1995 by Ord. No. 95-28]

BAKERIES

An establishment that prepares baked goods for sale principally within the establishment and not for the wholesale trade or other off-site premises.

[Added 7-11-1995 by Ord. No. 95-28]

BANK, DRIVE-THROUGH

A bank where transactions are made to customers within an automobile outside the confines of a building.

[Added 7-11-1995 by Ord. No. 95-28]

BANK

A business establishment authorized to perform financial transactions, such as receiving and lending money.

[Added 7-11-1995 by Ord. No. 95-28]

BASEMENT

That portion of a building that is partly or completely below grade. A basement shall be considered as a story above grade where the finished surface of the floor above the basement is more than six feet above grade.

[Added 11-29-2005 by Ord. No. 05-60A]

BATHROOM

A room in a dwelling containing washbasin, toilet and bathing facilities.

BEDROOM

A room in a dwelling in which one or more persons normally sleep.

BILLIARD/POOL HALL

An establishment open to the public offering billiards or pool for recreation purposes for a fee.

[Added 7-11-1995 by Ord. No. 95-28]

BLOCK

A parcel of land designated and numbered on the latest Tax Maps of the Township of Montclair.

BOARDING HOME FOR SHELTERED CARE

Any private establishment which furnishes food and shelter to four or more adult persons unrelated to the proprietor and which also provides some personal care or service beyond food, shelter and laundry, but does not give nursing care.

BOARDINGHOUSE

Any building in which three or more persons not related in direct line by blood or marriage to the owner or operator of such business are lodged and served with meals from one kitchen by the owner or operator for a valuable consideration.

BOWLING ALLEY

An establishment containing alleys for bowling open to the public for recreation purposes for a fee.

[Added 7-11-1995 by Ord. No. 95-28]

BUILDING

A structure having a roof supported by columns, posts or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING AREA

The maximum horizontal projected area of a building and its accessories.

BUILDING COVERAGE

The ratio of the horizontal area measured from the exterior surface of the exterior walls of the principal building on a lot, plus horizontal areas covered by decks and staircases, to the total lot area.
[Added 2-11-2008 by Ord. No. 08-02]

BUILDING SUPPLY

A retail or wholesale establishment supplying building or lumber materials to the public or to contractors.

[Added 7-11-1995 by Ord. No. 95-28]

CARRIAGE HOUSE

An accessory building originally constructed at or about the same time as the principal single-family dwelling and used for storage and for second floor occupancy by one or more employees of the property owner and consisting minimally of a bathroom and one or more bedrooms.

[Amended 6-9-1981 by Ord. No. 81-31]

CHURCH

A building wherein persons regularly assemble for religious worship, which is used for such purpose and those necessary activities as are customarily associated therewith, and for which the use qualifies for tax exemption as a nonprofit religious institution.

SENIOR CITIZEN HOUSING

A multifamily building where occupancy is age restricted.

[Added 5-26-1998 by Ord. No. 98-17]

COMMERCIAL RECREATION FACILITY

A building or group of buildings used for recreational purposes and operated as a business and open to the public for a fee, including theaters, movie theaters, museums, art galleries and amusement centers.

[Added 7-11-1995 by Ord. No. 95-28]

COMMON OWNERSHIP

Ownership by one person or by two or more persons owning property jointly or in common or any other form of ownership where two or more persons own a separate parcel of real property and each has an estate or interest in all of said parcel.

COOKING FACILITY

A stove, microwave, hot plate or other appliance used for the preparation of food.

[Added 6-9-1998 by Ord. No. 98-24]

CORNER LOT

A lot at the junction of and fronting on two or more intersecting streets. The frontage orientation of a "corner lot" to a street shall be upon that street on which the lesser dimension of the lot exists. The long dimension of such a lot shall be its depth, the less dimension its width.

COURT

An open, unoccupied space enclosed or partially enclosed by three intersecting walls of a building or buildings on the same lot. For the purpose of this chapter, the space included between two walls which intersect at an angle of less than 90° shall be considered a court.

CURB LEVEL

The permanently established grade of street in front of the lot. Where the lot level is higher than curb level, the average level of the former along the wall in question may be taken as the base for measuring

the height of a wall adjacent to a yard or court.

DOCTOR

A person licensed by the State of New Jersey to practice medicine, dentistry, osteopathy or chiropractic.

DORMER

An extension or gable projecting out from a sloping roof which may include a vertical window.
[Added 6-13-2006 by Ord. No. 06-35]

DWELLING UNIT

A dwelling or portion thereof providing complete living facilities for one family.

EATING AND DRINKING

An establishment serving prepared food or drink within an enclosed building for consumption within a building or off the premises, including restaurants, lunch counters, ice cream and pizza parlors, delicatessens, luncheonettes, coffee bars and cafes, but excluding drive-in or drive-through restaurants.

[Added 7-11-1995 by Ord. No. 95-28]

EDUCATIONAL PLAY CENTER

A multipurpose children's activity space devoted to learning, recreation and entertainment, which may include related retail sales and no more than three automatic amusement games, pursuant to §78-26 et seq. of the Code of the Township of Montclair.

[Added 7-11-1995 by Ord. No. 95-27]

ESTABLISHED LOT DEPTH

The average lot depth of the four nearest lots, two on either side of the lot in question, and within the same block and zoning district.

[Added 4-3-2012 by Ord. No. O-12-24; amended 3-12-2013 by Ord. No. O-13-09]

FAMILY

One or more persons living together as a single, nonprofit housekeeping unit whose relationship is of a permanent and domestic character, together with no more than two boarders or roomers who are tenants of the family occupant and whose rent shall be paid to the family occupant. Accommodations for boarders or roomers shall not include cooking or kitchen facilities. The existence of a fraternity, sorority, club, religious order or similar relationship shall not alone be sufficient to qualify as a family hereunder. Also permitted are children placed with a family in a dwelling by the Division of Youth and Family Services in the Department of Institutions and Agencies or duly incorporated child-care agency or children placed pursuant to law in single-family dwellings.

[Amended 7-15-1980 by Ord. No. 80-31; 3-4-2014 by Ord. No. O-14-007]

FLAG LOT

A lot which consists of a narrow staff leading from a street to an interior lot with no other frontage, whose width may or may not meet minimum lot width requirements. Minimum yard requirements are determined without including the staff portion of the lot.

[Added 11-26-2002 by Ord. No. 02-52]

FRONT YARD

A yard situated between the principal building nearest the street line and the street line, extending for the full width of the lot.

GARDEN APARTMENT

A building consisting of three or more dwelling units not over 2 1/2 stories in height, each having direct access to the outside with or without use of a common hall or passageway, and so laid out that

dwelling units are not susceptible to sale on individual lots.

GARDEN CENTER

A retail establishment providing plants, trees, flowers and other landscaping and gardening materials primarily to the public.

[Added 7-11-1995 by Ord. No. 95-28]

GENERAL or BUSINESS OFFICE

A room or group of rooms used for conducting the offices of business, service or industry.

[Added 7-11-1995 by Ord. No. 95-28]

GROSS FLOOR AREA

The sum of the areas of horizontal sections through each story of all parts of the building used for residence, exclusive of a basement janitor apartment. In computing gross floor area, the area of horizontal sections shall be that area enclosed by the outside faces of all exterior walls. Inner courts and open passageways may be deducted from this figure.

GROUP HOME

A nonprofit or for-profit home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. Group homes and community residences for the developmentally disabled, as regulated in N.J.S.A. 40:55D-66.1, are permitted uses in all residential zone districts and are excluded from this definition.

[Added 3-4-2014 by Ord. No. O-14-007]

HARDWARE

A retail establishment providing building materials, tools and supplies primarily to the public.

[Added 7-11-1995 by Ord. No. 95-28]

HEIGHT OF A FENCE, WALL OR RETAINING WALL

The vertical distance from the mean natural grade surrounding the base of the fence, wall or retaining wall to the highest point of the fence, wall or retaining wall.

[Added 7-25-2006 by Ord. No. 06-43]

HEIGHT OF A WALL (FOR OTHER THAN RESIDENTIAL BUILDINGS)

The vertical distance, measured on the most forward exterior plane of the wall, from the first floor above finished grade (if the building has a basement, the floor immediately above the basement shall be considered the first floor) to the intersection with the roof sheathing at the eaves or, in the case of parapet walls, to the top of the parapet. For both residential and nonresidential buildings, where the floor level exceeds a height of two feet above the average elevation of the finished grade, all such height in excess of two feet shall be considered as part of the height of a wall.

HEIGHT OF A WALL (FOR RESIDENTIAL BUILDINGS)

The vertical distance, measured on the most forward exterior plane of the wall, from the floor of the lowest living quarters, excepting janitor's quarters, to the intersection with the roof sheathing at the eaves or, in the case of parapet walls, to the top of the parapet. For both residential and nonresidential buildings, where the floor level exceeds a height of two feet above the average elevation of the finished grade, all such height in excess of two feet shall be considered as part of the height of a wall.

HEIGHT OF BUILDING

The vertical distance from the mean natural grade surrounding the building to the highest point of a flat roof or the highest point of a sloped roof. The mean grade shall be calculated using the existing natural grade at ten-foot intervals surrounding the building foundation walls. If soil or rock removal lowers the ground elevation around the perimeter of the foundation walls, building height shall be based on the lowered elevation. If the placement of soil or other materials raises the ground elevation

around the perimeter of the foundation walls, building height shall be based on the elevation as it existed prior to the placement of soil or other material.

[Amended 9-22-1987 by Ord. No. 87-54; 7-12-2005 by Ord. No. 05-34; 4-25-2006 by Ord. No. 06-17; 1-23-2007 by Ord. No. 07-02]

IMPERVIOUS SURFACE

Buildings, structures, sidewalks, pavement and other land improvements which prevent or are likely to prevent normal absorption of stormwater directly into the ground.

[Added 4-19-1988 by Ord. No. 88-16]

INNER COURT

An open, unoccupied space substantially enclosed on all sides by the walls of any building or buildings erected on the same lot.

INTERIOR LOT

Any lot other than a corner lot.

KITCHEN FACILITY

Any room or part thereof containing apparatus used for the cooking or preparation of food, including a stove, microwave, hot plate, frying pan or other appliance and/or sink with cabinets used in conjunction therewith.

[Added 6-9-1998 by Ord. No. 98-24]

LEAST DIMENSION OF A COURT OR YARD

The least of the horizontal dimensions of such court or yard.

LOT

A parcel of land in common ownership and occupied or intended to be occupied by one principal building or group of principal buildings and their accessories, including the required open spaces.

LOT DEPTH

The distance from the center point of a street line of a lot to the center of the opposite line to the rear.

[Amended 3-12-2013 by Ord. No. O-13-09]

LOT LINE

Any boundary line of a lot other than a street line.

MANUFACTURING ESTABLISHMENT

An establishment engaged in the transformation of substances into new products, including assembling of component parts, the manufacture of products and the blending of materials.

[Added 7-11-1995 by Ord. No. 95-28]

MEDICAL OFFICE

The office of medical practitioners, including but not limited to medical doctors, dentists, veterinarians, chiropractors, podiatrists, psychologists and licensed therapists.

[Added 7-11-1995 by Ord. No. 95-28]

MOTOR VEHICLE REPAIR STATION

Any land, building or part of a building used for repairing motor vehicles, such as engine overhaul, body repairs, replacement of parts, painting of motor vehicles or any part thereof and other repairs of a major character. Any such land, building or part thereof where vehicles are also supplied with gasoline or other motor fuels shall be classified as also a motor vehicle service station.

MOTOR VEHICLE SERVICE STATION

Any land, building or part of a building where motor vehicles are supplied with gasoline or other motor

fuels.

MULTIFAMILY DWELLING

A building containing three or more apartments, except that a multifamily dwelling shall not be deemed to include a hospital, convent, monastery, asylum or public institution.

MUSEUM

An organized and permanent nonprofit institution, essentially educational or aesthetic in purpose, with professional staff, which owns and utilizes tangible objects, cares for them and exhibits them to the public on some regular schedule.

[Added 9-1-1981 by Ord. No. 81-45]

NONCONFORMING BUILDING OR USE

One that does not conform to the regulations of the zone in which it is situated.

NONPROFIT INSTITUTIONAL USE

A nonprofit, religious or public use.

[Added 6-18-2013 by Ord. No. O-13-22]

NURSING HOME

A privately operated establishment, whether operated for profit or not, which maintains and operates facilities for the treatment, care or nursing of two or more nonrelated individuals suffering from illness, injury, infirmity or deformity or which provides convalescent or other medical or nursing care. Nothing contained herein shall be construed to imply or permit the practice of general hospital functions, such as surgical operations, the establishment of a home or hospital for persons suffering from mental illness, mental retardation or mental deficiency or the rendering of services beyond nursing care.

OCCUPIED or USED

As applied to any building, except for carriage houses, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used" or "structurally altered or enlarged with the intention or design of using."

[Amended 7-15-1980 by Ord. No. 80-31]

OFF-STREET PARKING

Surfaced areas, not including driveways, designed for the parking of motor vehicles.

OUTER COURT

A court of which at least one end or side is not enclosed by the walls of any building or buildings erected on the same lot.

PARKING DECK

A deck, building or structure or part thereof used or intended to be used for the parking and storage of vehicles.

[Added 7-11-1995 by Ord. No. 95-28]

PAWN SHOP

A business establishment in which money is lent at interest on pledged personal property.

[Added 7-11-1995 by Ord. No. 95-28]

PERSONAL SERVICE ESTABLISHMENT

A retail business conducted to render a personal or household service, such as haircutting, shoe repair, dry cleaning, insect extermination or the repair of furniture, small household appliances or television sets or to provide a similar service.

[Amended 7-29-1980 by Ord. No. 80-44]

PITCHED ROOF

One which shall have no less slope than four vertical to 12 horizontal.

PREMISES

Land with its appurtenances, whether accessory to the principal building or not.

PRINCIPAL BUILDING

Any building designed for a one-family, two-family or multifamily dwelling and constituting a separate structure enclosed by exterior walls.

PROFESSIONAL OFFICE

The office of a recognized professional, including but not limited to an accountant, attorney at law, architect, engineer and realtor.

[Added 7-11-1995 by Ord. No. 95-28; amended 11-26-2002 by Ord. No. 02-52]

REAR YARD

A yard situated between the principal building or buildings nearest the rear line of the lot and extending for the full width of the lot.

RESEARCH AND DEVELOPMENT

An establishment engaged in the investigation of the natural, physical or social sciences or engineering and development as an extension of such activities, with the objective of creating end products.

[Added 7-11-1995 by Ord. No. 95-28]

RESTAURANT

An establishment where food and drinks are prepared, served and consumed within an enclosed building, and wherein food is served only to be consumed by customers seated at tables on the premises.

[Added 12-20-1983 by Ord. No. 83-52; amended 7-11-1995 by Ord. No. 95-28]

RESTAURANT, DRIVE-IN

An establishment where food is served for immediate consumption outside the confines of a building and where all or part of consumption occurs outside the confines of the building.

[Added 7-11-1995 by Ord. No. 95-28]

RESTAURANT, DRIVE-THROUGH

An establishment where food or drink is served for immediate consumption outside the confines of a building to a customer in an automobile for consumption off the premises.

[Added 7-11-1995 by Ord. No. 95-28]

RESTAURANT, FAST-FOOD

An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within a building or off the premises.

[Added 12-20-1983 by Ord. No. 83-52; amended 7-11-1995 by Ord. No. 95-28]

ROOMING HOUSE

A building wherein furnished rooms without cooking or kitchen facilities are rented for a valuable consideration to three or more persons not related in direct line by blood or marriage to the owner or operator of such rooming house.

[Amended 7-15-1980 by Ord. No. 80-31]

SENIOR CITIZEN HOUSING

Any multifamily structure developed by a nonprofit corporation of the State of New Jersey under the local senior citizen housing program authorized by Section 202 of the Housing Act of 1959 (or any

substantially identical federal, state or county program) for the purpose of providing nonprofit rental housing for low- and moderate-income elderly or handicapped families and persons.

[Added 1-8-1985 by Ord. No. 84-50]

SIDE YARD

A yard situated between the principal building or buildings on the side line of the lot and extending through from the front yard to the rear yard.

STORY

That part of any building comprised between any floor and the floor or roof next above. A half story is a story under a sloping roof at the top of a building, the floor of which is not more than two feet below the plate. Where parking is contained either within or underneath a building, each parking level, even if below grade, shall be considered to be a story.

[Amended 4-25-2006 by Ord. No. 06-17]

STREET

An accessway shown on the current Municipal Tax Maps.

[Added 12-17-1985 by Ord. No. 85-44]

STREET LINE

The dividing line between the street and the lot.

STRUCTURE

Anything constructed, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, including central air-conditioning units, stationary and portable carports, but excluding paved parking areas, driveways and walkways.

[Amended 7-12-2005 by Ord. No. 05-34]

SURFACED AREA

An area that has a paved surface of bituminous or portland cement composition.

TAXI STAND

The use of any building, land area or other premises for the parking, storage or standing of automobiles or other vehicles that carry passengers for a fare.^[1]

[Added 7-11-1995 by Ord. No. 95-28]

THROUGH LOT

A lot that fronts upon two parallel streets or fronts upon two streets that do not intersect at the boundaries of the lot. A through lot has two front yards at each street line. The remaining yards are side yards. There is no rear yard.

[Added 11-26-2002 by Ord. No. 02-52]

TOP PLATE or WALL PLATE

The horizontal member of a frame wall to which rafters or upper floor joists are fastened.

[Added 11-26-2002 by Ord. No. 02-52]

TOWNHOUSE

A building containing three or more dwelling units, wherein each unit has its own front and rear access to the outside, no unit is located over another unit and each is separated from the other by one or more common vertical walls.

[Added 7-11-1995 by Ord. No. 95-28]

TRAILER

Any enclosure designed to be used for living, sleeping, hauling, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting; or any enclosure designed to be

used for living, sleeping, hauling, business or storage purposes which has or may be equipped with wheels or other devices for transporting the enclosure from place to place.

TRAVEL AGENCY

An establishment that arranges, organizes or contracts travel or touring for the public.
[Added 7-11-1995 by Ord. No. 95-28]

TRUCK OR BUS DEPOT

Any area, lot, parcel, building or structure or part thereof used for the storage of trucks or buses.
[Added 7-11-1995 by Ord. No. 95-28]

VENDING MACHINE

Any self-service device offered for public use which dispenses a product, makes a service available or provides entertainment or amusement, except that for the purpose of this chapter the term "vending machine" shall not be construed as including publicly owned parking meters or changemakers.^[2]

VOCATIONAL, TECHNICAL OR BUSINESS SCHOOL

A secondary or higher educational facility primarily teaching usable skills to prepare students in a trade or business.
[Added 7-11-1995 by Ord. No. 95-28]

WAREHOUSE

A building used primarily for the storage of goods and materials.
[Added 7-11-1995 by Ord. No. 95-28]

WHOLESALE TRADE OR STORAGE

Establishments engaged in the storage or selling of merchandise for/to retailers, to industrial, commercial, institutional or professional business users or to other wholesalers or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies.
[Added 7-11-1995 by Ord. No. 95-28]

WIDTH OF A COURT

The least dimension between opposite walls, except that the width of a triangular court shall be measured between the midpoints of the opposing walls (width of a lot, or frontage, is specified separately by zones).

YARD

An open, unoccupied space on the same lot with a building, situated between the street or other lot line and the parts of the main building, exclusive of cornices, chimneys, eaves and uncovered porches, and handicapped ramps or lifts, setting back from and nearest to such line.
[Amended 11-26-2002 by Ord. No. 02-52; 11-29-2005 by Ord. No. 05-60A]

[1] *Editor's Note: See Ch. 313, Taxicabs and Liveries, and Ch. 327, Vehicles and Traffic.*

[2] *Editor's Note: See Ch. 333, Vending Machines.*

§ 347-3. Zoning districts.

The Township of Montclair is hereby divided into classes of districts or zones as follows:

- A. Residence and office buildings.
 - R-O Mountainside Zone
 - R-O(a) One-Family Zone
 - R-1 One-Family Zone
 - R-2 Two-Family Zone

- R-3 Garden Group Zone
 - OR-3 Garden Apartment and Office Building Zone
 - R-4 Three-Story Apartment Zone
 - OR-4 Three-Story Apartment and Office Building Zone
- B. Commercial and limited residential.
- C-1 Central Business Zone
 - C-2 General Business and Light Manufacturing Zone
 - N-C Neighborhood Commercial Zone
- C. Public uses.
- P Public Zone
- D. Urban renewal area.
- UR Urban Renewal Zone
- E. Local historic buildings, structures, objects, sites and districts.
[Added 9-3-2002 by Ord. No. 02-38; amended 9-17-2002 by Ord. No. 02-44; 12-11-2012 by Ord. No. O-12-58]
- TCHD Town Center Historic District
 - Pine Street Historic District
 - Upper Montclair Historic Business District
 - IHL Individual Historic Landmark Overlay Zone

§ 347-4. Interpretation of boundaries.

- A. The boundaries of each of the zones as created by this chapter are as shown on the **Zoning Map** which accompanies this chapter and is hereby declared to be a part hereof.^[1]
- [1] *Editor's Note: The Zoning Map is included in a pocket at the end of this volume. Amendments to the Zoning Map are on file in the office of the Municipal Clerk.*
- B. Zone boundary lines are intended generally to follow municipal boundary lines, street center lines or lot lines as they are shown on the Township Tax Maps effective April 1989, unless such zone lines are fixed by dimensions on the **Zoning Map**. Where a zone boundary line does not follow such a location and where dimensions are not shown on the **Zoning Map**, the zone boundary line shall follow extensions of lot lines or street center lines or run parallel to such lines at a distance scaled from the **Zoning Map**. In cases of uncertainty or disagreement as to the exact location of any zoning boundary line, the determination thereof shall be by the Zoning Board of Adjustment.
[Amended 9-5-1989 by Ord. No. 89-30]

§ 347-5. Street vacations.

Where a street is vacated and it is abutted on both sides by the same zone district, the land shall be deemed to be in that zone. Where different zone districts abut the street being vacated, the Building Zone Map shall be amended to designate an appropriate zone for the land before any private use is established.

§ 347-6. Enforcement, violations and penalties.

[Amended 5-23-2000 by Ord. No. 00-19; 10-4-2011 by Ord. No. O-11-50]

- A. The Township Council shall enforce this chapter and may require directly or delegate the authority to require the issuance of specified permits, certificates or authorizations as a prerequisite to:
- (1) The erection, construction, alteration, repair, remodeling, conversion, removal or destruction of any building or structure.
 - (2) The use or occupancy of any building, structure or land.
 - (3) The subdivision or resubdivision of any land.
- B. Pursuant to this provision, there is hereby created the title of Zoning Officer of the Township of Montclair. The Zoning Officer shall be under the direction of the Planning Director. These duties are not exclusive and are shared with the Code Enforcement Officers pursuant to § 247-10 of the Montclair Code.
- C. It shall be the duty of the Zoning Officer to enforce Chapter 347 the Montclair Township Code and, pursuant to that duty, to investigate any violation or alleged violation of these articles coming to his attention, whether by complaint of third persons or from his own personal knowledge or observation. When any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of any provision of Chapter 347, it shall be the duty of the Zoning Officer to proceed with the enforcement of these articles and the penalties provided for hereunder. He may also pursue such other statutory method or methods, heretofore or hereafter provided, as may be open to him.
- D. No construction permit, including a demolition permit, shall be issued by the Construction Official unless and until a zoning permit has first been issued by the Zoning Officer.
- E. In the enforcement of Chapter 347, the Zoning Officer may apply to the Municipal Court Judge of the Township for a warrant to search and inspect the properties and premises upon which he has reason to believe any violation of these articles has taken or is taking place, and upon probable cause shown, the Municipal Court Judge may issue such a warrant, and the information obtained pursuant thereto shall be admissible as evidence in any court of competent jurisdiction for the purpose of proving any case brought for violation of this chapter.
- F. Institution of actions; abatement notice. In case any building or structure is erected, constructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the proper local authorities as contained herein or an interested party may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. Each and every day such violation continues after the expiration of an abatement notice or after initial construction as the case may be shall be deemed a separate and distinct violation.
- G. Violations. The general agent, architect, builder, contractor or any other person, partnership or corporation who commits, takes part in or assists in any violation of this chapter or who maintains any building, structure or premises in which any violation of this chapter shall exist shall, for each and every violation and for each and every day that such violation continues, be subject to a fine of not more than \$1,000 or imprisonment for not more than 90 days, or to both such fine and imprisonment.

Article II. General Use Regulations and Conditional Uses

§ 347-7. Uses to conform to zone regulations.

[Added 7-29-1980 by Ord. No. 80-44]

No building shall be erected or altered and no land shall be used for any purpose other than a purpose permitted in the zone in which such building or land is located. No building or part of a building shall be erected or altered, except in conformity with the regulations herein prescribed for the zone in which such building is located.

§ 347-7.1. Temporary uses and structures.

[Added 10-4-2011 by Ord. No. O-11-51]

- A. Christmas trees. The Zoning Officer may issue a zoning permit to any business or nonprofit organization for the sale of Christmas trees and/or wreaths under the following conditions:
- (1) The location of such sale shall occur in a commercial zone and shall be limited to six weeks, including any time necessary to set up the sales area.
 - (2) The business or nonprofit organization shall provide the Zoning Officer with a sketch indicating the location on the property where the sale is to be conducted and must show any other ancillary outdoor activity on the property that will be held in conjunction with the sale.
 - (3) In the event electricity or some other power source is needed in conjunction with the sale, the Zoning Officer shall be informed of this fact, and the nonprofit organization must apply to the Construction Code Official for an appropriate permit prior to the installation of an electrical supply or other power source.
 - (4) The Zoning Officer is empowered to impose any reasonable conditions on the issuance of the permit that are consistent with protecting the public health, safety and welfare, including but not limited to restricting the location, duration of the sale, ingress and egress to the premises, traffic patterns and flow on the property.
- B. Vestibules and storm enclosures. The Zoning Officer may issue a zoning permit for the temporary installation of vestibules and storm enclosures within the public right-of-way under the following conditions:
- (1) Vestibules and storm enclosures shall not be erected for a period of time exceeding six months in any one year and shall not encroach more than three feet nor more than 1/4 the width of the sidewalk beyond the street lot line.
 - (2) Temporary entrance awnings shall be erected with a minimum clearance of seven feet to the lowest portion of the hood or awning where supported on removable steel or other approved noncombustible support.

§ 347-8. Additional dwelling unit for parents.

[Amended 7-29-1980 by Ord. No. 80-44]

- A. The Planning Board may grant a conditional use so as to permit within a single dwelling unit the establishment of accommodations for one additional housekeeping group, with separate kitchen and bathroom facilities, for use by the parent or parents of one of the owner-occupants or tenant-occupants if, after a public hearing pursuant to Chapter **202**, Land Use Procedures, the Board finds and requires that an application complies with the following:
- (1) The exception requested is for the purpose of accommodating not more than two members of a family who are a parent or the parents of one of the owner-occupants or tenant-occupants of the

dwelling unit and who are of such an age or of such condition of health as to require special consideration.

- (2) No rent, fee or other charge of any sort is to be made or collected by the owner-occupants or tenant-occupants of the dwelling unit from the parent or parents accommodated by the exception and affidavits so stating shall be submitted annually by both parties at the time of application for certificate of occupancy renewal.
 - (3) The additional housekeeping accommodations are to be established without structural alterations except those deemed necessary by the Board to provide bathroom and kitchen facilities, and the resulting arrangement must not be such as to divide the dwelling nor give the appearance of dividing the dwelling into two separate dwelling units capable of independent occupancy.
 - (4) The dwelling unit, building and premises will comply with all other laws and ordinances in all respects if the application is granted.
 - (5) The said owners will prepare and enter into a written agreement with the Township of Montclair, in form sufficient for recording in the office of the Register of Essex County, which said agreement shall be subject to the approval of the Township Counsel, whereby the said owners will agree that such use of the premises shall terminate at such time as the applicant no longer owns or occupies the said premises or at such time as the parent or the parents no longer occupy the said premises, whichever shall first occur.
 - (6) The owner will obtain a certificate of occupancy for the conditional use and renew said occupancy certificate once a year in the month of January for the duration of the use, presenting at the time of such renewal proof in the form of an affidavit that the circumstances for which the conditional use was granted have not changed.
 - (7) The application, if granted, will not have any substantial adverse effect upon the neighborhood.
- B. The grant of such conditional use shall not become effective and a certificate of occupancy shall not be issued until such time as the owner has delivered to the Township Counsel the agreement required under Subsection **A(5)**, duly executed, together with the funds necessary to cover the cost of the recording of said agreement with the Register of Essex County.
- C. A use permitted by this section shall be deemed abandoned when at any time any of the above requirements cease to be complied with.

§ 347-8.1. (Reserved)

§ 347-8.2. Group homes.

[Added 3-4-2014 by Ord. No. O-14-007]

Group homes, as defined in §**347-2**, are prohibited in all single-family residential zone districts.

§ 347-9. Use of carriage houses.

[Amended 6-24-1980 by Ord. No. 80-41; 6-9-1981 by Ord. No. 81-31]

The occupancy and continued use of carriage houses in all residential zones as one-family dwellings prior to January 23, 1978, shall be permitted to be continued. The establishment or reestablishment of carriage houses as single-family residences shall be permitted in any residential zone as a conditional use subject to the following:

- A. The carriage house is on the same property as the original principal dwelling.
- B. The property has a minimum area of 20,000 square feet and a minimum width of 150 feet.
- C. Residential use of the carriage house shall not be permitted on the first floor.
- D. The minimum habitable floor area for conversions shall be 500 square feet.
- E. The gross floor area of the carriage house shall not be expanded, except that dormers may be added to provide additional light, ventilation and access.
- F. At least four on-site parking spaces, two of which shall be enclosed, shall be available for use by occupants of the carriage house and principal dwelling.

§ 347-10. Trailers in residential zones.

- A. An automobile trailer or boat designed to be used for human habitation may be stored or parked on a permanent basis in any residence or residence and office zone, provided that such a trailer or boat is parked or stored inside a building and that in no case shall such trailer or boat be used for living quarters, storage or any other use. In the event of destruction of a residential building by fire or any other act of God, the restrictions of this section may be waived by the governing body of the Township for a period not to exceed four months.
- B. An automobile trailer, such as utility or rental cargo trailer of the type and size normally towed by passenger cars, or a similar type of vehicle for which the gross weight and the load (as determined by the New Jersey State Motor Vehicle Division for establishing a license fee) is not in excess of 2,000 pounds, or a boat not exceeding 18 feet in length, with or without its accompanying trailer, is deemed to be an accessory use and may be kept in open storage on a lot in a residence or residence and office zone, subject to the following conditions:
 - (1) Such a vehicle or boat may only be stored in the rear yard of a lot.
 - (2) The owner of the vehicle or boat must either reside as a tenant on the property or be the owner-occupant of the property on which such vehicle or boat is stored.
 - (3) There must be a principal building on the lot on which any such vehicle or boat is stored.
 - (4) Only one such vehicle or boat shall be permitted to be stored in the open on any lot; provided, however, a boat on its trailer shall be considered as one unit.
 - (5) The trailer or boat shall not be connected to any utilities or be serviced (other than for maintenance purposes) with gas, water, electricity or sewerage (including septic tank), and under no circumstances shall either be used for living purposes, storage purposes or any other use.

§ 347-11. Use of church premises.

Use of church premises is subject to the following:

- A. A church may maintain on its premises such activities affiliated with said church as are reasonably related to traditional church use, such as but not limited to worship services, religious education programs, church social activities and such similar organizations or functions, all of which are hereby expressly deemed to be accessory uses.
- B. A church may also maintain on its premises the following nonaccessory uses, provided that notice in writing is sent to the Construction Code Official within 30 days prior to commencement of such use,

and further provided that they do not otherwise violate use regulations:

- (1) Schools for teaching of the arts, such as music, dancing, sculpture, painting or similar cultural form.
- (2) Child day-care centers in compliance with applicable local and state regulations.
- (3) Performing arts, including theater, music and dance.
- (4) Such other similar civic or community-oriented activities which are conducted not-for-profit, provided that they comply with applicable local and state regulations.

§ 347-12. Private and public schools as conditional use.

[Amended 6-24-1980 by Ord. No. 80-41; 4-3-1990 by Ord. No. 90-18; 1-27-1998 by Ord. No. 98-1; 3-14-2006 by Ord. No. 05-73]

A. Private and public schools of elementary and high school grade not operated for profit, schools for children with special needs which are operated for profit and customary accessory uses are permitted in the R-O, R-O(a), R-1, R-2, R-3, OR-3, R-4, OR-4 and P Zones, as a conditional use, subject to the following conditions:

- (1) The aggregate site area of the school, in addition to the area of the site covered by buildings, shall not be less than 250 square feet per student.
- (2) The total area of building space used for classrooms, exclusive of auditorium, gymnasium or similar areas for assembly purposes, shall have an average of not less than 28 square feet per student.
- (3) The property on which the school is located shall have a minimum lot size of 1.75 acres and a minimum street frontage of 300 feet.
- (4) The lot shall have frontage on a street having a paved width of at least 35 feet.
- (5) No building on the property shall exceed the height limitations of the zoning district.
- (6) There shall be two separate driveways, each providing ingress and egress to the school, and the driveways shall be separated by at least 150 feet. No driveway shall open into a street or road within 200 feet of an intersection of such street or road with another street or road.
- (7) All buildings shall have a minimum side yard setback of 50 feet, a minimum rear yard setback of 100 feet and a minimum front yard setback in compliance with the requirement of the zoning district.
- (8) All outdoor play areas shall be set back a minimum of 50 feet from any street or property line.
- (9) On-site parking shall be provided at the rate of one space for every full-time or full-time equivalent staff member or employee, and one space for every four students eligible to drive. Visitor parking shall be provided at the rate of two spaces per elementary and intermediate classroom.
- (10) The maximum permitted impervious surface coverage shall be 70%.
- (11) The sum of all areas covered by all principal and accessory buildings shall not exceed 25% of the area of the lot.
- (12) Parking areas and driveways shall be set back at least 15 feet from property lines, with the

intervening areas landscaped to provide an effective visual screen at the time of planting.

- (13) A parking study shall be submitted pursuant to Subsection **B** below which shall conclude that the roadways and intersections leading to and from the site are capable of handling the expected traffic demands generated by the school. In assessing the capacity of such roadways and intersections to handle the expected traffic demands to be generated by the school, the traffic report shall apply "Level of Service C," as defined in the "Highway Capacity Manual" published by the Transportation Research Board, Washington, D.C.
- B. Site plan approval shall be required for all schools subject to this chapter, which approval may be granted upon review of a completed site plan, including (unless waived by the Planning Board or Board of Adjustment) a traffic study prepared by a licensed professional engineer which assesses existing traffic conditions, projected traffic volumes and distribution patterns, a landscaping plan providing for adequate screening and buffers, a parking plan with designated loading and unloading areas, and an adequate on-site play area for students under the age of 10. If the Planning Board or Board of Adjustment recommends improvements in the public right-of-way, Township Council approval of the recommendations shall be required and the cost of such improvements shall be paid by the property owner on a pro rata basis in accordance with N.J.S.A. 40:55D-42 and applicable Township ordinances.

§ 347-13. Vending machines in residential zones.

Vending machines may be installed in residential and residential-office zones only under one of the following conditions:

- A. If located wholly within and accessible only from within a building for the sole use of residents and occupants of the building.
- B. Upon explicit authorization by the Planning Board to provide a service but not to vend a product or an amusement, provided that the Planning Board shall find that the installation is desirable for the convenience of the community and that it meets all requirements for vending machines in C Zones.
- C. Within any nonconforming commercial or industrial building, provided that they meet all requirements for vending machines in C Zones.

[1] *Editor's Note: See Ch. 320, Tobacco Products, and Ch. 333, Vending Machines.*

§ 347-14. Vending machines in commercial zones.

Vending machines may be installed in the N-C, C-1 and C-2 Zones under the following conditions:

- A. Within a building, provided that all times when an attendant is not present said building shall be lighted from within in such manner that from the nearest street there is a clear and uninterrupted view of the entire interior portion thereof which is open and accessible to the public.
- B. Other than within a building, only provided that the following requirements are met:
- (1) All parts of the installation, including any booth or housing, shall be so located that no operation, maintenance or servicing will take place on or from any public street or municipal parking lot or plaza; provided, however, that the Township Engineer may waive this requirement in any case in which he or she finds that the location is such that no interference will be caused to either street or pedestrian traffic.
 - (2) No part of the installation is closer to the sidewalk or street than the average distance therefrom of buildings or structures on the same side of the street within 200 feet of such installation or construction, including buildings and structures on the property affected.

- (3) The approach to the machine is paved and unobstructed and occupies the entire area from the front of the installation to any street, parking lot or other public place from which the installation has access. If the front of an installation does not face a street, parking lot or other public place, there shall be an unobstructed space not less than 25 feet in depth on the same lot between the front face of the installation and the nearest property line, building or structure which is opposite the face of the installation, which open space shall extend without interruption from the point of such installation most remote from the street, parking lot or other public place from which access is had to said installation to said street, parking lot or other public place.
- (4) The height of the machine or booth in which it is installed is not in excess of 10 feet and there are end walls and a back wall extending the full height of the machine and a complete roof.
- (5) The height of the machine is substantially the same as the height of every other vending machine in any group of machines of which the installation is or will be a part, and the front face of the machine forms a generally continuous surface with the fronts of any such other machines.
- (6) Adequate lighting is mounted in the lower surface of any overhanging shelter and all lighting is so arranged that the source of illumination is not visible beyond 10 feet from the installation at a height greater than seven feet from the ground.
- (7) Adequate lighting is provided between the installation and the street, parking lot or other public place from which public access is had to such installation.

C. Under any conditions acceptable in a residential zone, as specified in § **347-13**.

§ 347-15. Motor vehicle rental at service stations.

[Amended 10-1-1991 by Ord. No. 91-44]

- A. The Planning Board may grant a conditional use so as to permit the rental of automobiles, vans and trailers, hereinafter referred to as "rental units," on the premises of a motor vehicle service station if, after a public hearing pursuant to Chapter **202**, Land Use Procedures, the Board finds that the following conditions are met:
 - (1) The area of the lot of the motor vehicle service station is no less than 10,000 square feet.
 - (2) The area proposed for outdoor parking and storage of rental units will not exceed 10% of the lot not covered by buildings and other structures or include any area restricted to another use.
 - (3) The parking area or areas for rental units will be located on the lot in a way that will not create dangerous impediments to traffic visibility or result in interference with normal traffic flow onto, within or from the lot.
 - (4) Rental units shall not be parked in any portion of the lot set aside for required off-street parking.
 - (5) Parking or storage space for rental units shall be on a hard-surface area marked by clearly visible boundaries, and rental units parked or stored outdoors shall be within such boundaries except when being serviced.
 - (6) The application, if granted, shall not have any substantial adverse effect upon the neighborhood.
- B. For the purpose of this chapter, rental units shall be limited to:
 - (1) Utility trailers of the type and size normally towed by passenger cars, or similar type of vehicle for which the gross weight and the load (as determined by the New Jersey State Motor Vehicle Division for establishment of a license fee is not in excess of 2,000 pounds.

- (2) Automotive passenger vehicles.
- (3) Vehicles normally referred to as a "van" or "pickup," the rated maximum gross vehicle weight of which does not exceed 8,000 pounds.

§ 347-16. Soil removal.

No earth, rock, gravel or topsoil shall be removed from any lands in any zone without the permission of the Planning Board, except as hereinafter provided:

- A. Earth, rock, gravel and topsoil may be moved by the owner or occupant of land, or adjoining land in common ownership, to another part of the same land owned or occupied by him or her.
- B. The owner or developer of a subdivision or development, the map of which has been approved by the Planning Board, shall not be prohibited by this section from removing any earth, rock, gravel and topsoil from the right-of-way of a proposed street or road shown on such map in the construction or building of such street or road.
- C. In the construction of any structure or building, the owner or builder thereof shall not be prohibited by this section from removing earth, rock, gravel and topsoil coming from the excavations made for such structure or building and which earth, rock, gravel and topsoil the Construction Official deems surplus materials and not necessary for such structure or building or the lands whereon erected.

§ 347-17. Heliports and helistops prohibited.

- A. Nothing in this chapter shall permit the establishment or maintenance of a heliport or helistop as either a principal or an accessory use in any zone district within the Township of Montclair.
- B. A heliport is an area used by helicopters or by other steep-gradient aircraft, which area includes passenger and cargo facilities, maintenance and overhaul, fueling service, storage space, tie-down space, hangars and other accessory buildings and open space. A helistop is an area on a roof or on the ground used by helicopters or steep-gradient aircraft for the purpose of picking up or discharging passengers or cargo, but not including fuel service, maintenance or overhaul.

§ 347-17.1. Telecommunications.

[Added 7-7-1998 by Ord. No. 98-27]

- A. Purpose.
 - (1) Advances in wireless telecommunications technology have resulted in a new generation of telecommunication services. These new services transmit electromagnetic waves of such a frequency and power that will likely require additional antenna locations. These antennas may be located on buildings, water towers and other similar structures. This requires that the Township of Montclair regulate these wireless communication system facilities in a different manner than conventional television and radio transmission towers which are able to transmit their signals at much greater distances.
 - (2) The intent of this section is to comply with all applicable regulations of the Federal Telecommunications Act of 1996 and to provide regulation for the establishment and or expansion of wireless telecommunication services within the Township of Montclair while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. More specifically, this

regulation has been developed in order to:

- (a) Encourage the utilization of existing structures, such as tall buildings, bell towers and municipal structures, to mount and install wireless telecommunications antennae and equipment.
- (b) Minimize the location of facilities in visually sensitive areas.
- (c) Encourage creative design measures to camouflage facilities.
- (d) Protect historic and residential areas from potential adverse impacts of communication equipment.

B. Definitions. As used in this section, the following terms shall have the meanings indicated.

ANTENNA

A device used to receive or transmit electromagnetic waves. Examples include but are not limited to whip antennas, panel antennas and dish antennas.

PUBLIC VIEW

Visible from a public thoroughfare, public lands or buildings, public pathways, trails or bicycle paths.

WIRELESS TELECOMMUNICATIONS ANTENNAS AND EQUIPMENT

Structures used for the delivery of low-power wireless radio communication through a network

WIRELESS TELECOMMUNICATION SERVICES

A licensed wireless telecommunication service, including but not limited to cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

WIRELESS TELECOMMUNICATION SITE

A facility operated by a licensed wireless telecommunication service provider which consists of the equipment and structures involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services.

C. Location preferences.

- (1) The locations for siting the equipment involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services are listed in Subsection **C(1)(a)** through **(c)** below, in order of preference:
 - (a) Municipal structures.
 - (b) Buildings in the C1, C2 and NC Zones.
 - (c) Bell towers, institutional facilities and structures which exceed 60 feet in all residential and office/residential zones.
- (2) Exemptions. Equipment used for the following purposes is hereby specifically exempted from the requirements of this section. However, all other applicable sections do apply:
 - (a) Citizen band operation.
 - (b) Amateur operation.
 - (c) Public safety operations, including but not limited to communications for the federal, county, state or municipal government.

- (3) Application process.
- (a) Municipal structures. The installation and operation of wireless telecommunications antennas and equipment mounted on municipal structures shall only require administrative review from the Planning Department. Approval shall be given subject to the following conditions:
- [1] The applicant shall provide a report prepared by a qualified and licensed professional engineer indicating the existing structure or building's structural integrity to accept the antenna and equipment and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise points of attachment shall be indicated.
 - [2] All wireless telecommunications equipment shall be painted or otherwise colored to minimize the equipment's visible impact.
 - [3] All accompanying equipment buildings or boxes shall be screened from view in the public right-of-way.
 - [4] All appropriate building permits are received.
 - [5] All appropriate lease and sublease agreements have been received and signed by the Township Manager or Mayor.
- (4) C-1, C-2 and NC Zones. The installation and operation of wireless telecommunications antennas and equipment shall be a conditional use in the C-1, C-2 and NC Zones subject to the following conditions:
- (a) Documentary evidence shall be presented regarding the need for a additional wireless telecommunications antennas in the Township of Montclair. This information shall identify the telecommunications network layout and coverage areas to demonstrate such need within the Township.
 - (b) All wireless telecommunications equipment shall be painted or otherwise colored to minimize the equipment's visible impact.
 - (c) The height of the antenna shall not exceed the top of the parapet wall, penthouse or chimney to which it is attached.
[Amended 11-26-2002 by Ord. No. 02-52]
 - (d) All accompanying equipment buildings or boxes shall be screened from the public view and shall not exceed the maximum height for a principal building in the zone.
[Amended 4-3-2012 by Ord. No. O-12-23]
- (5) RO, R1, R2, R3, R4, OR3 and OR4 Zones. The installation and operation of wireless telecommunications antennas and equipment shall be a conditional use in the RO, R1, R2, R3, R4, OR3 and OR4 Zones, subject to the following conditions:
- (a) The building or structure which the wireless telecommunications antenna and equipment is mounted on measures in height a minimum of 60 feet, such as a bell tower, apartment building or institutional facilities.
 - (b) Documentary evidence, from a licensed engineer, shall be presented regarding the need for a additional antennas in the Township of Montclair. This information shall identify the telecommunications network layout and coverage areas to demonstrate such need within the Township.
 - (c) All wireless telecommunications equipment shall be painted or otherwise colored or

camouflaged to minimize the equipment's visible impact.

- (d) The height of the antenna shall not exceed the top of the parapet wall, penthouse or chimney to which it is attached.
[Amended 11-26-2002 by Ord. No. 02-52]
 - (e) No changes shall be made to the height of such structure or significantly alter its appearance.
 - (f) No panel antenna shall exceed 72 inches in height and 24 inches in width.
 - (g) No dish antenna shall exceed three feet in diameter.
 - (h) All accompanying equipment buildings or boxes shall be screened from the public view and shall not exceed the maximum height for a principal building in the zone.
[Amended 4-3-2012 by Ord. No. O-12-23]
- D. Inspection, abandonment and penalties.
- (1) Every year after approval, the applicant shall provide a report prepared by a qualified and licensed professional engineer indicating the safety and structural integrity of the installed telecommunications equipment and structure which they are mounted on.
 - (2) Wireless telecommunication equipment not in use for 12 consecutive months shall be removed by the building owner. This removal shall occur within 90 days of the end of such twelve-month period. Upon removal the site shall be restored to its previous appearance and where appropriate revegetated to blend with the surrounding area.
 - (3) A copy of the relevant portions of a signed lease which requires the applicant to remove the wireless telecommunications antenna and equipment and associated facilities upon cessation of operations at the site shall be submitted at the time of the building permit application. A copy of relevant portions of any lease renewals shall be provided to the Township Planning Department thereafter.
 - (4) In the event that wireless telecommunications antennas and equipment are not removed within the abandonment time frame specified above, the wireless telecommunications antennas and equipment may be removed by the Township and the costs of removal assessed against the property in addition to other penalties proscribed by the chapter for violations of the provision of this article.

Article III. General Lot and Building Regulations

§ 347-18. Formation of new lots.

- A. When a new lot is formed from part of a parcel of land on which there is an existing building, the lot size, setback and bulk requirements hereunder must be maintained for the existing building, and the new lot and any proposed new buildings must also comply with these requirements.
- B. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing principal building, for the purpose of this chapter such new lot shall be deemed to embrace only so much of such former lot as would not be required to be included in such former lot to permit the erection thereon of the existing principal building.
- C. In no case shall a new lot be formed from part of a parcel of land on which there exists a principal residential building in any single- or two-family zone if the lot is to be positioned so that a structure

erected thereon would disturb the uninterrupted frontage of the existing residential building to the street on which said new lot or lots are to front.

- D. The Minimum Standard Width of Lot Map, as amended, hereby is adopted and made a part of this chapter. ^[1]

[Added 11-29-2005 by Ord. No. 05-60A]

[1] *Editor's Note: Said map is on file in the office of the Municipal Clerk.*

- E. The minimum lot sizes and areas in R-O, R-O(a), R-1 and R-2 Zones shall conform to the minimum lot sizes and areas prescribed in this chapter, or if there is no such zoning requirement for the district in which such lot or lots are located, the width of such proposed lot or lots shall conform to the widths set forth in the Minimum Standard Width of Lot Map appended to this chapter. The depth of such proposed lot or lots shall conform to the following requirements:

[Added 11-29-2005 by Ord. No. 05-60A]

- (1) Where the existing street pattern has been established and there is no opportunity for interior block subdivision, the depth of all newly created lots shall be in keeping with the established lot depth, as defined in §347-2.
[Amended 3-12-2013 by Ord. No. O-13-09]
- (2) Where the existing street pattern has not been established and where a subdivision will involve a new street, lots of the respective widths shown shall have the minimum depth stated below:

Lot Width (inches)	Minimum Lot Depth (feet)
50 to 60	110
61 to 70	110
71 to 80	120
81 to 90	125
91 to 100	130
101 and over	140

- F. The minimum lot sizes and areas in R-3, OR-3, R-4, OR-4, C-1, C-2 and NC Zones shall conform to the minimum lot sizes and areas prescribed in this chapter.

[Added 11-29-2005 by Ord. No. 05-60A]

§ 347-19. Driveways in residential zones.

No private driveway or walk giving access to a residential use in a less restricted zone shall be permitted over land in a more restricted zone.

§ 347-20. Number of dwellings on lot.

For one- and two-family dwellings, there shall be no more than one principal building per lot, and each lot shall front on a public street, except for carriage houses as provided in §347-9.

§ 347-21. Yards and courts; window exposure.

- A. Unless otherwise expressly provided, the terms "rear yard," "front yard," "side yard" and "court," when used in this chapter, shall be deemed to refer only to a rear yard, front yard, side yard or court required by this chapter. No lot area shall be so reduced or diminished that the yards, courts or open spaces shall be smaller than prescribed by this chapter. No existing building shall be altered, enlarged

or rebuilt except in conformity with the regulations herein prescribed.

- B. Except as otherwise provided in this chapter, every room in which persons live, sleep, work or congregate shall have at least one window or ventilating skylight opening directly either upon a street or upon a rear yard, front yard, side yard or court located upon the same lot and conforming to the requirements prescribed by this chapter as to its minimum area and least dimensions. The provisions of this chapter shall not be deemed to apply to courts or shafts for bathrooms, hallways or stairways.
- C. The area required in a court or yard at any given level shall be open from such level to the sky, unobstructed except for the ordinary projections of skylights and parapets above the bottom of such courts or yard and except for the ordinary projections of windowsills, belt courses, cornices and other ornamental features to the extent of not more than four inches.
- D. An open or lattice-enclosed iron fire escape, fireproof outside stairway or solid-floored balcony may project four feet into a rear yard or a side yard.
- E. A corner of a court or yard may be cut off between walls of the same building, provided that the length of the wall of such cutoff does not exceed seven feet, and further provided that the required area of the court or yard is not diminished.
- F. Windows opening on a recess to a court, yard or common shall be deemed to comply with the provisions of this chapter, provided that such recess is no longer in any part than 1/2 of its width on the open side.

§ 347-22. Location of accessory buildings.

- A. Accessory buildings, except as provided for in Article VIII, § 347-58, shall be located in the rear yard and shall not occupy more than 25% of the rear yard.
[Amended 7-15-1980 by Ord. No. 80-31; 7-12-2005 by Ord. No. 05-34]
- B. When the rear lot line of a corner lot coincides with the side lot lines of the adjoining property fronting on the side street, accessory buildings shall set back from such rear lot line not less than a distance equivalent to the width of the minimum required side yard for such corner lot.
- C. The provisions of this section shall not apply to a garage built in a multifamily zone below the first-floor level, as provided in § 347-58.
- D. Swimming pools as accessory structures to residential uses shall not be permitted in front yards or in street side yards of corner lots.^[1]
[Added 3-3-1981 by Ord. No. 81-4]
^[1] *Editor's Note: See Ch. 301, Swimming Pools.*

§ 347-23. Height exceptions.

- A. The height provisions of this chapter shall not apply to the erection of church spires, belfries, towers designed exclusively for ornamental purposes, chimneys or flues. The height provisions of this chapter shall, moreover, not apply to bulkheads, elevator enclosures, stairway heads, cooling towers or water tanks occupying in the aggregate less than 10% of the area of the roof on which they are located.
- B. Nothing in this chapter shall prevent the erection above the height limit of a parapet wall or cornice extending above such height limit not more than five feet.
- C. A dormer/dormers in a half story that is not/are not more than 50% of the width of the facade at their widest point shall not result in the half story counting as a full story.

[Added 6-13-2006 by Ord. No. 06-35]

§ 347-24. Dish antennas.

[Added 10-2-1984 by Ord. No. 84-38]

- A. Freestanding dish antennas are permitted in any zone only as an accessory use, subject to the following standards:
- (1) No more than one dish antenna per lot shall be permitted.
 - (2) Dish antennas shall be located only in rear yards and shall comply with the minimum side and rear yard setbacks for principal structures or with setbacks equal to the height of the antenna structure, whichever is greater.
 - (3) No dish antenna structure shall exceed 11 feet as measured from the average ground elevation below the structure to the highest point of the structure, and no dish receiver shall exceed a diameter or dimension of seven feet or an area of 40 square feet.
 - (4) Dish antennas shall be screened from the view from abutting private or public properties and streets by natural evergreen landscaping. Such plantings shall be a minimum of five feet high at the time of planting and spaced to create an effective visual screen.
- B. Dish antennas mounted on principal or accessory buildings are permitted in any zone, subject to the following standards:
- (1) No more than one dish antenna per lot shall be permitted.
 - (2) The dish antenna shall be considered part of the building upon which it is mounted and shall comply with all height, setback and other regulations applicable to the building.
 - (3) No dish receiver shall exceed a diameter of 3.3 feet or an area of 8.6 square feet.

§ 347-25. Minimum yards for corner lots.

[Added 12-17-1985 by Ord. No. 85-44]

Corner lots shall have one front yard along each street frontage. The rear yard shall be opposite the street frontage of least dimension. The remaining yard or yards shall be minimum side yards.

§ 347-26. Lot partly in adjoining municipality.

Where a lot is traversed by a municipal boundary line, any building erected in whole or in part on the portion of the lot in Montclair shall be in compliance with the requirements of any ordinance of the neighboring municipality applicable to said lot prescribing minimum yards, courts and area of lot occupied by buildings, and shall not have a roof which rises above the maximum height of buildings permitted for such lot by the ordinances of the neighboring municipality, unless the requirements of this chapter with respect to minimum yards, courts, the area of lot occupied by buildings and the height of buildings are more restrictive than such requirements of the ordinances of the neighboring municipality, in which case the more restrictive requirements of this chapter shall control.

§ 347-27. Fences.

[Amended 11-27-1984 by Ord. No. 84-45]

- A. In all zones, except the R-O, R-O(a) and C-2 Zones:
- (1) On interior lots, fences or walls other than retaining walls shall not exceed 4 1/2 feet in height when built in front of the extreme rear corner(s) of the principal building and shall not exceed seven feet in height when built on the remainder of the lot.
 - (2) On corner lots, fences or walls other than retaining walls shall not exceed 4 1/2 feet in height when built between the street line upon which the principal building fronts and the extreme rear corner(s) of the principal building or between the side street line and the setback of the principal building. On the remainder of the lot, fences or walls shall not exceed seven feet in height.
- B. In the R-O and R-O(a) Zones:
- (1) On interior lots, open fences (defined as having 25% or less solid areas or voids of dimension not less than two inches) shall not exceed 4 1/2 feet in height, and solid walls, other than retaining walls, shall not exceed three feet in height when built in front of the extreme rear corner(s) of the principal building. Stockade and other solid fences are not permitted in this area. On the remainder of the lot, fences or walls shall not exceed seven feet in height.
 - (2) On corner lots, open fences (defined as having 25% or less solid areas or voids of dimension not less than two inches) shall not exceed 4 1/2 feet in height and solid walls other than retaining walls shall not exceed three feet in height when built between the street line upon which the principal building fronts and the extreme rear corner(s) of the building or between the side street line and the setback of the principal building. Stockade and other solid fences are not permitted in this area. On the remainder of the lot, fences or walls shall not exceed seven feet in height.
- C. In the C-2 Zone, fences or walls other than retaining walls shall not exceed seven feet in height.
- D. Open fences (defined as having 25% or less solid areas, or voids of dimension not less than two inches) not exceeding six feet in height may be erected on the property of any church, school, cemetery or public playground.
- E. On corner lots no fence or wall shall exceed 2.5 feet in height when built in a triangular area, the two sides of which are formed by twenty-five-foot lengths of street lines intersecting at an angle or, if the corner is rounded, by the extension of the street lines to form such an angle.
- F. All fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties or the street.
- G. Partition fences or walls topped with barbed wire or similar hazardous elements shall not be permitted unless their erection is consented to in writing by the adjacent land owner.
- H. Fences enclosing tennis courts in side or rear yards may exceed seven feet in height but shall not be higher than 10 feet. Such fences shall not be closer than 20 feet to property lines, except that a minimum fence setback of 10 feet shall be permitted if a hedge or row of dense shrubs at least four feet high at the time of planting is maintained between the fence and the respective property line. ^[1]
- [1] *Editor's Note: Former Subsection I, added 11-26-2002 by Ord. No. 02-52, regarding retaining walls over four feet in height, which immediately followed this subsection, was repealed 11-29-2005 by Ord. No. 05-60A.*

§ 347-27.1. Retaining walls.

[Added 11-26-2002 by Ord. No. 02-52]

- A. Retaining walls may abut property lines without any required setback.
- B. On interior lots, retaining walls shall not exceed 4.5 feet in height when built in front of the extreme rear corner(s) of the principal building and shall not exceed seven feet in height when built on the remainder of the lot.
- C. On corner lots, retaining walls shall not exceed 4.5 feet in height when built between the street line upon which the principal building fronts and the extreme rear corner(s) of the principal building or between the side street line and the setback of the principal building. On the remainder of the lot, retaining walls shall not exceed seven feet in height.
- D. On corner lots no retaining wall shall exceed 2.5 feet in height when built in a triangular area, the two sides of which are formed by twenty-five-foot lengths of street lines intersecting at an angle or, if the corner is rounded, by the extension of the street lines to form such an angle.
- E. In the event that a guard rail, fence or wall other than a retaining wall is provided at the top of the retaining wall, the wall height shall be measured to the top of the guard rail, fence or wall on top of the retaining wall.
- F. When the overall height of the retaining wall and guard rail, fence or wall on top of the retaining wall exceeds the maximum permitted height, the guard rail, fence or wall other than the retaining wall must be set back from the top of the retaining wall by one foot for every foot of height of the guard rail, fence or wall on top of the retaining wall.
- G. Terraced retaining walls involving more than one section of wall above or below each other shall be construed as one wall unless the base of the upper wall is separated from the face of the lower wall by at least four feet, measured horizontally.
- H. In the event that a retaining wall is permitted by variance to exceed the maximum permitted height, the Board granting the variance may require an appropriate guard rail, fence or wall in order to protect persons from falling over the edge of the retaining wall.
- I. Every retaining wall over four feet in height must be designed by a licensed professional engineer.

§ 347-28. Security gates or doors.

[Added 11-27-1990 by Ord. No. 90-53]

Rolling, swinging, sliding or accordion garage-type security gates or doors, whether solid or not solid, shall not be permitted on or in any building so as to be visible from a street or municipal parking area, except that such gates or doors may be used to cover the vehicular entrance to a building.^[1]

[1] *Editor's Note: Former §§ 347-28.1, Width of lots; 347-28.2, Lot sizes in R-o, R-o(a), R-1 and R-2 Zones; and 347-28.3, Lot sizes in R-3, OR-3, R-4, OR-4, C-1, C-2 and N-C Zones, which were formerly included in Ch. 301, Subdivision of Land, as §§ 301-27 and 301-28 and relocated to this chapter 11-29-2005 by Ord. No. 05-61, were repealed 2-11-2008 by Ord. No. 08-02.*

Article IV. R-O Mountainside Zone

§ 347-29. Permitted principal uses.

The following principal uses are permitted in the R-O Mountainside Zone:

- A. One-family detached dwellings.

- B. Carriage houses, where qualifying as permitted uses in § 347-9.
- C. Municipal facilities, subject to Planning Board site plan review.

§ 347-30. Permitted conditional uses.

The following conditional uses may be permitted in the R-O Mountainside Zone:

- A. Carriage houses, where permitted as conditional uses in § 347-9.
- B. Private and public schools, under the conditions in § 347-12.
[Amended 6-24-1980 by Ord. No. 80-41]
- C. Museums, subject to the following conditions:
[Amended 9-1-1981 by Ord. No. 81-45]
 - (1) Minimum lot size of one acre.
 - (2) Minimum off-street parking for assembly areas:
 - (a) With fixed seating: one space per three seats.
 - (b) With no fixed seating: one space per 20 square feet net floor area.
 - (3) Parking areas and driveways shall be set back at least 10 feet from property lines, with the intervening areas landscaped with evergreens to form an effective visual screen at the time of planting.
 - (4) Parking areas shall not be lit except during the time of use of assembly facilities.
 - (5) The property shall front on a street having a pavement width of at least 38 feet.

§ 347-31. Permitted accessory uses.

The following accessory uses are permitted in the R-O Mountainside Zone:

- A. Garages appurtenant to a residential use.
- B. Off-street parking for not more than four vehicles, except in the case of conditional uses.
- C. Swimming pools.
- D. Tennis courts and platform tennis courts, subject to Planning Board determination of the adequacy of screening from adjoining residential properties. Lighting for night use is not permitted unless completely shielded from public streets and other residential properties.
- E. Home occupations not involving the servicing of customers or clients on the premises, and subject to the following regulations, to assure that such accessory use remains incidental to the principal use and will not adversely affect the residential character of the area:
 - (1) Any such occupation shall not substantially alter or change the character of the premises or give an appearance that the premises are being used for other than residential occupancy. There must be no physical features or arrangements not customary in buildings intended for residential use only.
 - (2) The parking of automobiles caused by such use shall not interfere with the public use of adjoining streets and shall not be sufficient to inconvenience the neighbors by occupying a large part of

nearby curb space.

- (3) Such use shall be limited to 15% of the total floor area of the principal building or not more than 25% of the area of any one floor.
 - (4) There shall be no display of any commodity or advertising on the premises, nor shall any commodity be sold from the premises.
 - (5) No manufacturing of goods or storage of material shall take place on the premises.
 - (6) It shall not be permissible to stock or store any type of merchandise.
 - (7) The maximum permissible employment shall be one part-time (not over 30 hours per week) person, employed only in conjunction with the operation of a professional practice.
 - (8) Not more than two resident occupants of the dwelling may be employed in the operation of any domestic craft.
 - (9) No sign will be permitted or other indication of the nature of the accessory use.
 - (10) The operation or use of machinery for other than customary household purposes shall not be permitted.
 - (11) Clerical work from the home in connection with an insurance, real estate or similar business is not considered an accessory use, unless the occupant has a legally established office elsewhere which is in regular use for this business, and under no circumstances shall the address of the business be established as the home address.
 - (12) The following occupations carried on commercially, among others, shall be excluded from the classification of accessory uses:
 - (a) Experimentation within a structure or on the premises by use of chemicals or other means which may be hazardous.
 - (b) Operation of a job (carpentry, plumbing, electrical or other similar business) from within a structure or from or on the premises; photographic studio.
 - (c) Repairing of automobiles or other vehicles, furniture, radios, doing carpentry or similar work and the repairing of mechanical equipment.
- F. Other accessory uses customarily associated with principal and conditional uses permitted in this zone.
- G. A family day-care home for children, provided that such home has been registered with the State of New Jersey Division of Youth and Family Services pursuant to the Family Day Care Provider Registration Act of 1987^[1] and subject to the following regulations to assure that such accessory use will not adversely affect the residential character of the area:
[Added 3-22-1988 by Ord. No. 88-10]
- (1) Any such occupation shall not substantially alter or change the character of the premises or give an appearance that the premises are being used for other than residential occupancy. There must be no physical features or arrangements not customary in buildings intended for residential use only.
 - (2) The parking of automobiles caused by such use shall not interfere with the public use of adjoining streets and shall not be sufficient to inconvenience the neighbors by occupying a large part of the nearby curb space.
 - (3) No sign or other indication of the nature of the accessory use will be permitted.

[1] *Editor's Note: N.J.S.A. 30:5B-16 through 5B-25.*

§ 347-32. Lot size and width requirements.

[Amended 11-29-2005 by Ord. No. 05-63]

- A. The minimum lot area shall be 20,000 square feet.
- B. The minimum lot width shall be 100 feet at the street line for all lots unless a greater width of 150 feet is set forth on the Minimum Standard Width of Lot Map appended to this chapter.^[1]

[1] *Editor's Note: Said map is included in the pocket at the end of this volume.*

§ 347-33. Height and setback of principal structures.

Height and setback of principal structures shall be as follows:

- A. Maximum height and number of stories.
[Amended 7-12-2005 by Ord. No. 05-34; 4-25-2006 by Ord. No. 06-17]
 - (1) Maximum height: 35 feet.
[Amended 6-13-2006 by Ord. No. 06-35]
 - (2) Maximum number of stories: 2 1/2.
- B. Front yard setback.
[Amended 8-31-1982 by Ord. No. 82-30; 11-26-2002 by Ord. No. 02-52]
 - (1) Minimum front yard setback for interior lots: 50 feet, except that, where the average front yard setback of existing buildings is greater, such greater setback shall apply. The average setback shall be calculated using the front yard setbacks of the four nearest principal structures, two on either side of the lot in question, and within the same block and zoning district.
 - (2) Minimum front yard setback for corner lots: 50 feet from each street, except that, where the average front yard setback of existing structures is greater, such greater setback shall apply. The average front yard setback shall be calculated using the front yard setbacks of the two nearest principal structures on the respective street frontage and within the same block and zoning district. Corner lots shall have front yard setbacks along each street frontage.
- C. Side yard setback.
[Amended 8-31-1982 by Ord. No. 82-30; 12-17-1985 by Ord. No. 85-44]
 - (1) Minimum side yard setbacks for interior lots: 12 feet for one yard and 18 feet for the other yard.
 - (2) Minimum side yard setback for corner lots: 12 feet.
 - (3) Additions to existing buildings shall comply with the side yard setbacks of 12 feet for one yard and 18 feet for the other yard for interior lots, and the setback of 12 feet for corner lots.
[Added 11-29-2005 by Ord. No. 05-63]
 - (4) The maximum permitted width of a principal structure shall be 65% of the width of the lot frontages at any one point measured parallel to the street line.
[Added 6-13-2006 by Ord. No. 06-35; amended 3-11-2008 by Ord. No. 08-09]
 - (a) For building additions which widen the existing principal structure, the maximum permitted width shall apply to the width of the expanded structure, including the addition.

- (b) For building additions which do not widen the existing principal structure, the maximum permitted width shall apply to the building addition only.
- D. Minimum rear yard setback: 30 feet, or 30% of the depth of the lot, whichever is greater.
[Amended 6-13-2006 by Ord. No. 06-35]
- E. The maximum building coverage shall be 20%.
[Added 6-13-2006 by Ord. No. 06-35]

§ 347-34. Height and setback of accessory structures; parking areas and driveways.

- A. Height and setback of accessory structures shall be as follows:
 - (1) Maximum height: 15 feet.
 - (2) Side yard setback.
 - (a) Minimum side yard setback for interior lots: 12 feet for one yard and 18 feet for the other yard.
 - (b) Minimum side yard setback for corner lots: 12 feet for one yard and 55 feet for the yard adjacent to the side street.
 - (3) Minimum rear yard setback: 10 feet.
- B. No accessory structure nor any off-street parking area, whether or not within a garage, shall be located between the main building and the curb of the street on which the building fronts; provided, however, that a driveway leading to a garage which is in, beside or behind the main building shall be permissible.
[Added 9-16-1980 by Ord. No. 80-53; amended 1-20-1981 by Ord. No. 81-1]

Article V. R-O(a) One-Family Zone

§ 347-35. Permitted principal uses.

The following principal uses are permitted in the R-O(a) One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-36. Permitted conditional uses.

The following conditional uses may be permitted in the R-O(a) One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-37. Permitted accessory uses.

The following accessory uses are permitted in the R-O(a) One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-38. Lot size requirements.

- A. The minimum lot width shall be 100 feet at the street line for all lots; provided, however, that in the case of lots where more than 1/2 of the total frontage of the lot is on an arc or street curvature the radius of which is not more than 150 feet, the width of the lot may be not less than 55 feet at the street line and not less than 100 feet measured along the required building setback line from the street.
- B. The minimum lot depth shall be 100 feet, and each lot shall have a minimum area of 13,000 square feet within 130 feet of the street line.

§ 347-39. Height and setback of principal structures.

- A. The height regulations shall be the same as for the R-O Zone.
- B. Setback requirements shall be as follows:
[Amended 8-31-1982 by Ord. No. 82-30]
 - (1) In any R-O(a) Zone situated south of Bloomfield Avenue: same as for R-O Zone.
 - (2) In an R-O(a) Zone situated north of Bloomfield Avenue:
[Amended 11-26-2002 by Ord. No. 02-52]
 - (a) Minimum front yard setback for interior lots: 35 feet, except that, where the average front yard setback of existing buildings is greater, such greater setback shall apply. The average setback shall be calculated using the front yard setbacks of the four nearest principal structures, two on either side of the lot in question, and within the same block and zoning district.
 - (b) Minimum front yard setback for corner lots: 35 feet from each street, except that, where the average front yard setback of existing structures is greater, such greater setback shall apply. The average front yard setback shall be calculated using the front yard setbacks of the two nearest principal structures on the respective street frontage and within the same block and zoning district. Corner lots shall have front yard setbacks along each street frontage.
- C. The side and rear yard requirements shall be the same as those for the R-O Zone.
- D. The maximum building coverage shall be 20%.
[Added 6-13-2006 by Ord. No. 06-35]

§ 347-40. Height and setback of accessory structures; accessory structures, parking area and driveways.

- A. Height and setback of accessory structures shall be as follows:
 - (1) Maximum height: 15 feet.
 - (2) Side yard setback.
 - (a) Minimum side yard setback for interior lots: 12 feet for one yard and 18 feet for the other yard.
 - (b) Minimum side yard setback for corner lots: 12 feet for one yard and 55 feet for the yard adjacent to the side street.

(3) Minimum rear yard setback: 10 feet.

- B. Accessory structures, parking areas and driveways shall be the same as for the R-O Zone.
[Added 9-16-1980 by Ord. No. 80-53; amended 1-20-1981 by Ord. No. 81-1]

Article VI. R-1 One-Family Zone

§ 347-41. Permitted principal uses.

The following principal uses are permitted in the R-1 One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-42. Permitted conditional uses.

[Amended 1-8-1985 by Ord. No. 84-50; 5-26-1998 by Ord. No. 98-17; 2-11-2008 by Ord. No. 08-02]
The following conditional uses may be permitted in the R-1 One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-43. Permitted accessory uses.

The following accessory uses are permitted in the R-1 One-Family Zone:

- A. Same as in the R-O Zone.

§ 347-44. Lot size requirements.

[Amended 11-29-2005 by Ord. No. 05-60A]
See Article III, General Lot and Building Regulations, § 347-18.

§ 347-45. Height and setback of principal structures.

Height and setback of principal structures shall be as follows:

- A. Maximum height and number of stories.
[Amended 7-12-2005 by Ord. No. 05-34; 4-25-2006 by Ord. No. 06-17]
- (1) Maximum height: 35 feet.
[Amended 6-13-2006 by Ord. No. 06-35]
 - (2) Maximum number of stories: 2 1/2.
- B. Front yard setback.
[Amended 8-31-1982 by Ord. No. 82-30; 11-26-2002 by Ord. No. 02-52]
- (1) Minimum front yard setback for interior lots: 25 feet, except that, where the average front yard setback of existing buildings is greater, such greater setback shall apply. The average setback shall be calculated using the front yard setbacks of the four nearest principal structures, two on either side of the lot in question, and within the same block and zoning district.

- (2) Minimum front yard setback for corner lots: 25 feet from each street, except that, where the average front yard setback of existing structures is greater, such greater setback shall apply. The average front yard setback shall be calculated using the front yard setbacks of the two nearest principal structures on the respective street frontage and within the same block and zoning district. Corner lots shall have front yard setbacks along each street frontage.
- C. Side yard setback.
[Amended 8-31-1982 by Ord. No. 82-30; 12-17-1985 by Ord. No. 85-44; 11-29-2005 by Ord. No. 05-63]
- (1) Minimum side yard setbacks for interior lots: six feet for one yard and 10 feet for the other yard.
- (2) Minimum side yard setback for corner lots: six feet.
- (3) Additions to existing buildings shall comply with the side yard setbacks of six feet for one yard and 10 feet for the other yard for interior lots, and the setback of six feet for corner lots.
- (4) The maximum permitted width of a principal structure shall be 65% of the width of the lot frontages at any one point measured parallel to the street line.
[Added 6-13-2006 by Ord. No. 06-35; amended 3-11-2008 by Ord. No. 08-09]
- (a) For building additions which widen the existing principal structure, the maximum permitted width shall apply to the width of the expanded structure, including the addition.
- (b) For building additions which do not widen the existing principal structure, the maximum permitted width shall apply to the building addition only.
- D. Minimum rear yard: 25 feet or 25% of the depth of the lot, whichever is greater.
[Amended 6-13-2006 by Ord. No. 06-35; 4-3-2012 by Ord. No. O-12-25]
- E. The maximum building coverage shall be 25%.
[Added 6-13-2006 by Ord. No. 06-35]

§ 347-46. Height and setback of accessory structures; parking areas and driveways.

- A. Height and setback of accessory structures shall be as follows:
- (1) Maximum height: 15 feet.
- (2) Side yard setback.
[Amended 11-26-2002 by Ord. No. 02-52]
- (a) Minimum side yard setback for interior lots: six feet.
- (b) Minimum side yard setback for corner lots: six feet for one yard and 28 feet for the yard adjacent to the side street.
- (3) Minimum rear yard setback: six feet.
[Amended 11-26-2002 by Ord. No. 02-52]
- B. (Reserved)^[1]
[1] *Editor's Note: Former Subsection B, regarding the fire rating, was repealed 11-26-2002 by Ord. No. 02-52.*
- C. Setback for accessory structures, parking areas and driveways shall be the same as for R-O(a) Zone.
[Added 9-16-1980 by Ord. No. 80-53; amended 1-20-1981 by Ord. No. 81-1]

Article VII. R-2 Two-Family Zone

§ 347-47. Permitted principal uses.

[Amended 6-9-1981 by Ord. No. 81-31]

The following principal uses are permitted in the R-2 Two-Family Zone:

- A. One-family detached dwellings.
- B. Two-family detached dwellings.
- C. Municipal facilities, subject to site plan review by the Planning Board.

§ 347-48. Permitted conditional uses.

The following conditional uses may be permitted in the R-2 Two-Family Zone:

- A. Private and public schools, under the conditions in § **347-12**.
[Amended 6-24-1980 by Ord. No. 80-41]
- B. Churches in separate buildings, subject to the following conditions:
 - (1) The premises shall have frontage on a street having pavement width of at least 30 feet.
 - (2) The premises shall have a minimum lot area of 10,000 square feet.
 - (3) Off-street parking shall be provided in the amount of at least one space for every eight seats, or one space for each 16 feet of seating capacity if benches rather than seats are used, with adequate landscaped screening from adjoining residential properties.
[Amended 2-20-2007 by Ord. No. 07-8]
 - (4) The proposed use will not have a substantial adverse effect on the adjoining residential properties or on the traffic circulation in the area.
- C. Charitable institutions except hospitals, subject to the following conditions:
 - (1) The use will not have a substantial adverse effect on the adjacent residential properties.
 - (2) The traffic generated by the use will not have a substantial adverse effect on the traffic pattern in the area.
 - (3) Off-street parking shall be provided for at least the staff members of the institution, with adequate landscaped screening from adjoining residential properties.

§ 347-49. Permitted accessory uses.

The following accessory uses are permitted in the R-2 Two-Family Zone:

- A. Garages appurtenant to residential use.
- B. Off-street parking for one-family dwellings for not more than four vehicles.
- C. Off-street parking for two-family dwellings for not more than five vehicles.
- D. Swimming pools.

- E. Other accessory uses customarily associated with principal and conditional uses permitted in this zone.
- F. Home occupations, under the conditions in § **347-31E**.
[Added 6-24-1980 by Ord. No. 80-41]
- G. Family day-care homes for children as provided in § **347-31G**.
[Added 3-22-1988 by Ord. No. 88-11]

§ 347-50. Lot size requirements.

- A. See Article **III**, General Lot and Building Regulations, § **347-18**.
[Amended 11-29-2005 by Ord. No. 05-60A]
- B. Lot size may be reduced to 4,000 square feet, with a minimum frontage of 40 feet, where the property is part of a neighborhood improvement or neighborhood strategy area as delineated under Township Community Development Program, subject to Planning Board approval as complying with the applicable neighborhood plan.

§ 347-51. Height and setback of principal structures.

Height and setback of principal structures shall be the same as in the R-1 Zone.

§ 347-52. Height and setback of accessory structures; parking areas and driveways.

[Amended 9-16-1980 by Ord. No. 80-53]

Height and setback of accessory structures and parking areas and driveways shall be the same as in the R-1 Zone.

Article VIII. R-3 Garden Group Zone

§ 347-53. Permitted principal uses.

The following principal uses are permitted in the R-3 Garden Group Zone:

- A. One-family detached dwellings.
- B. Two-family detached dwellings (not including conversions of existing one-family dwellings, which are permitted as conditional uses; see § **347-54A**).
- C. Multifamily dwellings, at a density of not over 18 units per acre [excluding i) townhouses and ii) conversions of existing buildings, which are permitted as conditional uses; see § **347-54B**].
[Amended 4-25-2006 by Ord. No. 06-17; 7-10-2007 by Ord. No. 07-35]
- D. Townhouses, at a maximum density of 10 units per acre, or 12 units per acre if an existing building on the property is preserved and converted to residential use.
[Added 7-10-2007 by Ord. No. 07-35^[1]]

[1] *Editor's Note: This ordinance also redesignated former Subsections D and E as Subsections E and F, respectively.*

- E. Municipal facilities, subject to Planning Board site plan review.
- F. Senior citizen housing, subject to the requirements for multifamily housing.
[Added 5-26-1998 by Ord. No. 98-17]

§ 347-54. Permitted conditional uses.

The following conditional uses may be permitted in the R-3 Garden Group Zone:

- A. Conversion of existing one-family dwellings to provide two dwelling units for the use of two families, provided that:
 - (1) The size and arrangement of the dwelling units is adequate under the United States Department of Housing and Urban Development Minimum Property Standards, Volume 1 (1973), Chapter 4.
[Amended 6-24-1980 by Ord. No. 80-41]
 - (2) Adequate arrangements are made for off-street parking and driveways so as not to create a substantial adverse effect on the residential character of the site or adjoining properties.
 - (3) The lot frontage is at least 50 feet and the lot size is at least 5,000 square feet.
 - (4) Access to all dwelling units within a converted building shall be provided by a common entrance situated in the wall of the building facing the street on which the lot has frontage.
- B. An existing principal residential building may be converted to provide more than two dwelling units for use by more than two families, provided that the entire building when so converted shall comply with all requirements of the Building Code of the Township of Montclair^[1] which are applicable to newly constructed multifamily dwellings in the R-3 Zone; and provided, further, that:
 - (1) The floor area of each dwelling unit, measured from the inside of the building walls and exclusive of stairs, basements, utility rooms and porches, shall be not less than 800 square feet.
 - (2) The principal building on a lot shall occupy not more than 1/4 of the ground area of the lot.
 - (3) Buildings converted for occupancy.
[Repealed 6-24-1980 by Ord. No. 80-41]
 - (4) The ground coverage of the building, exclusive of open porches, garages or any other area not within the area occupied by normal living quarters, shall be not less than 1,250 square feet; the area of the lot on which the building is erected shall not be less than 15,000 square feet within 150 feet of the front street line; and the density shall not be greater than 24 units per acre.
 - (5) Fire escapes or stairway leading to the second or any higher floor shall be completely enclosed within the building walls.
 - (6) The interior design and arrangement of the dwelling units shall be consistent with United States Department of Housing and Urban Development Minimum Property Standards, Volume 2 (1973), Chapter 4.
[Amended 6-24-1980 by Ord. No. 80-41]
 - (7) Access to all dwelling units within a converted building shall be provided by a common entrance situated in the wall of the building facing the street on which the lot has frontage.

[1] *Editor's Note: Currently, see Ch. 121, Construction Codes, Uniform.*
- C. Private and public schools, under the conditions in § 347-12.
[Amended 6-24-1980 by Ord. No. 80-41]

- D. (Reserved)^[2]
[2] *Editor's Note: Former Subsection D, dealing with doctor's offices in a principal building, was repealed 6-8-1982 by Ord. No. 82-21.*
- E. Boarding and rooming houses, provided that:
- (1) Adequate space and facilities are provided for the proposed uses in accordance with the United States Department of Housing and Urban Development Minimum Property Standards, Volume 2 (1973), Chapter 4.
[Amended 6-24-1980 by Ord. No. 80-41]
 - (2) Adequate off-street parking space is provided for the use of projected occupants of the building as demonstrated by the applicant. Any off-street parking facilities proposed shall be suitably arranged and provided with landscaped screening so as not to substantially affect the residential character of the adjoining properties.
- F. Boarding homes for sheltered care, subject to the following:
- (1) The building and use shall comply with all regulations of Article VI, §§ **153-31** through **153-33** of the Code of the Township of Montclair.
 - (2) Adequate off-street parking is available for the staff and for a reasonable number of visitors, suitably arranged and provided with landscaped screening so as not to substantially affect the residential character of the adjoining properties.
- G. Nursing homes, subject to the following conditions:
- (1) The lot area shall be not less than 20,000 square feet.
 - (2) Adequate off-street parking shall be provided as required under § **347-101**, suitably arranged and provided with landscaped screening so as not to substantially affect the character of adjoining properties.
 - (3) The entire sides and rear of the property, where deemed necessary by the Board, shall be screened from adjoining residential uses.
 - (4) Where it is proposed to convert a structure originally designed and built for another use, the structure must be adaptable to the proposed use, with consideration to public health and safety.
 - (5) The Board shall determine the appropriateness of the location of the use in regard to the nature and intensity of the use, nearness of the building to adjoining lots and residential uses, access to the lot from the street or streets and the need for and probable economic viability of the proposed use.
 - (6) The use, if granted, will not substantially injure or detract from the principal use of the adjacent properties or be a substantial detriment to the character of the neighborhood.
- H. Churches, under the conditions in § **347-48B**.
- I. Charitable institutions except hospitals, under the conditions in § **347-48C**.
- J. Assisted-living facilities are permitted as a principal use, subject to the following conditions:
[Added 5-26-1998 by Ord. No. 98-17]
- (1) The maximum density shall be 32 units per acre.
 - (2) Off-street parking shall be provided pursuant to § **347-101** of this chapter.
 - (3) Site plan approval shall be required.

- (4) The maximum height shall be three stories or 35 feet.
- (5) The setback-to-height ratio for the front and rear yards shall be no less than one to one. The minimum side yard setback shall be equal to 1/2 the building height.
- (6) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
- (7) The maximum impervious surface coverage shall be 70%.
- (8) The maximum building coverage shall be 20%.

§ 347-55. Permitted accessory uses.

The following accessory uses are permitted in the R-3 Garden Group Zone:

- A. Same as in the R-2 Zone, except that family day-care homes as referenced in § **347-49G** shall not be permitted as accessory uses.
[Amended 4-5-1988 by Ord. No. 88-15]

§ 347-56. Lot size requirements.

- A. For new one- and two-family dwellings, the minimum lot frontage shall be 60 feet and the minimum lot size 6,000 square feet. (See § **347-54A** for requirements for conversions of existing buildings.)
- B. For new multifamily dwellings, the minimum lot frontage shall be 75 feet, and the minimum lot size 12,000 square feet.
[Amended 6-24-1980 by Ord. No. 80-41]
- C. For conditional uses other than conversions to more dwelling units, minimum lot size and frontage shall be subject to individual determination by the Planning Board, but in no case shall the lot frontage be less than 60 feet or the lot size less than 6,000 square feet.
- D. For townhouses, the minimum lot size shall be 20,000 square feet, and the minimum lot frontage shall be 100 feet.
[Added 7-10-2007 by Ord. No. 07-35]

§ 347-57. Height and setback of principal structures.

- A. For one- and two-family dwellings and all other permitted buildings, except townhouses and new multifamily dwellings, and for all conditional uses when a new building or enlargement of an existing building is proposed, the height and setback requirements shall be as specified as for the R-1 Zone in § **347-45**.
[Amended 7-10-2007 by Ord. No. 07-35]
- B. For new multifamily dwellings, the following requirements shall apply:
 - (1) Maximum building height and number of stories.
[Amended 9-22-1987 by Ord. No. 87-54; 11-29-2005 by Ord. No. 05-60A; 4-25-2006 by Ord. No. 06-17]
 - (a) The maximum building height shall be 40 feet. No dwellings or parts of dwellings, except for storage and utilities areas, shall be located more than two feet below the adjoining general

grade level, with light wells not counted as part of the adjoining grade level.

- (b) Maximum number of stories: 2 1/2.
 - (2) The minimum front yard setback shall be 40 feet, except that where the average setback of existing buildings within 200 feet and within the same block front and zone is less than 40 feet, the average setback so determined shall apply, down to a minimum of 30 feet. A corner lot and through lot shall provide such required minimum front yard for each street frontage.
 - (3) The minimum side yard setback shall be 18 feet, except that where buildings extend for a length of more than 80 feet along the side line, section or sections over 80 feet in length shall have a minimum setback of 30 feet, and if there is more than one building section with a length of up to 80 feet with a minimum setback, these sections shall be separated by a distance of at least 50 feet.
 - (4) The minimum rear yard setback shall be 40 feet.
 - (5) The principal building or buildings shall not occupy more than 20% of the ground area of the site.
 - (6) No principal building shall be designed or occupied by more than 24 families.
 - (7) No building shall exceed 160 feet in length at its longest dimension.
 - (8) No wall of a principal building fronting on a street shall exceed 100 feet in length.
 - (9) All multifamily buildings shall provide not less than two exterior exposures for each family unit, the same properly pierced by windows or other openings so as to provide through ventilation or cross ventilation for the unit.
 - (10) Distance between buildings.
 - (a) The minimum distance between principal buildings shall be the average height of such buildings at the point where the buildings are nearest to each other, except that the minimum distance between the ends of buildings shall be 20 feet.
 - (b) The minimum width of a court shall be 45 feet, and the depth of a court shall not exceed its width.
 - (c) The minimum distance between a principal building and a one-story accessory building shall be 20 feet.
 - (d) The minimum distance between two accessory buildings shall be 10 feet.
 - (e) At the inner angles of a court, the distance between windows of bedrooms, living rooms and kitchens shall be not less than 12 feet, measured diagonally across the court.
 - (11) All areas not covered by buildings, parking areas or walkways shall be suitably landscaped and improved for maximum outdoor living use, including gardens and recreation areas, where appropriate.
- C. For townhouses, the following requirements shall apply:
[Added 7-10-2007 by Ord. No. 07-35]
- (1) Maximum building height and number of stories.
 - (a) The maximum building height shall be 35 feet. No dwellings or parts of dwellings, except for storage and utilities areas, shall be located more than two feet below the adjoining general grade level, with light wells not counted as part of the adjoining grade level.

- (b) Maximum number of stories: 2 1/2.
- (2) The minimum front yard setback shall be the average setback of the existing buildings on two adjacent properties on both sides of the subject property, with a minimum setback of no less than 30 feet. A corner lot and a through lot shall provide such required minimum front yard for each street frontage.
- (3) The minimum side yard setback shall be 18 feet, except that where buildings extend for a length of more than 80 feet along the side line, a section or sections over 80 feet in length shall have a minimum setback of 30 feet, and if there is more than one building section with a length of up to 80 feet with a minimum setback, these sections shall be separated by a distance of at least 50 feet.
- (4) The minimum rear yard setback shall be 40 feet.
- (5) The principal building or buildings shall not occupy more than 20% of the ground area of the site.
- (6) No building shall exceed 100 feet in length at its longest dimension.
- (7) The minimum width of each townhouse unit shall be 20 feet.
- (8) All townhouses shall provide not less than two exterior exposures for each family unit, the same properly pierced by windows or other openings so as to provide through ventilation or cross-ventilation for the unit.
- (9) The maximum number of adjoining townhouse units in a row shall be five.
- (10) Distance between buildings.
 - (a) The minimum distance between principal buildings shall be 25 feet.
 - (b) The minimum width of a court shall be 45 feet, and the depth of a court shall not exceed its width.
 - (c) The minimum distance between a principal building and a one-story accessory building shall be 20 feet.
 - (d) The minimum distance between two accessory buildings shall be 10 feet.
 - (e) At the inner angles of a court, the distance between windows of bedrooms, living rooms and kitchens shall be not less than 12 feet, measured diagonally across the court.
- (11) The maximum impervious surface coverage for townhouse projects shall be 50%.
- (12) All areas not covered by buildings, parking areas or walkways shall be suitably landscaped and improved for maximum outdoor living use, including gardens and recreation areas, where appropriate.

§ 347-58. Garages and off-street parking areas.

- A. Garages may be located under principal buildings, provided that at least half the height is below the adjoining grade level, or, where in separate structures, may be up to 10 feet in height and shall not be located nearer than 60 feet to the front street line of the properties nor less than 10 feet from any adjoining property line.
- B. Garages may be erected in any part of a rear yard, a side yard or court where no portion of the roof is higher than the first level of the principal building and the garage roof is designed for use as an open

terrace or a principal yard space.

- C. Except as provided in Subsections **A** and **B**, garages shall be grouped in motor courts enclosed on all sides except for necessary driveway entrances and exits. No garage building shall be located nearer than 60 feet to the front street line of the property nor less than 10 feet from any adjoining property line.
- D. No accessory structure nor any off-street parking area, whether or not within a garage, shall be located between the main building or buildings and the curb of the street on which the building or buildings front; and in no case shall such accessory structure, off-street parking or driveways be located within six feet of any principal building, except where the accessory structure, driveway or parking area extends to or into a garage located in the principal building and all accessory structures, driveways and parking areas shall be set back at least three feet from the property lines, except at driveway entrances.
[Amended 1-20-1981 by Ord. No. 81-1]
- E. Garages for one- and two-family dwellings shall follow the height and setback requirements as specified for garages in the R-1 One-Family Zone.
[Added 7-25-2006 by Ord. No. 06-43]

Article IX. OR-3 Garden Apartment and Office Building Zone

§ 347-59. Permitted principal uses.

The following principal uses are permitted in the OR-3 Garden Apartment and Office Building Zone:

- A. Uses permitted in the R-3 Garden Group Zone.
- B. Business offices and professional offices, excluding banks.
[Amended 12-19-2006 by Ord. No. 06-72]
- C. Senior citizen housing, subject to the requirements for multifamily housing.
[Added 5-26-1998 by Ord. No. 98-17]

§ 347-60. Permitted conditional uses.

[Amended 12-22-1981 by Ord. No. 81-59]

The following conditional uses may be permitted in the OR-3 Garden Apartment and Office Building Zone:

- A. Same as in the R-3 Garden Group Zone.
- B. Residential use mixed with business offices and professional offices as described in §**347-59B**, subject to the following conditions:
 - (1) Building facades and front yard areas shall have a residential appearance.
 - (2) Residential uses shall not be permitted on the first floor, and all regular and emergency accessways to residential uses shall be enclosed within the exterior walls of the building.
 - (3) Off-street parking shall be equal to that required for either the residential or the nonresidential use, whichever is greater, as specified in §**347-101** of this chapter.
- C. [Added 10-18-1988 by Ord. No. 88-65] Museums, subject to the following conditions:

- (1) Minimum lot size shall be one acre.
 - (2) Minimum off-street parking for assembly areas shall be as follows:
 - (a) With fixed seating: one space per three seats.
 - (b) With no fixed seating: one space per 20 square feet of net floor area.
 - (3) Parking areas and driveways shall be set back at least 10 feet from property lines, with the intervening areas landscaped with evergreens to form an effective visual screen at the time of planting.
 - (4) Parking areas shall not be lit except during the time of use of assembly facilities.
 - (5) The property shall front on a street having a pavement width of at least 38 feet.
- D. Assisted-living facilities are permitted as a principal use, subject to the following conditions:
[Added 5-26-1998 by Ord. No. 98-17]
- (1) The maximum density shall be 32 units per acre.
 - (2) Off-street parking shall be provided pursuant to § **347-101** of this chapter.
 - (3) Site plan approval shall be required.
 - (4) Maximum height and number of stories.
[Amended 4-25-2006 by Ord. No. 06-17]
 - (a) The maximum height shall be 35 feet.
 - (b) Maximum number of stories: three.
 - (5) The setback-to-height ratio for the front and rear yards shall be no less than one to one. The minimum side yard setback shall be equal to 1/2 the building height.
 - (6) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
 - (7) The maximum impervious surface coverage shall be 70%.
 - (8) The maximum building coverage shall be 20%.

§ 347-61. Permitted accessory uses.

The following accessory uses are permitted in the OR-3 Garden Apartment and Office Building Zone:

- A. Same as in the R-3 Garden Group Zone, except that for office buildings no accessory uses shall be permitted outside such buildings, except outdoor automobile parking.
- B. Outdoor and indoor parking facilities are permitted as accessory uses. A parking facility accessory to one use may be used for parking accessory to other uses expressly permitted in the OR-3 Zone. However, it may not be used to fulfill a parking requirement for such other uses.
[Added 1-17-1984 by Ord. No. 84-1]

§ 347-62. Lot size requirements.

Lot size requirements shall be the same as in the R-3 Garden Group Zone, except that for new office

buildings, minimum lot frontage shall be 75 feet and minimum lot size 12,000 square feet, and for conversions of existing buildings to office use, lot size shall meet this requirement or shall be sufficient to accommodate driveways and required off-street parking, as determined by the Planning Board.

§ 347-63. Impervious surface requirements.

[Added 4-19-1988 by Ord. No. 88-16]

Impervious surfaces shall not exceed 70% of the lot area.

§ 347-64. Height and setback of principal structures.

The height and setback of principal structures shall be the same as specified for principal structures in the R-3 Garden Group Zone, except that for office buildings the following requirements shall apply:

- A. Maximum height and number of stories.
[Amended 9-22-1987 by Ord. No. 87-54; 4-25-2006 by Ord. No. 06-17]
 - (1) Height: maximum 35 feet.
 - (2) Maximum number of stories: two.
[Amended 7-25-2006 by Ord. No. 06-43]
- B. Front yard: same as for multifamily dwellings in the R-3 Garden Group Zone.
- C. Side yards: minimum 20 feet.
- D. Rear yard: minimum 25 feet.
- E. Lot coverage: maximum 40%.
- F. Distance between buildings. If there is more than one building on a site, the minimum distance between such buildings shall be 25 feet.

§ 347-65. Height and setback of accessory structures; parking areas and driveways.

Height and setback of accessory structures and parking areas and driveways shall be the same as for the R-3 Garden Group Zone, except that for office buildings as permitted in the OR-3 Zone, no off-street parking area shall be located within a required front yard; no parking area or driveways shall be located within three feet of the building, unless located within or under the building; and the minimum setback for parking areas and driveways from the property lines shall be three feet, except at driveway entrances.

Article X. R-4 Three-Story Apartment Zone

§ 347-66. Permitted principal uses.

[Added 5-26-1998 by Ord. No. 98-17; 4-25-2006 by Ord. No. 06-17]

The following principal uses are permitted in the R-4 Three-Story Apartment Zone:

- A. Same as in the R-3 Garden Group Zone.

- B. Senior citizen housing.

§ 347-67. Permitted conditional uses.

The following conditional uses may be permitted in the R-4 Three-Story Apartment Zone:

- A. Same as in the R-3 Garden Group Zone.
- B. Assisted-living facilities, permitted as a principal use, subject to the following conditions:
[Added 5-26-1998 by Ord. No. 98-17]
- (1) The maximum density shall be 32 units per acre.
 - (2) Off-street parking shall be provided pursuant to § **347-101**.
 - (3) Site plan approval shall be required.
 - (4) Maximum height and number of stories.
[Amended 4-25-2006 by Ord. No. 06-17]
 - (a) The maximum height shall be 42 feet.
 - (b) Maximum number of stories: four.
 - (5) The setback-to-height ratio for the front and rear yards shall be no less than one to one. The minimum side yard setbacks shall be equal to 1/2 the building height.
 - (6) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
 - (7) The maximum impervious surface coverage shall be 70%.
 - (8) The maximum building coverage shall be 30%.

§ 347-68. Permitted accessory uses.

The following accessory uses are permitted in the R-4 Three-Story Apartment Zone:

- A. Same as in the R-3 Garden Group Zone.

§ 347-69. Lot size requirements.

- A. For one- and two-family dwellings, minimum lot frontage shall be 60 feet and the minimum lot area 6,000 square feet, except that already existing lots under separate ownership may be utilized down to a minimum width of 40 feet and a minimum lot area of 4,000 square feet.
- B. For multifamily dwellings up to 2 1/2 stories in height, the requirements shall be the same as in the R-3 Garden Group Zone.
- C. For three-story multifamily dwellings, the minimum lot frontage shall be 150 feet and the minimum lot area 15,000 square feet.
- D. For conditional uses, the requirements shall be the same as in the R-3 Zone.
[Added 7-29-1980 by Ord. No. 80-44]

§ 347-70. Height and setback of principal structures.

[Amended 4-25-2006 by Ord. No. 06-17]

Height and setback of principal structures shall be the same as in the R-3 Garden Group Zone, except that for multifamily dwellings, the following requirements shall apply:

- A. Maximum height and number of stories.
 - (1) Height: maximum 42 feet.
 - (2) Maximum number of stories: three.
- B. Front yard: minimum 30 feet.
- C. Side yards: minimum 20 feet.
- D. Rear yard: minimum 25 feet.
- E. Lot coverage: maximum 30%.
- F. Density: maximum 28 units per acre.
- G. Limitation on size. No building shall be over 200 feet in length.
- H. Exposures to provide light and air. Each room shall have at least one window, and each dwelling unit shall either have two exposures to provide through ventilation or cross ventilation or be supplied with mechanical ventilating equipment of sufficient capacity to provide at least six air changes per hour.
- I. Distance between buildings on the same site: at least 35 feet, or 25 feet between ends of buildings. Courts shall have a minimum width of 35 feet, and the depth shall be no greater than the width.
- J. In an inner angle of a court, windows shall be no less than 12 feet apart, measured diagonally across the angle.

§ 347-71. Height and setback of accessory structures; parking areas and driveways.

Height and setback of accessory structures and parking areas and driveways shall be the same as in the R-3 Garden Group Zone.

Article XI. OR-4 Three-Story Apartment and Office Building Zone

§ 347-72. Permitted principal uses.

The following principal uses are permitted in the OR-4 Three-Story Apartment and Office Building Zone:

- A. Uses permitted in the R-4 Three-Story Apartment Zone.
- B. Business and professional office buildings as permitted in the OR-3 Zone.
- C. Senior citizen housing, subject to the requirements for multifamily housing.
[Added 5-26-1998 by Ord. No. 98-17]

§ 347-73. Permitted conditional uses.

[Amended 12-22-1981 by Ord. No. 81-59]

The following conditional uses may be permitted in the OR-4 Three-Story Apartment and Office Building Zone:

- A. Same as in the R-3 Garden Group Zone.
- B. Residential use mixed with business offices and professional offices, as described in § **347-59B**, subject to the following conditions:
 - (1) Building facades and front yard areas shall have a residential appearance.
 - (2) Residential uses shall not be permitted on the first floor, and all regular and emergency accessways to residential uses shall be enclosed within the exterior walls of the building.
 - (3) Off-street parking shall be equal to that required for either the residential or the nonresidential use, whichever is greater, as specified in § **347-101** of this chapter.
- C. Assisted-living facilities, permitted as a principal use, subject to the following conditions:

[Added 5-26-1998 by Ord. No. 98-17]

 - (1) The maximum density shall be 32 units per acre.
 - (2) Off-street parking shall be provided pursuant to § **347-101**.
 - (3) Site plan approval shall be required.
 - (4) Maximum height and number of stories.

[Amended 4-25-2006 by Ord. No. 06-17]

 - (a) The maximum height shall be 42 feet.
 - (b) Maximum number of stories: four.
 - (5) The setback-to-height ratio for the front and rear yards shall be no less than one to one. The minimum side yard setbacks shall be equal to 1/2 the building height.
 - (6) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
 - (7) The maximum impervious surface coverage shall be 70%.
 - (8) The maximum building coverage shall be 30%.

§ 347-74. Permitted accessory uses.

The following accessory uses are permitted in the OR-4 Three-Story Apartment and Office Building Zone:

- A. Same as in the OR-3 Apartment and Office Building Zone.

§ 347-75. Lot size requirements.

Lot size requirements shall be the same as in-the OR-3 Zone, except that for new three-story office buildings, minimum lot frontage shall be 150 feet and minimum lot size 15,000 square feet.

§ 347-76. Impervious surface requirements.

[Added 4-19-1988 by Ord. No. 88-16]

Impervious surfaces shall not exceed 70% of the lot area.

§ 347-77. Height and setback of principal structures.

Height and setback of principal structures shall be the same as for the OR-3 Zone, except that:

- A. Maximum height and number of stories.
[Amended 9-22-1987 by Ord. No. 87-54; 4-25-2006 by Ord. No. 06-17]
 - (1) Maximum height is 42 feet.
 - (2) Maximum number of stories: three.
- B. Lot coverage shall be a maximum of 40%.
- C. Where there is more than one building on a site and such buildings are more than two stories in height, the minimum distance between buildings shall be 35 feet.

§ 347-78. Height and setback of accessory structures; parking areas and driveways.

Height and setback of accessory structures and parking areas and driveways shall be the same as for the OR-3 Zone.

Article XII. C-1 Central Business Zone

[Amended 6-24-1980 by Ord. No. 80-41; 7-29-1980 by Ord. No. 80-44; 12-20-1983 by Ord. No. 83-51; 12-20-1983 by Ord. No. 83-53; 1-17-1984 by Ord. No. 84-1; 7-11-1995 by Ord. No. 95-27; 7-11-1995 by Ord. No. 95-28]

§ 347-79. Center and community areas; parking.

- A. For the purposes of encouraging the revitalization of the central business district of the Township of Montclair, the C-1 Central Business Zone shall be differentiated into two areas:
[Amended 7-10-2007 by Ord. No. 07-36]
 - (1) The center area, comprising that portion of the C-1 Central Business Zone between St. Luke's Place/Francis Place to the west and Elm Street/Grove Street to the east; and
 - (2) The community area, comprising that portion of the C-1 Central Business Zone between Elm Street/Grove Street to the west and the border of Montclair Township and the Borough of Glen Ridge to the east.
[Amended 2-11-2008 by Ord. No. 08-02]
- B. In the center area of the C-1 Central Business Zone, pedestrian-oriented, regional, specialized shopping opportunities in a downtown setting shall be encouraged. Uses which are automobile-oriented, or which have low customer turnover on the ground floor or which create gaps in retail store frontage shall be discouraged, except that appropriate retail, office and residential uses in all areas of the zone shall be encouraged above the ground floor.

- C. In the community area of the C-1 Central Business Zone, a wide variety of both local and regional shopping opportunities which are both pedestrian- and automobile-oriented are encouraged. In this area a greater mix of uses on both the ground floor and on the upper floors is encouraged.
- D. The C-1 Business Zone recognizes that the lack of privately owned open or undeveloped areas makes the provision of on-site parking difficult.

§ 347-80. Permitted principal and conditional uses.

- A. The following principal uses shall be permitted in all areas of the C-1 Central Business Zone:
 - (1) Restaurants and eating and drinking establishments, but excluding drive-in or drive-through restaurants.
 - (2) Commercial recreation facilities, such as theaters, movie theaters, museums, galleries and amusement centers.
 - (3) Convenience retail establishments, such as supermarkets, food stores, liquor stores, bakeries, cosmetic stores, drugstores and video sales and rental stores.
 - (4) Specialty retail establishments, such as antique stores, opticians, gift stores, clothing and shoe stores, toy stores, jewelry stores, sports and outdoor equipment stores, bicycle stores, furniture stores, hobby stores, photography stores, electronic and appliance stores, pet stores, stationery and office supply stores, record and book stores and hardware stores.
 - (5) Service retail establishments, such as barbershops, beauty parlors, nail salons, dry-cleaning establishments, laundries, copy or printing establishments, tailors, household and electronic repair establishments, health clubs, gyms and travel agencies.
 - (6) Banks.
 - (7) (Reserved)^[1]
 - [1] *Editor's Note: Former Subsection A(7), Nonprofit institutional uses, was repealed 6-18-2013 by Ord. No. O-13-22. See now § 347-80B(6).*
 - (8) Educational play centers.
- B. The following principal uses are permitted in the community area of the C-1 Central Business Zone and on all but the first floor of the center area of the C-1 Central Business Zone:
 - (1) Apartments.
 - (2) Educational or quasi-educational establishments, such as ballet or dance schools, martial arts schools, nursery schools and business, vocational or technical schools.
 - (3) General, business and professional offices, including medical offices, finance, insurance and real estate offices.
 - (4) Municipal, county, state and federal government offices.
 - (5) Senior citizen housing.
[Added 5-26-1998 by Ord. No. 98-17]
 - (6) Nonprofit institutional uses.
[Added 6-18-2013 by Ord. No. O-13-22]
- C. The following principal uses shall be permitted only in the community area of the C-1 Central Business

Zone:

- (1) Bowling alleys and billiard or pool halls.^[2]

[2] *Editor's Note: Former Subsection C(2), New automobile sales and automobile rental establishments and taxi stands, which immediately followed this subsection, was repealed 2-14-2006 by Ord. No. 05-60.*

D. The following principal uses shall be permitted as conditional uses in the C-1 Central Business Zone:

- (1) (Reserved)^[3]

[3] *Editor's Note: Former Subsection A(1), Drive-through or drive-in banks, was repealed 2-14-2006 by Ord. No. 05-60.*

- (2) Garden centers and building supply establishments, subject to the following conditions:

- (a) Such uses shall be permitted in the community area of the C-1 Central Business Zone only.

- (b) Sufficient space shall be provided on the site for loading operations.

- (c) Loading areas and outdoor storage areas shall be set back at least 25 feet from a residential zone boundary or an existing residential use, and separated from such areas by a buffer strip at least 15 feet in width with a screening at least six feet high comprised of a berm, fence or evergreen vegetation or a combination thereof.

- (d) The facade of any building devoted to such uses which faces the street shall have the appearance of a commercial or residential building.

- (3) Fast-food restaurants, bars and taverns, subject to the following conditions:

- (a) No fast-food restaurant or bar or tavern shall be located closer than 750 feet to property occupied by another such establishment in the C-1 Zone.

- (b) Minimum on-site parking of one space per two seats or one space per (50) square feet of gross floor area, whichever is greater, shall be provided.

- (c) Consumption of food and drink outdoors or in the accessory parking lot shall be prohibited.

- (d) A buffer strip of at least (15) feet in width shall be established adjacent to any residential or office uses and to any residential zone boundary. The buffer strip shall be appropriately landscaped with evergreens supplemented by fencing to shield adjacent properties.

- (4) Parking decks as a principal use, subject to the following conditions:

- (a) No parking decks shall have frontage on Bloomfield Avenue.

- (b) No parking decks may exceed two stories or levels nor more than 40 feet in height.

- (c) A setback of at least 15 feet shall be provided from all property lines. Within such setback areas, vegetative plantings shall be provided to screen the deck from adjacent properties and from the public street.

- (d) The facade of the parking deck facing a public street or an adjacent residential use or zone boundary shall have an architectural finish in keeping with the commercial or residential character of the surrounding area.

- (5) Assisted-living facilities, permitted as a principal use, subject to the following conditions:

[Added 5-26-1998 by Ord. No. 98-17]

- (a) The maximum density shall be 55 units per acre.

- (b) Off-street parking shall be provided pursuant to §347-101.
- (c) Site plan approval shall be required.
- (d) The maximum height shall be six stories or 67 feet, whichever is less.
- (e) The minimum front yard setback shall be zero feet. The minimum side yard setback shall be zero feet. The minimum rear yard setback shall be 10 feet.
- (f) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
- (g) If located in the "center" area of the C1 Zone, the assisted-living facility shall not occupy the first floor.

§ 347-81. Prohibited uses.

The following uses shall be prohibited in the C-1 Central Business Zone:

- A. Drive-in or drive-through restaurants.
- B. Adult entertainment.
- C. Tattoo parlors, including body piercing establishments.
- D. New and use automobile sales, automobile rentals, automobile service stations, repair establishments and automobile washing establishments.
[Amended 2-14-2006 by Ord. No. 05-60]
- E. Manufacturing, research and development, wholesale trade or warehouse establishments and bus and truck depots.
- F. Storage establishments, including mini-storage warehouses.
- G. Pawn shops.
- H. Check-cashing shops.
- I. The retail or wholesale sale of weapons or firearms, as the same are defined in N.J.S.A. 2C:39-1.
[Added 9-5-1995 by Ord. No. 95-32]
- J. Drive-through or drive-in banks.
[Amended 2-14-2006 by Ord. No. 05-60]

§ 347-82. Permitted accessory uses.

[Amended 2-11-2008 by Ord. No. 08-02]

The following uses shall be permitted as accessory uses in the C-1 Central Business Zone:

- A. Surface parking and parking decks of up to two stories in height, provided that they serve uses expressly permitted in the C-1 Central Business Zone. No parking deck shall be provided below a building in the C-1 Zone. A parking facility accessory to one use may be used for parking accessory to other uses expressly permitted in the C-1 Zone.

§ 347-83. Area, height and setback requirements.

- A. Lot size requirements.
- (1) Lots for new multifamily buildings containing apartment units exclusively shall have a minimum width of 100 feet and a minimum lot area of 20,000 square feet.
 - (2) Lots for mixed-use buildings containing multifamily dwellings and nonresidential uses shall have a minimum lot width of 60 feet and a minimum lot area of 10,000 square feet. For purposes of this section-the nonresidential use shall contain no less than 1,000 square feet of floor area.
[Amended 1-23-2007 by Ord. No. 07-02]
 - (3) Lots for buildings containing nonresidential uses shall have a minimum width of 60 feet and a minimum lot area of 10,000 square feet, except that previously existing lots which are less than 60 feet wide and 10,000 square feet in area may be used for nonresidential uses.
- B. Height, setback and density standards for principal structures. Except as otherwise provided, the following height, setback and density standards shall apply to principal buildings in the C-1 Central Business Zone:
- (1) Maximum height and number of stories.
[Amended 4-25-2006 by Ord. No. 06-17]
 - (a) The maximum height of a building shall be 67 feet.
 - (b) Maximum number of stories: six.
 - (2) The minimum front yard setback for all buildings shall be zero feet. In the central area of the C-1 Central Business Zone, no building shall be set back further than the greater setback of buildings on the adjoining lots.
 - (3) No side yards shall be required for buildings in the C-1 Central Business Zone, except that where a side yard is provided, such side yard shall be a minimum of six feet.
 - (4) The minimum rear yard for all permitted buildings shall be 10 feet, except that for buildings which are exclusively residential or which contain residential apartment units, a rear yard in excess of 10 feet may be required, as determined by the Planning Board, based on the provision of adequate light and air and open space; however, in no case shall the required rear yard setback exceed 30 feet.
 - (5) For buildings containing exclusively residential apartment units, the maximum density shall be 55 units per acre. For mixed use buildings containing both apartments and nonresidential uses, the maximum number of residential units shall be 55 units per acre multiplied by the proportion of the total floor area of the building devoted to residential use.
 - (6) Provisions shall be made at the rear of all nonresidential buildings for off-street loading and unloading, subject to Planning Board review. Exceptions may be granted for existing buildings where no such loading or unloading is provided for or for new buildings where rear access from public streets is not available.
- C. Height and setback of accessory structures, parking areas and driveways.
- (1) No parking or accessory structures shall be permitted in front yards. Surface parking areas shall be set back at least four feet from side or rear property lines, although the Planning Board may require such additional distance from property lines to allow for appropriate fencing and for landscaped screening where adjoining residential zones.
 - (2) Accessory structures other than parking decks shall not exceed one story or 15 feet in height, whichever is lesser, and shall be set back at least four feet from side and rear property lines. Parking decks shall be set back at least 15 feet from all property lines.

Article XIII. C-2 General Business and Light Manufacturing Zone

§ 347-84. Permitted principal and conditional uses.

The following principal and conditional uses are permitted in the C-2 General Business and Light Manufacturing Zone:

- A. General commercial uses such as those involving warehousing and wholesale distribution, servicing of equipment and on-site processing activities such as commercial laundries and printing shops.
[Amended 6-24-1980 by Ord. No. 80-41]
- B. Retail stores and personal services.
[Amended 6-24-1980 by Ord. No. 80-41]
- C. Light manufacturing, auto body, and automobile repairs, subject to a satisfactory showing, as determined by the Planning Board, that there will not be noise, vibration, glare, odor or smoke discernible at the property line and that on-site facilities and access streets are adequate for truck traffic generated.
[Amended 7-25-2006 by Ord. No. 06-43]
- D. The conversion of existing floor space to residential use, as a conditional use, subject to compliance with the United States Department of Housing and Urban Development Minimum Property Standards, Volume 1 or 2 (1973), whichever is applicable, Chapter 4, and to a determination that such living facilities will not be unduly exposed to noise and other adverse effects of the commercial operations on the property or adjoining properties. A determination shall also be made of the availability of adequate off-street parking facilities for the residential occupants, either on or off the site.
[Amended 6-24-1980 by Ord. No. 80-41]
- E. New residential development under the standards and requirements of the R-4 Zone but only where the site is adjoined by a residential use on at least one side, not counting the rear.
[Amended 7-29-1980 by Ord. No. 80-44]
- F. Offices and office buildings, subject to the standards and requirements of the OR-4 Zone.
- G. Municipal facilities, subject to Planning Board site plan review.
- H. Restaurants, excluding fast-food restaurants.
[Added 12-20-1983 by Ord. No. 83-52]
- I. Educational play center.
[Added 7-11-1995 by Ord. No. 95-27]
- J. Assisted-living facilities, permitted as a principal use, subject to the following conditions:
[Added 5-26-1998 by Ord. No. 98-17]
 - (1) The maximum density shall be 32 units per acre.
 - (2) Off-street parking shall be provided pursuant to § **347-101**.
 - (3) Site plan approval shall be required.
 - (4) The maximum height shall be 4 stories or 42 feet.
 - (5) The setback-to-height ratio for the front and rear yards shall be no less than one to one. The minimum side yard setbacks shall be equal to 1/2 the building height.

- (6) The applicant shall provide evidence of a license issued by the New Jersey State Department of Health pursuant to N.J.A.C. 8:36-1 through 8:36-16.
- (7) The maximum impervious surface coverage shall be 70%.
- (8) The maximum building coverage shall be 30%.

K. Senior citizen housing.
[Added 5-26-1998 by Ord. No. 98-17]

§ 347-85. Permitted accessory uses.

[Amended 1-17-1984 by Ord. No. 84-1]

The following accessory uses are permitted in the C-2 General Business and Light Manufacturing Zone:

- A. Outdoor and indoor parking facilities, provided that a parking facility accessory to one use may be used for parking accessory to other uses expressly permitted in the C-2 Zone. However, it may not be used to fulfill a parking requirement for such other uses.

§ 347-86. Sale of weapons prohibited.

[Added 5-27-1997 by Ord. No. 97-22]

The retail or wholesale sale of weapons or firearms, as the same are defined in N.J.S.A. 2C:39-1, shall be prohibited in the C-2 General Business and Light Manufacturing Zone.

§ 347-87. Lot size requirements.

- A. For new commercial and industrial uses, minimum lot frontage shall be 100 feet and minimum lot size 10,000 square feet, except that individual existing lots may be used, down to a minimum frontage of 50 feet and a minimum lot size of 6,000 square feet.
[Amended 7-29-1980 by Ord. No. 80-44]
- B. For residential structures, minimum lot size requirements shall be the same as in the R-4 Zone.

§ 347-88. Height and setback of principal structures.

- A. For permitted residential uses, same as in the R-4 Zone.
- B. For commercial and industrial uses in new buildings, the minimum front yard shall be 30 feet, except that where the average setback of existing buildings on the block is less, such lesser front yard setback shall apply; the minimum rear yard shall be 20 feet.
[Amended 7-29-1980 by Ord. No. 80-44]
- C. Maximum building height shall be 35 feet.
[Amended 7-29-1980 by Ord. No. 80-44; 4-25-2006 by Ord. No. 06-17]
- D. Maximum number of stories: three.
[Amended 4-25-2006 by Ord. No. 06-17]

§ 347-89. Height and setback of accessory structures; parking areas and driveways.

- A. For permitted residential uses, same as in the R-4 Zone.
- B. Accessory structures shall have a maximum height of one story or 12 feet and shall be set back a minimum of five feet from the property lines. No accessory structures shall be located in required front yards.
- C. No parking shall be permitted in required front yards. Parking areas and driveways shall be set back a sufficient distance from property lines so as to allow appropriate fencing or landscaped screening, subject to Planning Board review; where adjoining a residential zone, such screening or fencing shall be provided in order to form a visual screen.

Article XIV. N-C Neighborhood Commercial Zone

§ 347-90. Permitted principal and conditional uses.

[Amended 6-24-1980 by Ord. No. 80-41; 7-29-1980 by Ord. No. 80-44; 9-20-1988 by Ord. No. 88-58; 7-11-1995 by Ord. No. 95-27; 5-26-1998 by Ord. No. 98-17; 6-9-2009 by Ord. No. O-014-09]

The following principal and conditional uses are permitted in the N-C Neighborhood Commercial Zone:

- A. Mixed residential/nonresidential buildings, at a maximum density of 28 units per acre, and provided that no nonresidential use shall be established or located above a residential use.
- B. Retail stores.
- C. Personal service establishments.
- D. Restaurants, where the principal use is the sale and service of food. If food is to be consumed on the premises, it must be within the building where purchased or within the designated dining area, not including the parking area. The sale and consumption of alcoholic beverages on the premises is permitted where sold and served only as an incident to the principal use.
- E. Business and professional offices, medical offices and banks, except that such uses shall not be permitted on the ground floor.
- F. Educational play centers.
- G. Churches, subject to the conditions set forth in §347-48B.
- H. Charitable institutions, except hospitals, subject to the conditions set forth in §347-48C.
- I. Municipal facilities, subject to Planning Board approval.

§ 347-91. Prohibited uses.

[Added 10-17-1995 by Ord. No. 95-38]

Prohibited uses shall be the same as in the C-1 Zone.

§ 347-92. Permitted accessory uses.

The following accessory uses are permitted in the N-C Neighborhood Commercial Zone:

- A. Residential garages as permitted in the R-4 Zone.

- B. Outdoor and indoor parking facilities appurtenant to commercial uses, provided that a parking facility accessory to one use may be used for parking accessory to other uses expressly permitted in the N-C Zone. However, it may not be used to fulfill a parking requirement for such other uses.
[Amended 1-17-1984 by Ord. No. 84-1]

§ 347-93. Lot size requirements.

- A. Lot size requirements shall be the same as in the R-4 Zone, for uses permitted in that zone.
- B. For new commercial uses, the minimum lot width shall be 60 feet, with a minimum lot size of 6,000 square feet, except that existing isolated lots may be utilized, down to a minimum width of 40 feet and a minimum lot size of 4,000 square feet, or with no restriction where such lot is adjoined by continuous business building frontage.

§ 347-94. Impervious surface requirements.

[Added 4-19-1988 by Ord. No. 88-16]

Impervious surfaces shall not exceed 80% of the lot area.

§ 347-95. Height and setback of principal structures.

- A. Maximum height and number of stories.
[Amended 9-20-1988 by Ord. No. 88-58; 10-4-1988 by Ord. No. 88-61; 11-1-1988 by Ord. No. 88-66; 4-25-2006 by Ord. No. 06-17]
- (1) The maximum building height shall be 36 feet for residential buildings and for mixed residential/nonresidential buildings. For this provision, a residential building must include at least one full story of a residential use. The maximum building height shall be 24 feet for nonresidential buildings.
 - (2) Maximum number of stories: three stories for residential buildings and mixed residential/nonresidential buildings; two stories for nonresidential buildings.
- B. Setbacks for new residential buildings shall be as specified in the R-4 Zone.
- C. For new commercial buildings, the following setback requirements shall apply:
- (1) Minimum front yard setbacks shall be 20 feet, except that where an existing building is being replaced, the new setback is not required to be larger, and where the lot is adjoined by a building or buildings with a lesser setback, such lesser existing setback shall apply.
 - (2) A minimum side yard of eight feet is required where adjoining a residential zone. No side yard is required otherwise, except that, where provided, such side yard shall have a minimum width of six feet.
 - (3) The minimum rear yard setback shall be 20 feet.

§ 347-96. Height and setback of accessory structures; parking areas and driveways.

[Amended 9-20-1988 by Ord. No. 88-58]

Accessory structures shall comply with the height and setback requirements for principal structures in the N-C Zone. Parking areas and driveways shall be set back at least four feet from side and rear property lines. No parking area shall be permitted between any building and the front property line (or front property lines in the case of corner lots) nor within 10 feet of a front property line, with such interval to be appropriately landscaped.

Article XV. P Public Zone

§ 347-97. Permitted uses.

[Amended 12-30-1997 by Ord. No. 97-72]

This zone applies to areas owned and occupied by the Township, county, state or agencies thereof on a permanent basis for public purposes. Permitted uses shall include public buildings and uses. Agencies as used herein shall be deemed to include not-for-profit corporations under lease or contract with the municipality to perform services deemed to accomplish a public purpose.

§ 347-98. Standards and requirements.

[Amended 12-30-1997 by Ord. No. 97-72]

Standards and requirements for public schools of elementary and high school grade shall be the same as specified for private schools in § 347-12. No specific requirements are established for other public uses, but Planning Board site plan review shall take into account the adequacy of setbacks from adjoining buildings and areas, of off-street parking and provisions for traffic circulation and of landscaping and screening from residential areas.^[1]

[1] *Editor's Note: See Ch. 281, Site Plan Review.*

§ 347-99. Zoning in event of reversion to private use.

If the public use of any areas in the P Public Zone is discontinued and the property reverts to private ownership or use, no new use shall be established until another zone district is applied to this property by the Township, following the submission of a recommendation by the Planning Board.

Article XVI. UR Urban Renewal Zone

§ 347-100. Permitted uses; standards and requirements.

Permitted uses and standards and requirements in the UR Zone shall be as specified in the Urban Renewal Plan for the Lackawanna Plaza Urban Renewal Area, as approved by the Township.^[1]

[1] *Editor's Note: See Ch. 60, Urban Renewal.*

Article XVII. Off-Street Parking and Loading

§ 347-101. Off-street parking requirements.

[Amended 7-29-1980 by Ord. No. 80-44; 8-12-1980 by Ord. No. 80-47; 9-16-1980 by Ord. No. 80-54; 9-20-1988 by Ord. No. 88-58; 8-11-1992 by Ord. No. 92-28; 7-11-1995 by Ord. No. 95-27; 7-11-1995 by Ord. No. 95-28;

5-26-1998 by Ord. No. 98-17; 7-25-2000 by Ord. No. 00-45; 7-25-2006 by Ord. No. 06-43; 3-12-2013 by Ord. No. O-13-09]

Off-street parking shall be required for all new buildings, additions to buildings and conversions to a greater residential density or conversions to other uses which require more off-street parking in accordance with the following schedule. In the C-1 Zone, additions of less than 15% of the existing building's total square footage which do not reduce the number of off-street parking spaces that serve the property, and conversions to more intensive uses, have a one-time exemption from the off-street parking requirement.

Use	Minimum Number of Spaces
Amusement centers	1 per 50 square feet of gross floor area
Assisted living facility	1 parking space for every 3 beds, plus 1 parking space for each staff person on the maximum shift
Automobile service or repair station	6 off-street parking spaces for the first lift, wheel alignment pit or similar work area and an additional 3 spaces for each additional work area; for service stations also dispensing fuels, 1 additional space for every 2 pumps
Automotive sales	1 per 200 square feet of indoor sales, plus 1 per 1,000 square feet of outdoor sales area
Ballet or dance studios or martial arts schools	1 per 100 square feet of gross floor area
Banks	1 per 200 square feet of gross floor area
Bars and taverns	1 per 2 seats
Billiard or pool halls	2 per table
Bowling alleys	4 per lane
Club	1 for each 100 square feet of floor area available to members and guests
Commercial recreation centers	1 per 200 square feet of gross floor area
Drive-through banks	1 per 250 square feet of gross floor area
Educational play centers	1 per 200 square feet of gross floor area
Fast-food restaurants	1 per 2 seats
Funeral home	1 each per 10 square feet in main chapel or parlor
Furniture store	1 per 500 square feet of gross floor area
General or business or municipal or governmental office	1 per 250 square feet of gross floor area
Hotel, motel or rooming house	1 per guest room, except that this requirement may be reduced by the Planning Board where occupancy is totally or partially restricted to elderly or other persons without automobiles
Houses of worship	1 per 8 seats or each 16 feet of seating capacity if benches rather than seats are used
Medical offices	1 per 150 square feet of gross floor area
Multifamily dwelling, other than townhouses	New Jersey Residential Site Improvement Standards (R.S.I.S.) apply; provided, however, that, with the exception of multifamily dwellings created through conversions, not less than 1/3 of all such parking must be within a garage building and/or within the principal building or buildings
Nursing home	1 per every 3 beds, plus 1 per every 3 employees in the maximum work shift
One-family house	New Jersey Residential Site Improvement Standards (R.S.I.S.) apply; however, not more than 4 spaces
Professional offices	1 per 250 square feet of gross floor area
Restaurants and eating and drinking	1 per 3 seats, plus 1 per 2 seats in lounge or bar areas

establishments	
Retail trade, including bakeries	1 per 200 square feet of gross floor area
Senior citizen housing	1/2 parking space per dwelling unit
Service retail, including travel agencies	1 per 200 square feet of gross floor area
Sports or health clubs or gyms	1 per 200 square feet of gross floor area
Storage establishment	1 per 1,000 square feet of gross floor area
Theaters, including movie theaters	1 per 4 seats
Townhouses	New Jersey Residential Site Improvement Standards (R.S.I.S.) apply
Two-family house	New Jersey Residential Site Improvement Standards (R.S.I.S.) apply
Vehicle rental business	1 per rental vehicle on site
Vocational, technical or business school	1 per 100 square feet of gross floor area
Warehousing, wholesaling and manufacturing	1 per 750 square feet of gross floor area
Uses not listed above	According to that category which most nearly approximates that use
More than 1 use on the premises	The sum of the component requirements

§ 347-102. Design of parking spaces and access.

- A. Required garages and parking areas and spaces shall be paved with a hardsurface paving and shall be accessible from similarly paved areas (herein called "aisles") which must be connected directly or by means of a similarly paved driveway to a public street. Any driveway used as an aisle must satisfy the aisle width requirements. All such paving shall be drained and properly maintained. For single- and two-family dwellings, gravel may be used in lieu of hard-surface paving for parking areas and driveways or aisles.

[Amended 11-26-2002 by Ord. No. 02-52]

- B. Each required parking space for one- and two-family dwellings shall consist of a rectangular area having dimensions no less than nine feet by 19 feet and a gradient of not over 6%. Dimensions for other uses shall be as provided in § 281-9 of the Code of the Township of Montclair.

[Amended 1-4-1983 by Ord. No. 82-52]

- C. Driveways shall have a minimum width of 10 feet and a maximum gradient of 10% within 20 feet of the property line.

[Amended 1-4-1983 by Ord. No. 82-52^[1]]

[1] *Editor's Note: This ordinance also provided for the repeal of former Subsections D, E and F, dealing with the grade, length and width of required parking and aisles, which immediately followed this subsection.*

§ 347-103. Off-street loading.

Off-street loading space shall be provided for all business and industrial uses, except that for office buildings and other situations where off-street loading would not be practical, where determined by the Planning Board, loading at the curb may be permitted.

§ 347-104. Parking area and driveway setbacks.

[Amended 1-4-1983 by Ord. No. 82-52; 2-21-1984 by Ord. No. 84-8; 9-12-2005 by Ord. No. 05-34]
 All off-street parking areas shall be set back a minimum distance of four feet from property lines, with the intervening space appropriately landscaped. All driveways shall be set back a minimum distance of one foot from property lines.

Article XVIII. Signs

[Amended 1-4-1983 by Ord. No. 82-54; 10-1-1991 by Ord. No. 91-44; 7-13-1993 by Ord. No. 93-27; 7-12-2005 by Ord. No. 05-34; 2-20-2007 by Ord. No. 07-8; 12-18-2007 by Ord. No. 07-56; 1-6-2009 by Ord. No. 08-47; 1-6-2009 by Ord. No. 08-49; 2-17-2009 by Ord. No. O-002-09; 3-12-2013 by Ord. No. O-13-09; 6-18-2013 by Ord. No. O-13-21]

§ 347-105. Purpose.

It is the intent of this article to prescribe measurable criteria and a procedure for reviewing signs with the purpose of:

- A. Controlling the size, location, character and other pertinent features of all publicly visible signage.
- B. Bringing improved quality and order to the signs located throughout the Township to assure the continuation of a high level of attractiveness and historic character, thereby protecting residential and commercial property values.
- C. Providing each commercial property with equal visibility by promoting signs which:
 - (1) Encourage compatibility with surroundings and express the identity of individual properties and the character of the community while being compatible with the architectural style of the building and the neighborhood in materials, construction and color.
 - (2) Make signage orderly, readable and appropriate to the activity to which it pertains.
 - (3) Require signs that are not distracting to motorists so as to assure traffic and pedestrian safety.
 - (4) Promote signage that is properly located, well-constructed and well-maintained.
- D. Structuring a regulatory system which will facilitate administration and enforcement.

§ 347-106. Definitions.

As used in this article and elsewhere throughout this chapter, the following terms shall have the meanings indicated:

ADVERTISING SIGN

A billboard or other sign which directs attention to a business commodity, service or entertainment not conducted, provided or sold on the premises on which such sign is located.

AWNING SIGN

A sign painted on an awning.

BANNER

Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, or otherwise affixed to the structure.

BARE-BULB ILLUMINATION

A series of light bulbs, whether flashing or nonflashing, which frame any part of a building front or window area, not including holiday decorative lighting.

BEACON

Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source.

BUILDING SIGN

The main business sign affixed parallel to but projecting not further than six inches from the building face.

BUILDING SIGN LOCATION BAND

The space on the building face within which the building sign text and sign field must be placed.

BUSINESS SIGN

A sign which directs attention exclusively to a permitted business or industry conducted upon the premises on which the sign is located or to a product, service or commodity sold or provided by such business or industry.

CANOPY SIGN

A sign painted on a canopy.

CONSTRUCTION SIGN

A temporary sign which identifies architects, builders or contractors on the premises on which a principal or accessory building is being constructed, altered, repaired, refurbished or demolished.

DIRECTIONAL SIGN

A sign which regulates pedestrian or vehicular traffic within the boundaries of a property, such as enter, exit and reserved-parking signs.

DIRECTORY SIGN

A sign attached to the facade of a building listing the tenants or occupants thereof and their professions or business activities.

FLAG

Any fabric containing distinctive colors, patterns or symbols which does not deliver a commercial message or advertisement. Flags of any country, state, county, municipal or governmental agency are not included.

FLASHING OR MOVING SIGN

A sign with movement or appearance of movement, with changing illumination or color, or with a changeable message.

FREESTANDING SIGN

Any sign supported by structures that are placed on or anchored in the ground and that are independent from any building or other structure.

LOGO

Any symbol, graphic or lettering which represents or stands for a business name, service or product.

MARQUEE SIGN

A business sign on a marquee with no more than two sides designed for interchangeable panels or letters directing attention to a theater and theater events.

MOON TUBING

Illuminated tubes which frame any portion of a glass front of a building.

NEON SIGN

Illuminated tubes formed to serve as a sign.

PAPER FRAMING

Paper devices which adhere to the window surface to frame it.

PENNANT

Any lightweight plastic, fabric or other material suspended from a rope, wire or string, or otherwise affixed to a structure, designed to move in the wind.

POLE SIGN

A sign mounted on a pole.

POLITICAL SIGN

A sign which directs attention to a political organization, party, individual or group for the purpose of announcing or inviting attention to the candidacy or candidates for nomination, election, referendum or political platform, or a sign which advances, advocates or calls attention to a cause subject to political judgment.

PRICE SIGN

A sign indicating the price of any item sold in the business establishment.

PROJECTING SIGN

Any sign affixed perpendicular to the wall of a building in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

REAL ESTATE SIGN

A temporary sign announcing that the premises on which it is located is available for sale or rent, specifically excluding "sold" and "under contract" signs.

ROOF SIGN

Any sign erected and constructed wholly on and over the roof of a building and extending vertically above the highest portion of the roof.

SIDEWALK SIGN

A movable, freestanding sign, such as but not limited to an A-frame type of support.

SIGN

Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purpose of a person or entity or to communicate information of any kind to the public.

TEMPORARY BUSINESS SIGN

Any sign that is used for a limited time and is not permanently mounted.

WARNING SIGN

A sign erected by a governmental agency or by a public utility for the purpose of warning the public of an existing danger or a danger associated with a structure or a use in the area.

WINDOW GLASS SIGN

Any permanent business sign visible from the exterior that is painted on, affixed to or hung behind a window.

§ 347-107. General regulations.

§ 347-107.1. Calculation of sign dimensions, area, height and setback.

For purposes of administering this article, sign dimensions and area shall be calculated as set forth below:

- A. The dimensions of a sign shall be construed to include the sign message and any background to such message. Excluded from the foregoing calculation shall be any base, frame, minor decorative elements or similar structures, provided such features are used only for supporting the sign and are not used as a sign background or for attracting attention.
- B. The terms "area" or "display area" as used in this article shall be construed to include the sign message and any background to such message. The area of signs shall be calculated as follows:
 - (1) In cases where a sign has a clearly defined border or edge, the area shall be calculated as the plane surface within such border or edge.
 - (2) In cases where a sign does not have a clearly defined border or edge, the area shall be calculated by multiplying the greatest vertical dimension of the sign by the greatest horizontal dimension of the sign.
 - (3) In cases other than set forth in Subsection **B(1)** or **(2)** above, the area shall be calculated by the Zoning Officer, who shall determine the area based upon the visual effect of the sign.
 - (4) If a sign contains two sides as permitted herein, only one side shall be used in the calculation of sign area.
- C. The term "height" as used in this article refers to the distance between the highest elevation of any part of the sign structure or message and normal grade at the base of said sign, whereas the term "vertical dimension" refers to the distance between the highest and lowest elevations of a portion of the sign, such as the sign background, sign panel, sign letters, numbers and symbols, all as indicated in the respective provisions.
- D. The setback of a sign shall be measured to the nearest part of the sign, including any base, frame, or decorative elements.

§ 347-107.2. Freestanding signs.

Where permitted by this article, freestanding signs shall be subject to the following regulations, in addition to any other applicable requirements:

- A. No freestanding sign shall be located or designed so as to interfere with adequate sight distance at street intersections, driveway entrances and exits at the street, or at the intersection of internal driveways and access aisles.
- B. Freestanding signs shall be located so as to not block the view of other freestanding signs on the subject property or on other properties in the vicinity. The Board shall make this determination as part of the required site plan review for the freestanding sign.
- C. No freestanding sign shall contain more than two display faces. If a sign has two display faces, the angle of intersection of the two faces shall not exceed 30° and the design of each face shall be identical.

§ 347-107.3. Wall signs.

Where permitted by this article, signs attached to walls shall be subject to the following regulations, in addition to any other applicable requirements:

- A. Wall signs installed at a height of seven feet or more shall not project more than eight inches from the building wall to which it is affixed. Wall signs installed at a height of below seven feet shall not project more than two inches from the building wall to which it is affixed.
- B. No wall sign shall be placed or oriented with the display face perpendicular to the wall to which it is affixed; signs shall be placed flat against the wall.
- C. Wall signs shall not project above the top or beyond the ends of the wall surface upon which they are placed, nor shall wall signs be placed on a parapet or similar architectural device such that the sign would project above the elevation of the roof behind such parapet or other device. No sign shall be placed on the lower slope of a mansard roof.
- D. Signs attached to the same building must be of similar shape, size, color and height.
- E. Signs shall be attached in a manner that minimizes damage to facades, such as installing attachments at grout or mortar lines.
- F. Signs located within the confines of a building or structure shall be subject to the requirements of this article in the same manner as exterior wall signs if both of the following conditions exist:
 - (1) The signs are located so as to be visible from outside the building through a window or door; and
 - (2) The signs are located within 12 feet of said window or door.

§ 347-107.4. Sign illumination.

All permitted exterior signs may be illuminated only by an external light source, unless otherwise provided herein. The following requirements shall apply:

- A. Internally illuminated signs of any kind, whether freestanding or wall-mounted, shall be prohibited unless specifically permitted herein. The foregoing shall not be construed to prohibit "halo" signs utilizing a hidden light source which illuminates only the wall or other background to the sign message but not the face of the sign message.
- B. The light source of illuminated signs shall be shielded so that the light source shall not be visible.
- C. No illuminated sign shall be of such a color or located in such a manner as to be confused with or to diminish or detract in any way from the effectiveness of any traffic signal or similar official safety or warning device.
- D. No sign illumination or other illumination shall be used or designed for use as an attraction device in itself, but shall be used and designed for use solely to illuminate the sign to which it is accessory. The foregoing shall be construed to prohibit light bulbs, singly or in combination, used as an attraction device; strobe lights; black (i.e., ultraviolet) lights; string lights; flashing or moving lights of any kind; and similar uses of illumination as attraction devices.

§ 347-107.5. Signs for schools and houses of worship.

Signs for schools and houses of worship are as follows:

- A. Identification signs, provided that such signs shall identify such entity by name or initials only, and provided further that:

- (1) Only one such sign shall be permitted on each street frontage of the premises.
 - (2) No such sign shall exceed 12 square feet in area.
 - (3) Such sign, unless affixed to the principal building, shall be set back from the property line a distance of not less than 10 feet and shall not be higher than six feet from the ground at its highest point.
- B. Signs announcing programs or activities, provided that:
- (1) Only one sign shall be permitted.
 - (2) No such sign shall exceed 12 square feet in area.
 - (3) Such sign, unless affixed to the principal building, shall be set back from the property line a distance of not less than 10 feet and shall not be higher than six feet from the ground at its highest point.

§ 347-107.6. Signs for motor vehicle service stations.

Signs for motor vehicle service stations are as follows:

- A. Wall-mounted business signs, subject to the regulations contained in §347-110.1 of this chapter. If a retail building is located on the site, a wall-mounted business sign shall also be permitted identifying that use, subject to the same regulations.
- B. Canopy structures over pump islands shall have a maximum sign area equal to 30% of the permitted sign text for the wall-mounted business sign identifying the service station.
- C. Window glass signs, subject to the regulations contained in §347-110.2 of this chapter.
- D. "Price," "Full Service" and "Diesel" signs shall be permitted on the dispensing pumps or canopy structure supports only. "Air" and "Water" signs mounted on the building or a freestanding pole no higher than four feet shall be permitted.
- E. A single, nonilluminated credit card sign not exceeding four square feet in size shall be permitted on or near the pump.
- F. One wall-mounted sign advertising rental vehicles shall be permitted having a maximum sign area of eight square feet.
- G. Pole or pylon business signs shall not be permitted.

§ 347-107.7. Flags.

Flags of the United States, New Jersey, the Township of Montclair, foreign nations, other flags adopted or sanctioned by an elective legislative body of competent jurisdiction and flags flown in conjunction with the flag of the United States are permitted in all districts pursuant to the following:

- A. Such flag does not exceed 20 square feet in area and is not flown from a pole in excess of 40 feet in height.
- B. Not more than three flags may be flown from any one pole.
- C. The statutory requirements associated with flags and generally accepted standards of flag display etiquette shall be observed.

§ 347-108. Prohibited signs.

All signs not specifically listed as permitted signs are prohibited. Prohibited signs include but are not limited to the following:

- A. Advertising signs.
- B. Flashing or moving signs, including time-and-temperature signs.
- C. Internally illuminated signs.
- D. Neon framing, paper or fabric framing, tubing and bare-bulb illumination. This does not include neon wall-mounted signs containing the name of the business and/or the business logo.
- E. Roof signs.
- F. Pennants and banners, except as provided under Montclair Code § **347-110.6A**.
- G. Any sign in the public right-of-way, except as provided under §§ **277-1** and **347-110.4** of the Code of the Township of Montclair.
- H. Any sign using exposed light-emitting diodes (LEDs), other than price signs associated with gasoline service stations.
- I. Signs affixed to trees, fences or utility poles without approval from the Township Council.

§ 347-109. Signs permitted in all zones.

The following signs shall be permitted in all zones:

§ 347-109.1. Historic marker signs.

- A. Historic markers shall be post-mounted or applied to solid walls. It is preferred that historic markers be pole-mounted where front yard area is adequate.
- B. Historic markers shall not be mounted lower than four feet above grade or higher than six feet above grade.
- C. Wall-mounted historic markers shall project no more than two inches from the facade.
- D. Historic markers shall be limited to two square feet in area.
- E. Historic markers shall not be erected on any wall of a building unless such wall fronts on and is immediately adjacent to a public street, public parking lot or parking lot servicing the building on which it is placed.
- F. Historic markers shall not be illuminated.
- G. Historic markers shall be of a permanent material, e.g., bronze, aluminum, or steel.
- H. Materials and design of historic marker signs shall conform to applicable local, county, state, and federal regulations and standards concerning historical markers as may be required.
- I. Materials and design of historic marker signs shall complement the building's architecture and shall not cover or intrude upon any specific architectural feature of the building.

- J. Historic marker sign attachments shall not damage historic architectural materials.
- K. One historic marker sign shall be permitted per property.

§ 347-109.2. Mandatory signs for capital projects.

- A. The owner of any property on which a government-sponsored or government-funded project is under construction shall, during construction of the project, post and maintain on the property a sign which complies with the following requirements:
 - (1) The sign shall have dimensions of six feet by eight feet, with a height of eight feet above grade.
 - (2) The sign shall be located in the front yard of the property and shall be set back a minimum of 10 feet and a maximum of 25 feet from property lines.
 - (3) The sign design and location shall be depicted on plans submitted in support of applications for construction permits.
 - (4) The sign shall be erected no later than the start of construction.
 - (5) The sign shall contain the title of the project, the name and telephone number of the project sponsor, the total cost of the project, the name of the governmental or public entity or agency sponsoring or funding any part of the project, the architect's name and telephone number, the general contractor's name and telephone number, and the estimated project completion date.
- B. This section shall only apply to government-sponsored or government-funded capital projects in excess of \$100,000.

§ 347-109.3. Temporary signs.

Temporary signs are permitted as follows:

- A. Signs announcing that the premises on which the signs are located is available for sale or rent, provided that:
 - (1) Only one sign shall be permitted for each street frontage of the premises, except that, if under condominium or cooperative ownership, one sign is permitted for each realtor.
 - (2) Such sign, unless affixed to a principal building, shall be set back from the front property line a distance of not less than 10 feet and shall not be higher than six feet from the ground at its highest point.
 - (3) No artificial illumination shall be used.
 - (4) No such sign shall exceed four square feet in area.
 - (5) Such sign shall be displayed only for as long as such premises is in fact available for sale or rental. "Sold," "Too Late," "Under Contract" or similarly worded signs shall not be permitted.
 - (6) In addition to "For Sale" signs and subject to the same number, height, setback and size restrictions, "Open House" signs shall be permitted during the time period of the open house.
- B. Signs identifying architects, builders or contractors on premises on which a principal or accessory building is being constructed, altered, repaired, refurbished or demolished, provided that:
 - (1) No such sign shall be displayed on any one premises for a period exceeding the time required for

such construction, alteration, repair, refurbishing or demolition or one year, whichever is less.

- (2) No such sign shall exceed six square feet in area.
 - (3) Such sign, unless affixed to a principal building, shall be set back from the property line a distance of not less than 10 feet and shall not be higher than six feet from the ground at its highest point.
 - (4) No artificial illumination shall be used.
- C. Signs identifying a real estate development involving the construction of single-family dwellings in a subdivision, a multifamily development of more than four units or a nonresidential building, provided that:
- (1) Only one sign shall be permitted on each street frontage of the premises.
 - (2) No such sign shall exceed 24 square feet in area.
 - (3) Such sign, unless affixed to a principal building, shall be set back from the property line a distance of not less than 10 feet and shall have a height of not more than six feet.
 - (4) No artificial illumination shall be used.
 - (5) Such sign shall be displayed only for such period of time as there are any homes, apartments, nonresidential space or lots remaining unsold or unrented but such period of time shall in no event exceed two years from the start of construction.
- D. Signs erected by a governmental agency or by a public utility or pursuant to statute for the purpose of warning the public of an existing danger or a danger associated with a structure or a use in the area.
- E. Political signs in conformity with the following regulations:
- (1) Such signs shall be affixed to a principal building on the property or set back at least 10 feet from all property lines and shall not be higher than six feet from the ground at its highest point.
 - (2) Political signs shall not exceed four square feet in area.
 - (3) No political sign shall be erected or displayed on public property, including public rights-of-way and the area extending from the street line or nub to a public sidewalk.
 - (4) Political signs shall not be artificially illuminated.

§ 347-109.4. Other signs.

Other signs are permitted as follows:

- A. Directional signs at driveway entrances and within a parking area to regulate traffic flow within the boundaries of a lot, provided that such signs shall not exceed three square feet in area and three feet in height.
- B. Identification signs for apartments, condominium and cooperative buildings, charitable institutions and nursing homes, provided that:
 - (1) Only one such sign shall be permitted for each street frontage of such premises.
 - (2) No such sign shall exceed six square feet in area.
 - (3) Such sign, unless affixed to a principal building, shall be set back from the property line a distance of not less than 10 feet and shall not be higher than six feet from the ground at its highest point.

§ 347-110. Signs permitted in nonresidential zone districts.

The following signs are permitted in nonresidential zone districts:

§ 347-110.1. Wall-mounted business signs.

- A. Wall-mounted business signs are permitted, provided that:
- (1) Such signs meet the general requirements set forth in § ~~347-107.3~~.
 - (2) Such signs shall not extend beyond the portion of the building occupied by the referenced business.
 - (3) Such signs shall be mounted flat on the building facade facing a street or municipal parking lot. The painting of a sign directly on a building shall not be permitted.
 - (4) The aggregate sign area for a first-floor business on any one store/office front shall not exceed one square foot for each foot of width of the respective store/office front.
 - (5) Such sign shall not exceed 24 inches in height. The portion of a wall sign containing logos and similar graphics shall not exceed 30 inches in height.
 - (6) Such sign shall be placed within the building sign location band and shall not extend beyond the boundaries of the sign location band. If the building does not have a sign location band, then the top of the sign shall not exceed the height of the ground floor, or 12 feet, whichever is greater.
 - (7) Sign materials and design shall complement the building's architecture and shall not cover or intrude upon any specific architectural feature of the building. Multitenant buildings shall have complementary wall signage.
 - (8) Only one wall-mounted sign shall be permitted per business unless the business has two frontages on a public street, public parking lot or parking lot servicing the building on which it is placed, in which case a sign is permitted on each frontage.
 - (9) A wall sign must not be erected on any wall of a building unless such wall fronts on and is immediately adjacent to a public street, public parking lot or parking lot servicing the building on which it is placed.
- B. Wall-mounted plaque signs shall be permitted where a typical sign band does not exist, provided that:
- (1) Wall-mounted plaque signs shall be applied to solid walls. Such signs shall not be mounted lower than four feet above grade or higher than seven feet above grade.
 - (2) Wall-mounted plaque signs shall project no more than two inches from the facade.
 - (3) Wall-mounted plaque signs shall be limited to four square feet in area.
 - (4) Wall-mounted plaque signs shall not be erected on any wall of a building unless such wall fronts on and is immediately adjacent to a public street, public parking lot or parking lot servicing the building on which it is placed. One sign shall be permitted per business.
 - (5) Materials and design of wall-mounted plaque signs shall complement the building's architecture and shall not cover or intrude upon any specific architectural feature of the building.
 - (6) Wall-mounted plaque signs attachments shall not damage architectural materials.

(7) One wall-mounted plaque sign shall be permitted per business.

C. Wall-mounted business directory signs, provided that:

(1) Only one sign shall be permitted for each principal building entrance.

(2) The maximum sign area shall be six square feet.

(3) All listings shall be of a relatively uniform size and design.

§ 347-110.2. Window signs.

Window-glass signs are permitted, provided that:

A. Such signs shall not extend beyond the portion of the building occupied by the referenced business.

B. Such signs shall be placed only in windows facing a street or municipal parking lot.

C. The maximum permitted sign area shall be 20% of the area of each window.

D. Neon signs are subject to the same requirements as window glass signs.

E. In addition to the sign permitted in Subsection **B**, a business hours sign, painted on the glass storefront or affixed to the door and inscribed in a polygon no larger than 18 inches by 24 inches, shall be permitted.

(1) All windows must be transparent and may not be covered by opaque material, with the exception of the area containing the window sign.

§ 347-110.3. Freestanding signs.

In place of wall-mounted and window-glass signs, as regulated in §§ **347-110.1** and **347-110.2** above, freestanding signs are permitted in front yard areas, provided that:

A. The sign meets the requirements set forth in § **347-107.2**.

B. Only one such sign shall be permitted for each principal building.

C. The principal building has a front yard setback of at least 15 feet.

D. Such sign shall be set back at least five feet from the closest property line.

E. The maximum sign area shall be 12 square feet, and the maximum sign height shall be 12 feet.

§ 347-110.4. Sidewalk signs.

Sidewalk signs are permitted, provided that the following requirements are met:

A. All sidewalk signs must receive a sign permit from the Zoning Officer before installation.

B. No more than one sidewalk sign is permitted per business.

C. All signs shall be of an A-frame design and shall be no more than two feet wide and three feet high.

D. The sign must be placed so that a five-foot-wide, unobstructed path shall be maintained at all times on the sidewalk.

- E. The sign must be constructed from durable materials compatible with the materials of the building served. Wood, metal and chalkboard signs are traditional, recommended materials. Plastic is not recommended. "Reader board" signs with removable slide-in letters and stenciled or spray-painted signs are unacceptable.
- F. The sidewalk sign shall only be located in front of the building on which the retail establishment is located.
- G. The sidewalk sign must be taken indoors at the close of business each day.
- H. No permit shall be issued unless the applicant has posted in advance a certificate of insurance listing the Township as an additional insured.

§ 347-110.5. Other signs.

Other signs are permitted as follows:

- A. Awning and canopy signs, provided that:
 - (1) Awnings and canopies conform to Montclair Code Chapter **297**, Article **V**.
 - (2) Sign text shall be painted on the area of the lowest 12 inches of an awning or canopy, and such text shall not be higher than six inches.
 - (3) No illumination shall be directed on the awning sign.
- B. Marquee signs, provided that:
 - (1) Only one sign per principal building is permitted.
 - (2) Such sign shall be located over the principal entrance to a theater or group of theaters, and the sign area for each side shall not exceed 100 square feet.
- C. Flags, provided that:
 - (1) Only one flag shall be permitted for each business.
 - (2) Such flag shall have maximum dimensions of four feet by six feet.
 - (3) Such flag shall be mounted so as not to constitute a safety hazard.
- D. Projecting signs, provided that:
 - (1) One projecting sign is permitted for each retail business per facade.
 - (2) All parts of such signs shall be located at least eight feet above the road or sidewalk surface.
 - (3) Such signs shall not extend more than three feet from the building facade and may not exceed 12 square feet in area.
 - (4) No part of the sign or the installation hardware shall extend above the height of the building wall.
 - (5) Such signs do not interfere with any pedestrian, vehicular, utility, or municipal use of the public right-of-way.
 - (6) Sign materials and design shall complement the building's architecture and shall not cover or intrude upon any specific architectural feature of the building.

§ 347-110.6. Temporary signs.

Temporary signs are permitted as follows:

- A. Banner signs. Banner signs, as defined in § 347-106, shall meet the following requirements:
- (1) Prior to installing a banner sign, a signage permit must be obtained from the Montclair Township Zoning Officer.
 - (2) Banner signs may be displayed for up to 30 days.
 - (3) One thirty-day extension is allowed.
 - (4) The maximum size of the banner sign shall not exceed the maximum sign area permitted on the premises for a permanent sign.
- B. "Grand Opening" signs. A temporary sign advertising the opening of a new establishment shall meet the following requirements:
- (1) A permit must be obtained from the Montclair Township Zoning Officer prior to installing the "Grand Opening" sign.
 - (2) The signs shall be located entirely on the subject premises and shall not be connected to anything in the public right-of-way.
 - (3) The "Grand Opening" sign shall be displayed for no more than 14 days.
 - (4) The maximum size of the "Grand Opening" sign shall not exceed the maximum sign area permitted on the premises for a permanent sign.
 - (5) Large inflatable objects suspended in the air, metallic reflective glitter, search lights or beacons shall not be permitted.
 - (6) Balloons, streamers, banners and pin wheels will be allowed as part of the "Grand Opening" sign but must be removed when the "Grand Opening" sign is removed.
- C. Signs affixed to the interior of windows referencing sales and services, provided that:
- (1) Such signs shall not extend beyond the portion of the building occupied by the referenced business.
 - (2) Such signs shall be placed only in windows facing a street or municipal parking lot.
 - (3) The total sign area in any one window shall not exceed 20% of the window's area.
 - (4) Temporary signs shall be removed within 30 days of the date of placement, and the message of such signs shall not be replaced for a period of at least 30 days.

§ 347-111. Sign permit; exemptions; signage plan; maintenance; nonconforming, damaged and abandoned signs.

All signs are subject to the following general requirements:

- A. Sign permits. It shall be unlawful for any person, firm or corporation to erect, paint, alter, locate or relocate, reconstruct or change in any manner, by rewording or otherwise, any permanent sign or sign

structure without first having obtained a sign permit from the Zoning Officer.

- B. Sign permit exemptions. Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with applicable provisions of this chapter. The exemption shall apply to the requirement for a sign permit only. No sign permit shall be required for the following signs:
- (1) Any public notice or warning required by a valid and applicable federal, state, county or local law, regulation or ordinance.
 - (2) Holiday lights and decorations with no commercial message, excluding holiday inflatable decorations.
 - (3) Traffic control signs on private property, the face of which meets the Department of Transportation standard, and which contain no commercial message of any sort.
 - (4) Flags of the United States, New Jersey, the Township of Montclair, foreign nations, other flags adopted or sanctioned by an elective legislative body of competent jurisdiction, and flags flown in conjunction with the flag of the United States.
 - (5) Signs or banners advertising public or quasi-public events that are posted with the permission of the Township Council or of any person to whom the Township Council has delegated this authority according to guidelines set by the Township Council.
 - (6) Pump-mounted fuel price informational signs, subject to the following:
 - (a) Only one fuel price informational sign shall be permitted per fuel pump.
 - (b) Fuel price informational signs shall be limited in size to an area of 216 square inches in accordance with state and federal regulations.
 - (c) Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
 - (d) Nothing herein shall be construed to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this section.
 - (7) United States postal regulation mailboxes.
- C. Permit procedure. No sign except those exempted by Subsection **B** above shall be placed, constructed, erected or modified unless a sign permit shall have been obtained from the Zoning Officer and, where required by the New Jersey Uniform Construction Code, a building permit shall have been obtained from the Construction Official and, if in the Historic District, been approved by the Historic Preservation Commission. Signs which are not specifically allowed by this subsection shall be prohibited.
- D. Master signage plan.
- (1) A master signage plan shall accompany:
 - (a) Any application for a sign permit; or
 - (b) Any application for development filed with the Planning Board or the Zoning Board of Adjustment which involves installation or modification of any sign.
 - (2) The master signage plan shall contain the following information for each existing and proposed sign:
 - (a) Size (i.e., length, height, area, thickness, number of faces).

- (b) Letter style and size.
 - (c) Illumination.
 - (d) Colors (letter, background, trim), including PMS color samples.
 - (e) Construction materials, structural integrity and installation details.
 - (f) Window size (if applicable).
 - (g) Location (i.e., height above grade, distance from roofline, building width, location from sides).
- (3) The master signage plan graphically depicting the sign shall be prepared by the applicant or a sign professional. The master signage plan application shall include a sketch or photograph showing the dimensions of each facade, window and canopy of the building to which a sign is to be attached, in sufficient detail to clearly indicate the location, dimension and area of all existing and proposed permanent signs affixed to the walls, windows and canopies of the building. These dimensions shall either be shown on the sketch or photograph or on an attached table. Samples of construction materials shall be submitted.
- (4) In the case of a freestanding sign, a minor site plan shall be required as part of the master signage plan, showing the location of buildings, parking lots, driveways, landscaped areas and all other existing and proposed signs.
- (5) The applicant shall provide any additional information which may be deemed necessary to determine whether the signage plan complies with the purpose of the sign regulations.
- E. When installation or modification of a sign has been approved by the Planning Board or Zoning Board of Adjustment as part of a development application, the Zoning Officer shall issue a sign permit only if the proposed sign is consistent with the reviewing board's approval.
- F. Maintenance. All signs, together with all their supports, shall be of substantial and sturdy construction, shall be kept in good repair and shall be painted, repainted or cleaned as often as necessary to maintain a clean, neat, legible, safe and orderly appearance. When lighting is provided, all lighting elements shall be kept in good working order. The area surrounding freestanding signs must be kept neat and clean. The owner of the property upon which a sign is located shall be responsible for maintaining the sign and the condition of the surrounding area.
- G. Safety.
- (1) All signs shall conform to the requirements of the New Jersey Uniform Construction Code.^[1]
[1] Editor's Note: See Ch. 121, Construction Codes, Uniform.
- (2) Applicants are solely responsible for providing proper foundations, anchorage, attachments and other structural support of signs, sign structures and awnings. Such installations are subject to Building Department review and may require the submission of signed and sealed plans and/or details and/or calculations from a professional engineer, based on such review.
- (3) Applicants whose signs, sign structures and awnings extend over/into the public right-of-way must include the Township of Montclair as an additional insured under their insurance policy and maintain such insurance for the life of the installation. A copy of the current certificate of insurance shall be provided to the Township on an annual basis.
- H. Nonconforming signs. No nonconforming sign may be enlarged or altered in a way which would increase its nonconformity. Existing nonconforming permanent signs may continue to exist; however, when the sign is modified either in shape, size, illumination or structure, the sign shall be altered to conform to the provisions of this section.

- I. Damaged signs. Any sign damaged, destroyed or deteriorated in any condition whatsoever shall be removed or reconstructed in accordance with the provisions in this article.
- J. Abandoned signs. At the termination of any professional, commercial or industrial use of any premises, the permission to display signs associated with that use shall forthwith terminate, and all such signs shall be removed from the premises within 30 days from the date of termination of such use.

Article XIX. Nonconforming Buildings and Uses

§ 347-112. Continuation of use.

[Amended 3-3-1981 by Ord. No. 81-5]

Any lawful nonconforming use or structure existing at the time of the passage of this chapter may be continued upon the lot or in the structure so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof. The nonconforming use of a conforming or a nonconforming structure shall not be expanded, increased or enlarged. A nonconforming structure designed, arranged or devoted to a nonconforming use shall not be structurally enlarged unless the structure is changed to a conforming structure, and provided that the nonconforming use thereof is neither expanded, increased or enlarged. A nonconforming structure which complies with the use requirements of this chapter and is nonconforming because of height, area or yard regulations may be enlarged, provided that the height, area or yard regulations are not further violated.

§ 347-113. Change of use.

A nonconforming use in existence at the time of the passage of this chapter shall not be permitted to be changed to any use other than a conforming use.

§ 347-114. Abandonment of use.

In the event that there is a cessation of operation of any nonconforming use for a period of 12 consecutive calendar months for any reason other than a national emergency or act of God, the same shall be deemed to be an abandonment of such nonconforming use. Any subsequent exercise of such abandoned nonconforming use shall be deemed a violation of the terms of this chapter.

§ 347-115. Existing building permits.

Nothing in this chapter shall require any change in plans, construction or designated use of a structure for which a building permit has been lawfully heretofore issued when construction has been diligently prosecuted within six months of the date of issuance of such permit.

§ 347-116. Reconstruction of nonconforming use.

A building permit for the reconstruction of any nonconforming use must be applied for within 12 months from the time of partial destruction. Nothing in this chapter shall prevent the restoration of a structure declared unsafe by any governmental authority.

§ 347-117. Changes in regulations.

The forgoing provisions of this article shall also apply to building structures, land or uses which hereafter become nonconforming due to any reclassification of zone districts under this chapter or any subsequent change in the regulations of this chapter.

§ 347-118. Violations of prior regulations.

Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.

Article XX. Completion and Restoration of Existing Buildings

§ 347-119. Change in approved plans not required.

Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued or plans for which are on file with the Construction Official at the time of the passage of this chapter and a permit for the erection of which is issued within three months of the passage of this chapter and the construction of which, in either case, shall have been diligently prosecuted within a year of the date of such permit, and the ground-story framework of which, including the second tier of beams, shall be completed within such year, and which entire building shall have been completed according to such plans as filed within two years from the date of the passage of this chapter.

§ 347-120. Restoration of unsafe wall.

Nothing in this chapter shall prevent the restoration of a wall declared unsafe by the Construction Official or by a Board of Survey.

Article XXI. Certificates of Occupancy

§ 347-121. When required; contents.

It shall be unlawful to use or permit the use of any building, structure or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged, wholly or partly, in its use or structure, until a certificate of occupancy shall have been applied for and issued for such use by the Construction Official. Such certificates shall show that such building, structure or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter or a determination of the Board of Adjustment or Planning Board.

§ 347-122. Temporary certificates.

A temporary certificate of occupancy for a part of a building may be issued by the Construction Official as provided by the Building Code.^[1]

[1] *Editor's Note: See Ch. 121, Construction Codes, Uniform.*

§ 347-123. Certificates for existing buildings.

Upon written request from the applicant, the construction official shall issue a certificate of occupancy for any building or premises existing at the time of passage of this chapter, certifying, after inspection, the extent and kind of use made of the building or premises, including the number of employees and whether such use conforms to the provisions of this chapter.

Article XXII. Amendments and Changes in Zone Lines

§ 347-124. Amendment procedure.

The Township Council may from time to time on its own motion or on petition, after public notice and hearing, amend, supplement or change the regulations and zones herein established. Whenever the owners of 50% or more of the frontage in any zone or part thereof shall present a petition duly signed and acknowledged to the Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof, it shall be the duty of the Council to vote upon said petition within 90 days after the filing of the same by the petitioners with the Municipal Clerk. All zoning amendments shall be referred to the Planning Board for a recommendation.

§ 347-125. Change in zone boundaries.

If any area is hereafter transferred to another zone by a change in zone boundaries by an amendment as above provided, the provisions of this chapter in regard to buildings or premises existing at the time of the passage of this chapter shall apply to buildings or premises existing at the time of passage of such amendment in such transferred area.

Article XXIII. Historic Preservation

[Added 6-14-1994 by Ord. No. 94-20; amended 7-12-2005 by Ord. No. 05-34; 1-8-2008 by Ord. No. 07-59; 7-7-2009 by Ord. No. O-033-09; 12-11-2012 by Ord. No. O-12-58]

§ 347-126. Title.

This article shall be known by and may be referred to by the short title of the "Historic Preservation Ordinance of the Township of Montclair."

§ 347-127. Purpose.

The provisions of this article are intended to effect and accomplish the protection, enhancement and perpetuation of especially noteworthy examples or elements of the Township's environment in order to:

- A. Safeguard the heritage of Montclair by preserving resources within the Township which reflect elements of its cultural, social, economic and architectural history.
- B. Encourage the continued use of historic and/or noteworthy buildings, structures, objects and sites and to facilitate their appropriate reuse.
- C. Maintain and develop an appropriate and harmonious setting for the historic and architecturally

significant buildings, structures, sites and districts within the Township.

- D. Stabilize and improve property values within the Township.
- E. Foster civic pride in the history and architecture of the Township.
- F. Encourage proper maintenance of and reinvestment in buildings and structures within the Township.
- G. Regulate appropriate alteration of historic sites as well as new construction within or near historic districts to ensure compatibility with the existing built environment and the Master Plan of the Township.
- H. Discourage the unnecessary demolition or other destruction of historic resources.
- I. Further the public's knowledge of the history and development of the Township as well as its appreciation of the Township's historic sites.
- J. Enhance the visual and aesthetic character, diversity, continuity and interest in the Township and its neighborhoods.
- K. Encourage beautification and private investment in the Township.
- L. Promote the economic welfare of the Township through the preservation of its historic sites and landscapes.

§ 347-128. Definitions.

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

ADDITION

An extension or increase in building size, floor area or height.

ADMINISTRATIVE OFFICER

The Construction Official.

ALTERATION

Any change in the exterior architectural features of any improvement or addition.

APPLICATION

A request to the Commission made pursuant to this article for the purposes of obtaining a certificate of appropriateness or other action by the Commission hereunder specified.

APPLICATION FOR DEVELOPMENT

The application form and all accompanying documents required by ordinance to the Planning Board or the Zoning Board of Adjustment of the Township for approval of a major or minor subdivision plat, site plan, planned development, conditional use, zoning variance or the direction of the issuance of a permit pursuant to Section 25 or 27 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-34 or 40:55D-36).

BUILDING

A combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

CERTIFICATE OF APPROPRIATENESS (or C/A)

That document issued by the Historic Preservation Commission required before work commences on any landmark or any building, structure, site or object located within a landmark district.

COMMISSION

The Historic Preservation Commission established pursuant to the provisions of this article.

CONSTRUCTION OFFICIAL

The officer in charge of the granting of building or construction permits in the Township.

DEMOLITION

The partial or total razing, dismantling or destruction, whether entirely or in significant part, of any building, structure, object or site. "Demolition" includes the removal of a building, structure or object from its site or the removal or destruction of the facade or surface.

DESIGNATED PROPERTY OR DISTRICT

An individual building, structure, site, object or district which has been designated as having historical, architectural, cultural, aesthetic or other significance pursuant to the provisions of this article.

DEVELOPMENT

The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill; and any use or change in the use of any building or other structure or land or extension of use of land for which permission may be required pursuant to the Municipal Land Use Law.^[1]

DISTRICT

See "landmark district," as defined herein.

HISTORIC

Having historical, architectural, cultural, aesthetic or other significance, as defined by the provisions of this article.

IMPROVEMENT

A building or other structure or any work constituting a man-made alteration of or addition to any site.

INTEGRITY

The authenticity of the historic identity of a building, structure, site, object or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

INTERESTED PARTY

Any person whose right to use, acquire or enjoy property is affected by any action taken under this article or whose rights to use, acquire or enjoy property under this article or under any other law of this state or of the United States have been denied, violated or infringed by an action or a failure to act under this article.

INVENTORY

A list of historic properties determined to meet specified criteria of significance.

LANDMARK

Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, architectural, cultural, scenic or archaeological significance.

LANDMARK DISTRICT or DISTRICT

One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

MASTER PLAN

The Master Plan of the Township of Montclair, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

MINOR APPLICATION

Any application for a certificate of appropriateness which:

- A. Does not involve demolition, relocation or removal of an historic landmark or a key or contributing resource in an historic district;
- B. Does not involve an addition to an historic landmark or a property in an historic district or new construction in an historic district;
- C. Is a request for approval of fences, signs, awnings, lighting, paving or streetscape work which, in the opinion of the Minor Application Subcommittee, will not substantially affect the characteristics of the historic landmark or the historic district; or
- D. Is a request for a field change for a certificate of appropriateness which has already been issued and which meets the criteria of Subsection **C** above.

MUNICIPAL LAND USE LAW

The Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.), as amended from time to time.

OBJECT

A material thing of functional, aesthetic, cultural, historic, scenic or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

ORDINANCE

A legislative act of the governing body of a municipality adopted in accordance with statutory requirements as to notice, publicity and public hearing as required by law.

OWNER

Any person having a right, title or interest in any property so as to be legally entitled, upon obtaining such permits and other authorizations as may be required pursuant to law, to perform construction, alteration, removal, demolition or other work with respect to such property.

PERMIT

Any Township approval for exterior work to be performed on any landmark or on any building, structure, object or site located within a landmark district, which exterior work will be subject to public view. Said permit shall include but not be limited to a building permit, a demolition permit or a permit to move, convert, relocate or remodel or to change the use or occupancy of any landmark or any building, structure, object or site located within a landmark district. "Permit" shall also include all exterior work to be performed on fences, signs, porches, railings, steps, lighting and sidewalks and any other work subject to public view which would alter the exterior appearance of landmarks or properties located within a landmark district or their sites.

REHABILITATION

Any repair or alteration that preserves significant historical or architectural features.

RESTORATION

The historically accurate repair or replacement of architectural features.

SITE

Any real property, whether public or private, with or without improvements, which is the location of a significant event or series of events, a prehistoric or historic occupation or activity, or a building, structure or object or any configuration, portion or group of the foregoing which has been designated by the Commission as having historical, archaeological, cultural, scenic or architectural significance pursuant to the provisions of this article.

STRUCTURE

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

SURVEY

The survey of buildings, structures, objects, sites and districts located within the Township of Montclair which is conducted by the Commission for the ascertainment of their historical, architectural, aesthetic, cultural or other significance pursuant to the provisions of this article.

VIEW or PUBLIC VIEW

The view by the public of a building, structure, object or site from any point on a street or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

[1] *Editor's Note: N.J.S.A. 40:55D-1 et seq.*

§ 347-129. Historic Preservation Commission.

- A. Creation. There is hereby created the Montclair Township Historic Preservation Commission, whose members shall serve without compensation. The Commission shall be comprised of seven regular members and two alternates.
- B. Regular members. At least one member shall be appointed from each of the following classes, including no fewer than a total of three members from Classes A and B:
 - (1) Class A: a person who is knowledgeable in building design and construction or architectural history and who may reside outside the Township.
 - (2) Class B: a person who has demonstrated a knowledge of or who has displayed an interest in local history and who may reside outside the Township.
 - (3) Class C: a person who is a citizen of the Township, who holds no other municipal office, position or employment, and who professes an interest in local history and/or historic preservation.
- C. Alternate members. Two alternate members shall also serve on the Commission. They must qualify as Class C members and shall be designated as "Alternate No. 1" or "Alternate No. 2" at the time of appointment. Alternate members may participate in all Commission discussions during proceedings but may not vote except in the absence or disqualification of a regular member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

§ 347-130. Appointment of Commission members; terms; vacancies.

- A. The Township Council shall appoint all members of the Commission and shall designate at the time of appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." The Township Council shall appoint a full membership, including regular and alternate members, of the Commission within 60 days from the effective date of this article.
- B. The terms of the members first appointed shall be so determined that, to the greatest practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment and, in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years, and the term of an alternate member shall be two years.

- C. A vacancy occurring otherwise than by expiration of a term shall be filled within 60 days for the unexpired term only.
- D. The presence of four members, which may include alternate members filling vacancies of regular members, at a meeting shall constitute a quorum.
- E. A member of the Commission may, after a public hearing if he or she requests it, be removed for cause by a majority vote of the Township Council.

§ 347-131. Officers.

The officers of the Commission shall be as follows:

- A. The Commission shall elect a Chairperson and Vice Chairperson from its members.
- B. The Commission shall employ, designate or elect a person to serve as Secretary, who need not be a member of the Commission. The Secretary shall keep the minutes and records of all meetings and proceedings of the Commission, including voting records, attendance, resolutions, findings, determinations and decisions.

§ 347-132. Commission rules and organization.

The Commission shall have the authority to adopt all rules and regulations necessary to carry out its functions under the provisions of this article, including but not limited to maintenance of records and procedures, subject to the following:

- A. No Commission member shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest, as herein defined.
- B. The Commission shall establish a regular schedule of meetings at least once every month. Additional meetings may be called by the Chairperson or Vice Chairperson as required to fulfill its obligations under this article.
- C. All Commission minutes and records shall be public records.
- D. All rules and regulations adopted by the Commission shall be subject to the approval of the Township Council.

§ 347-133. Appropriations to fund; employment of experts and staff.

- A. The Township Council shall make provision in its budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the Municipal Attorney at the rate of compensation determined by the Township Council, unless the Council has, by appropriation, provided for separate legal counsel for the Commission. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the Township Council for the Commission's use.
- B. The Township's Planning and Construction Officials shall provide such technical assistance as the Commission shall require.

§ 347-134. Powers and duties of Commission.

The powers and duties of the Commission shall be as follows:

- A. To survey buildings, structures, objects, sites and districts located within the Township and to research and evaluate them for their significance in accordance with the criteria established as set forth in § **347-135** of this article.
- B. To maintain and expand, when appropriate, a comprehensive inventory of such buildings, structures, objects, sites and districts which are worthy of designation under the provisions of this article.
- C. To propose to the Township Council those buildings, structures, objects, sites and districts located within the Township which it has found to be worthy of landmark designation and hence should be subject to the provisions and of this article. Actual nomination to, a finding of eligibility for or listing on the National or State Register of Historic Places is not necessary for the provisions of this article to take effect once a property has been designated as significant by the Commission.
- D. To nominate buildings, structures, objects, sites and districts for inclusion in the National and/or the State of New Jersey Register of Historic Places.
- E. To make recommendations to the Planning Board and the Township Council in the preparation and periodic updating of the historic preservation element of the Master Plan for the Township, including but not limited to the addition or deletion of historic sites and districts identified in the Township's Master Plan.
- F. To make recommendations to the Planning Board and the Township Council on the historic preservation implications of any proposed or adopted zoning or development ordinance(s) or proposed or adopted element(s) of the Township's Master Plan.
- G. To advise and assist Township officers, employees, boards and other bodies, including those at the county, state and federal levels, on all matters which have potential impact on the historic buildings, structures, objects, sites or districts in the Township or on the physical character and ambience of any portion of the Township or region.
- H. To approve or disapprove applications for certificates of appropriateness pursuant to the provisions of this article.
- I. To provide to the Planning Board written reports of all actions taken by the Commission pursuant to the provisions of this article and which are not governed by time requirements for notice or action herein specified.
- J. To employ, contract for and fix the compensation of such other staff and services as the Commission shall deem necessary, subject to the provisions of § **347-133** of this article.
- K. To draft and/or recommend to the Township Council and the Planning Board ordinances or amendments to existing ordinances that would resolve any conflicts which may exist between the design standards of this article and the building or zoning regulations of the Township.
- L. To advise the Township Council and the Planning Board on the relative merits of proposals involving the use of public funds to restore, preserve and protect historic buildings, structures, objects and sites, including the preparation of the long-range plans therefor; to secure state, federal and/or other grants or assistance in support of such projects; and to monitor such projects once underway.
- M. To increase public awareness of the value of historic, architectural and cultural preservation by developing and participating in public information programs.
- N. To cooperate with local, county, state or national historical societies, governmental bodies and

organizations to maximize the contributions of the Commission in accordance with the intent and purposes of historic preservation.

- O. To make information available to residents of historic buildings or districts concerning guidelines for rehabilitation and design criteria for new construction established under this article.
- P. To seek any benefits which may be granted under the National Historic Preservation Act, as amended, or any other state or federal legislation, including but not limited to the benefits which flow to communities under the certified local government program with regard to training, grant funding and technical assistance; and, in furtherance thereof, to take any steps necessary to assist the Township of Montclair in the preparation and submission of any documents needed for certification of the Township as a certified local government under said National Historic Preservation Act.

§ 347-135. Designation of buildings, structures, objects, sites and districts as historic.

- A. Criteria for designation. The Commission shall consider as worthy of designation those buildings, structures, objects, sites and districts that have integrity of location, design, setting, materials, workmanship, feeling and association and that meet one or more of the following criteria:
 - (1) Are associated with events that have made a significant contribution to the broad patterns of our history.
 - (2) Are associated with the lives of persons significant in our past.
 - (3) Embody distinctive characteristics of a type, period or method of construction; that represent the work of a master; that possess high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction.
 - (4) Have yielded or may be likely to yield information important to prehistory or history.
 - (5) Are otherwise of particular historic significance to the Township of Montclair by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state, region or community.
- B. Procedures for designation. Proposals to designate a property as historic pursuant to this article may be made by the Township Council, the Commission, the Planning Board or by the verified application of the owner(s) or authorized agent(s) of the individual property to be designated or, in the case of a proposed district, by the verified application of 10% of the owners of record or persons residing within the district or by verified application of any organization with a recognized interest in historic preservation, in accordance with the following procedures:
 - (1) Nomination proposals. The party proposing property for designation under this section shall prepare and submit to the Commission a nomination report for each proposed property, site or district. For historic district designations, the report shall include a building-by-building inventory of all properties within the district, photographs of representative properties within the district, a property map of the district showing boundaries, and a physical description and statement of significance for the district. For individual landmark designations, the report shall include one or more photographs, the tax lot and block number of the property as designated on the Official Tax Map of the Township and a physical description and statement of significance and proposed utilization of the site.
 - (2) Notice. The Commission shall schedule a public hearing on the proposed designation of a landmark or landmark district. At least 20 days prior to the hearing, the Commission shall, by personal service or certified mail:

- (a) Notify the owner(s) of record of a property that has been proposed for designation or of property within a district that has been proposed for designation that the property is being considered for such designation and the reasons therefor.
 - (b) Advise the owner(s) of record of the significance and consequences of such designation and of the rights of the owner(s) of record to contest such designation under the provisions of this article.
 - (c) Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property.
 - (d) Serve any notices further required under the provisions of the Municipal Land Use Law.
- (3) Public notice of hearing. Public notice of the hearing shall be given at least 20 days prior to the hearing by publication in the official newspaper of the Township. A copy of the nomination report shall also be made available for public inspection in the Municipal Clerk's office at least 20 days prior to the hearing.
 - (4) Hearing. At a public hearing scheduled in accordance with this article, the Commission shall review the nomination report and accompanying documents. Interested persons shall be entitled to comment on the proposed nominations for designation. Those persons who intend to file a formal protest against a proposed designation under Subsection **B(5)** of this section must submit their protest, in writing, to the Commission in accordance with the provisions of that section of this article.
 - (5) Protests. A protest against landmark designation signed by the owners of record of 30% or more of the properties within a proposed landmark district or by the owner(s) of record of a proposed landmark may be filed with the Commission 10 days prior to the scheduled hearing date of the proposed designation before the Commission. Protests must be in writing, must contain the reason(s) for the protest and must bear the verified signatures of the owner(s) joining in such a protest.
 - (6) Commission report. Upon Commission review and public hearing, the Commission shall forward to the Township Council its report, which shall contain a statement of its recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.
 - (7) Referral to Planning Board. The Township Council shall refer the report to the Planning Board, which in turn shall report to the Township Council as soon as possible, but within 60 days. Failure of the Planning Board to transmit its report within the sixty-day period provided herein shall relieve the Township Council of its obligations relating to the referral of such a report to the Planning Board. Township Council action on landmark or landmark district designations shall be otherwise subject to those procedures and statutes which apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.
 - (8) Final designation. As soon as possible after its receipt of the report of the Planning Board or the expiration of the period allowed for Planning Board comment on designations pursuant to Subsection **B(7)** of this section, the Township Council shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the Planning Board. In the event that the Township Council votes to reject or modify any Planning Board recommendations for a proposed designation, the Council shall record in its minutes the reasons for not following such recommendation. All action taken by the Council on proposed designations shall become effective upon a favorable vote of a majority of its full authorized membership, except, in cases in which a protest has been filed in accordance with Subsection **B(5)** of this section, a proposed designation shall require a favorable vote of 2/3 of the members of the Council.

- (9) Public notice of designation. Notice of designation shall be made public by publication in the official newspaper of the Township and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.
- (10) Incorporation of designated landmarks into Township records. Upon adoption, the designation list and map shall be incorporated by reference into the Master Plan and Zoning Ordinance of the Township as required by the provisions of the Municipal Land Use Law.^[1] Designated properties shall also be noted as such on the records for those properties maintained by the offices of the Township Tax Assessor and the Municipal Clerk.
^[1] *Editor's Note: See N.J.S.A. 40:55D-1 et seq.*
- (11) Amendments. Landmark and landmark district designations may be amended in the same manner as they were adopted in accordance with the provisions of this article.

§ 347-136. Certificates of appropriateness: actions requiring review.

- A. Actions requiring review. A certificate of appropriateness (hereinafter "C/A") issued by the Commission shall be required before a permit is issued for any of the following or, in the event that no other type of permit is required, before any work can commence on any of the activities listed below in this subsection involving any landmark or any building, structure, site or object located within a landmark district. Work associated with a development application approved by the Planning Board or Zoning Board of Adjustment is exempt from this requirement.
 - (1) Demolition or improvement.
 - (2) Relocation.
 - (3) Change in the exterior elevation or any improvement by addition, alteration or replacement.
 - (4) Any new construction of a principal or accessory structure.
 - (5) Any change in existing, or addition of new, signs or exterior lighting.
- B. Actions not requiring review. A certificate of appropriateness is not required for:
 - (1) Changes to interiors.
 - (2) Changes not visible to the public other than relocation or demolition.
 - (3) Repair or exact replacement of any existing improvement, provided that the work does not alter the exterior appearance. The following activities are permitted as repairs:
 - (a) Identical replacement of existing windows and doors.
 - (b) Repairs of existing windows and doors and the installation of storm doors and windows that do not change their design, scale or appearance.
 - (c) Maintenance and repair of existing roofing materials involving no change in the design, scale or appearance of the structure.
 - (d) Structural repairs which do not alter the exterior appearance.
 - (e) Replacement of existing clapboards, shingles or other siding with identical material.
 - (f) Maintenance and repair of existing clapboards, shingles or other siding (including masonry)

involving no change in the design, scale or appearance.

- (g) Exterior or interior painting.
- C. Emergency repairs. When a landmark or a building, structure, object or site located within a landmark district requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with Township codes without first obtaining a certificate of appropriateness. Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of its occupants or others and/or to maintain habitability. A request for the Commission's review shall be made simultaneously with the onset of emergency work, and no work in addition to the emergency repairs shall be performed on the structure until an appropriate request for approval is made and approval is obtained in accordance with the procedures set forth in this article. All work done under this section shall conform to the standards for rehabilitation set forth in § **347-137** herein.
- D. Informal review of concept plan for proposed undertakings. At the request of applicants considering action that may require Commission review, the Commission shall grant an informal review of a concept plan for the proposed undertaking. Neither the applicant nor the Commission shall be bound by any informal review.

§ 347-136.1. Minor applications.

Minor applications, as defined in this article, may be reviewed and approved by the Minor Application Subcommittee without holding a public hearing. The Minor Application Subcommittee shall be comprised of a designated member of the Historic Preservation Commission, the Director of Planning and Community Development, and the Zoning Officer. If the Minor Application Subcommittee finds the application appropriate, the Subcommittee may act in place of the full Commission without the necessity of a public hearing and is authorized to issue a certificate of appropriateness to the Construction Official for said minor work. The Construction Official shall then authorize the applicant to proceed and issue any required permit associated therewith. If the Minor Application Subcommittee does not find the application appropriate, the application shall be scheduled for a public hearing before the full Commission.

§ 347-137. Standards for review.

- A. General criteria for review. In reviewing an application for its effect on a landmark or a building, structure, object or site located within a landmark district, the following criteria shall be used by the Commission, the Planning Board, the Zoning Board of Adjustment, the Township Council and all other officials and agencies of the Township responsible for the administration of this article. The criteria set forth in this subsection relate to all projects affecting landmarks and any buildings, structures, objects and sites located within landmark districts; and with regard to such proposed projects, the following factors shall be considered:
 - (1) The impact of the proposed change on the historic, architectural and/or cultural significance of the landmark or landmark district.
 - (2) The importance of the landmark or the building, structure, object or site to the nation, state, region or municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.
 - (3) The use of any landmark or landmark district involved in the proposed change.
 - (4) The extent to which the proposed action would adversely affect the public's view from the street of a landmark or building, structure, object or site located within a landmark district.

- (5) The impact the proposed change would have on the architectural or historic significance of the landmark or landmark district and the visual compatibility of the proposed change with adjacent buildings, structures, objects and sites in accordance with the requirements for design compatibility set forth in Subsection **C** of this section.
- B. Rehabilitation of existing buildings, structures, objects and sites. In reviewing any application for a certificate of appropriateness, the Commission shall make its determination as to whether any application should be approved, approved with conditions or denied on the basis of the purposes of this section, the provisions of this article and the following standards for review, which are identical to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings:
- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, object or site and its environment or to use a property for its originally intended purpose.
 - (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (3) All buildings, structures, objects and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced whenever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.
 - (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
 - (10) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- C. Design criteria; new construction. In assessing the design of any proposed addition or new construction, the Commission shall consider the following design criteria in conjunction with the standards of rehabilitation and review criteria set forth above. These design criteria shall be used to

analyze the appropriateness of new construction in the form of additions and alterations to landmarks or new construction, additions or alterations to buildings, structures, objects or sites located within landmark districts.

- (1) Height. The height of the proposed structure shall be visually compatible with adjacent buildings.
 - (2) Proportion of the facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with adjacent buildings and places.
 - (3) Proportion of the openings. The relationship of the width of windows to the height of windows in a building shall be visually compatible with adjacent buildings and places.
 - (4) Rhythm of solids. The relationship of solids to voids in the facade of a building shall be visually compatible with adjacent buildings and places.
 - (5) Rhythm of spacing. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with adjacent buildings and places.
 - (6) Rhythm of entrances. The relationship of entrances and porches to the street shall be visually compatible to adjacent buildings and places.
 - (7) Relationship of materials. The relationship of materials, texture and tone of the facade and roof of a building shall be visually compatible with the predominate materials used in adjacent buildings.
 - (8) Roof. The roof shape of a building shall be visually compatible with adjacent buildings.
 - (9) Continuity of walls. Walls and open fencing shall maintain visual compatibility with adjacent buildings and places.
 - (10) Scale. The size of a building mass in relation to open spaces, window and door openings, porches and balconies shall be visually compatible with adjacent buildings and places.
 - (11) Directional expression. A building shall be visually compatible with adjacent buildings and places in its directional character, whether this be vertical, horizontal or nondirectional.
 - (12) Windows. The type of glazing and muntin used in windows and doors shall be visually compatible with adjacent buildings.
- D. Review criteria for demolition. With regard to applications to demolish a landmark or any building, structure, object or site located within a landmark district, the following matters shall be considered:
- (1) Its historical, architectural, cultural and aesthetic significance.
 - (2) Its use, its intended use and/or the use for which the building, structure, object or site was originally designed and the feasibility of the continuation of its designed use.
 - (3) Its importance to the Township and the extent to which its historical or architectural value is such that its removal will be detrimental to the landmark district and/or to the public interest.
 - (4) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty.
 - (5) The extent to which its retention would promote business, create new positions, attract tourists, students, writers, historians, artists or artisans, encourage study and interest in American history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage or make the Township a more attractive and desirable place in which to live.
 - (6) The probable impact of its removal upon the ambience of the landmark district.

- (7) The structural soundness and integrity of the building, structure, object or site and the economic feasibility of its restoration or rehabilitation so as to allow for its reasonable use.
 - (8) The threat to the public health and safety as a result of deterioration or disrepair of the building, structure, object or site.
 - (9) The technological feasibility of structural rehabilitation.
 - (10) The interference with the charitable purposes of any nonprofit or charitable organization if demolition is not permitted.
- E. Criteria regarding relocation of historic buildings or structures. The following factors shall be considered with regard to an application to move to a new location or site any landmark or any building, structure or object located within a landmark district:
- (1) The impact of the loss of integrity suffered as a result of removal from the original and/or historic location; and, if located within a historic district, the impact of that loss of integrity upon the district as a whole.
 - (2) The relative value to the applicant of the proposed relocation contrasted to the value to the community as a whole in allowing it to remain at its original and/or historic site.
 - (3) The compatibility, nature and character of the areas adjacent to both the present site and the proposed site as they relate to the protection of historic properties and districts as regulated by this article.
 - (4) In the event that a proposed new location is in an historic district, the impact on the visual compatibility of adjacent buildings, structures, objects or sites as set forth in Subsection **C(1)** through **(12)**, inclusive, of this section as herein set forth.
 - (5) The likelihood of significant damage to the physical integrity of the building, structure or object itself.

§ 347-138. Certificates of appropriateness; application procedures; fees.

- A. The administrative officer shall refer all applications for permits pertaining to regulated activities involving landmarks or any buildings, structures, objects and sites located within landmark districts to the Commission for a written report on the application of the Zoning Ordinance provisions concerning historic preservation to any of those aspects of the changes proposed which were not determined by approval of an application for development by a municipal agency pursuant to the Municipal Land Use Law.^[1] A certificate of appropriateness (hereinafter "C/A") issued by the Commission in accordance with the procedures of this article is required prior to the commencement of any activities involving landmarks or properties within landmark districts which are governed by the provisions of this article.
- ^[1] *Editor's Note: See N.J.S.A. 40:55D-1 et seq.*
- B. Applications shall be made on forms available in the office of the administrative officer in the Montclair Municipal Building. Completed applications shall be delivered or mailed to the administrative officer at the Montclair Municipal Building. All such applications shall include payment of a filing fee in the amount of \$100.
- C. Upon receipt of a complete application for a certificate of appropriateness, the Commission shall schedule a hearing for the purpose of reviewing said application and shall advise the applicant(s), in writing, of the time, date and place of said hearing. For minor applications, five copies of the complete application must be submitted to the administrative officer. For all other applications, 15 copies of the

complete application must be submitted to the administrative officer.

- D. A complete application for a certificate of appropriateness shall include the following items:
- (1) All applications must include properly completed application forms which contain the following information:
 - (a) Property information, including the zone of the property and block/lot.
 - (b) Applicant and owner information.
 - (c) Application fee and escrow fee (if required), paid to the Township of Montclair.
 - (d) Applicant's verification signature and owner's authorization signature.
 - (e) Photographs showing the existing condition of the entire building facade.
 - (f) Close-up photographs showing details of the area of work.
 - (2) Signage and awning applications must also include the following:
 - (a) Photomontage with the sign or awning drawn or photo-manipulated/photoshopped in the exact location proposed (see Figure 1).



Figure 1: Example of Photomontage for Signage Applications

- (b) Proposed sign material noted (i.e., wood, acrylic, PVC) or awning fabric sample and measured drawings showing the height and width dimensions of the proposed sign or awning (see Figure 2).
- (c) Section drawing showing the side view and projection of the proposed sign or awning from the building facade and the method of installation of the sign or awning onto the storefront or sign band (see Figure 2). Note the storefront material. (For brick buildings, signs should be attached in the mortar.)

Facade Signage

Sign (laser-cut, dimensional, metal) dimensions are 59.6" W x 9" H.

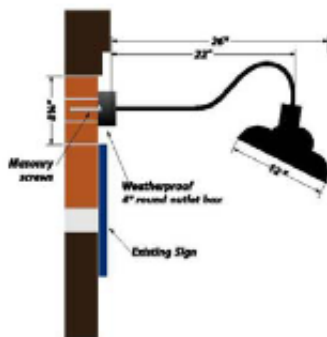


9/16" X 1/2" THK. DIMENSIONAL HALO-LIT (WHITE LED) "OSKA" LETTERS, TO BE PAINTED TO MATCH PMS 425C OR RAL 7020, AND TO BE STUD FLOAT MOUNTED 1/2" OFF EXISTING SIGN BAND AREA. INSTALLED BY LOCAL LICENSED SIGN COMPANY.



Figure 2: Sample of Section Drawing Showing Proposed Signage and Method of Installation

- (d) Dimensions and size calculations of proposed signage for zoning compliance.
- (3) Lighting applications must also include the following:
 - (a) Detail photographs of the area of attachment.
 - (b) Manufacturer’s information/cut sheets of the type of fixture to be used.
 - (c) Photomontage of proposed lighting, showing where it attaches to the building.
 - (d) Details showing dimensions of proposed light fixtures, including the distance the lights will project from the facade, height above the street or sidewalk, any supports or framing, the location of electrical conduits, and how the light fixtures will be mounted to the exterior wall (see Figure 3).



PROPOSED GOOSENECK LIGHT FIXTURES
 - # REQUIRED

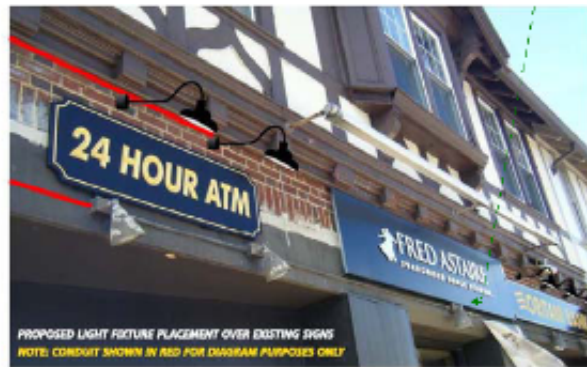


Figure 3: Sample of Lighting Details

- (4) Window applications must also include the following:
- (a) Photographs of each existing window to be altered.
 - (b) Note if the replacement proposed is of the entire window frame or sash only.
 - (c) Photo or drawing showing as-built/existing windows to be replaced, including a cross-section of existing windows as-built, showing head, jamb and sill.
 - (d) Details showing proposed windows, including a cross-section of proposed windows showing head, jamb and sill (manufacturer's cut sheets are fine if they show dimensions) (see Figure 4).

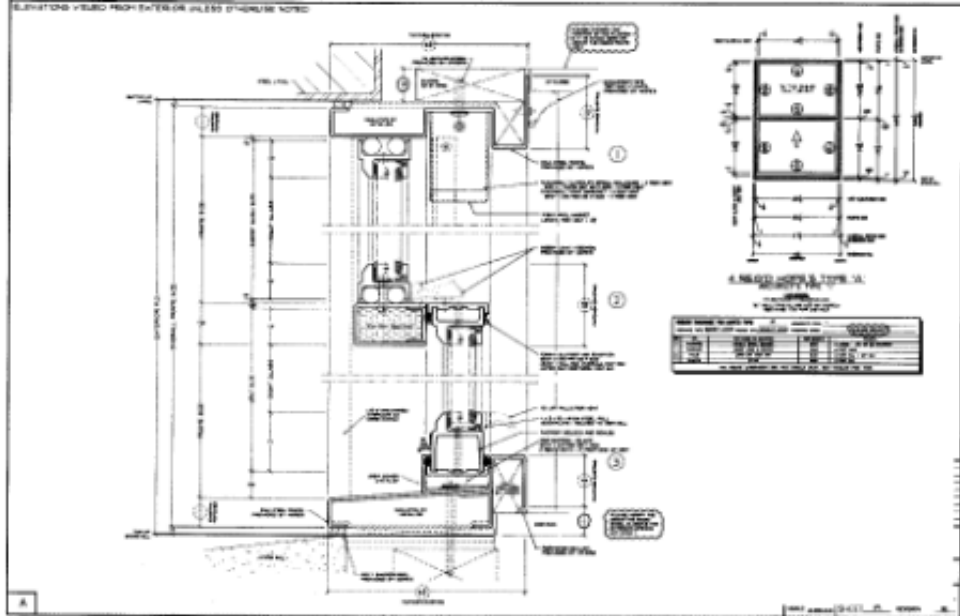


Figure 4: Sample of Window Details

- (e) Documentation about the original windows, photographs or typical windows for the historic period (if available and only necessary if the existing are not historic windows).
 - (f) Conditions statement describing the type and extent of deterioration justifying the window removal.
- (5) Applications for new storefronts, facade alternations/restorations or new construction/additions must also include the following:
- (a) Existing site plan or detailed survey drawing.
 - (b) Proposed site plan with color graphics to differentiate new from existing.
 - (c) Photographs of the existing structure, with "detail" photos of the specific facades and architectural features (doors, windows, railings, siding, roofing, paving, etc.) that are to be altered or repaired. If the proposed project is within any historic district, applicants must include photographs of adjacent structures and the existing streetscape taken from across the street.
 - (d) Existing exterior elevation drawings.
 - (e) A complete set of working drawings for the proposed project and, in the case of an addition, elevation drawings that show the proposed addition together with the existing structure; scaled construction drawings showing proposed alterations of the relevant facade(s) and architectural features. If the proposed project is located within an historic district, applicants

must include a streetscape elevation and color rendering showing the new development in the context of neighboring buildings, structures, and sites. Three-dimensional models are optional.

- (f) Photomontage, renderings, and color elevation drawings of the proposed facade(s).
 - (g) Descriptions of the materials, size, and spacing of architectural features that are to be altered or repaired, their present condition, and the reasons for their proposed alteration or repair.
 - (h) Detailed specifications, cut sheets, manufacturer's product information, and mock-up boards for all proposed exterior materials and color palettes, including dimensions, compositions, application methods, and recommended uses. Samples of the proposed materials may be required.
 - (i) Specifications, cut sheets, and manufacturer's product information for all exterior lighting proposed.
 - (j) Specifications for any proposed masonry patching, brick repointing, mortar analysis, brick replacement, and facade cleaning.
 - (k) Specifications, cut sheets, and manufacturer's product information for any proposed exterior coatings, waterproofing measures, or chemical solutions to be applied.
 - (l) Scaffolding drawings (if applicable).
- (6) Relocation of existing structures:
- (a) Photographs of the existing structure and adjacent buildings and the proposed relocation site and its adjacent buildings.
 - (b) Statement of the need/purposes for the proposed relocation and any alternatives to relocation that were considered by the applicant.
 - (c) Estimated damage to the structure or loss of any of its architectural elements that may result from the proposed relocation. (If any alterations are proposed to the structure after relocation, the applicant must meet the requirements of the sections above.)
 - (d) Description of the relocation process and time frame, including moving the building intact, numbering and disassembling, and storage security before reassembly.
 - (e) Site plan for the existing structure, as well as the site plan for the structure on the proposed relocation site.
- (7) Demolition of structures:
- (a) Complete photography record of all exterior elevations, interior spaces, and important details of all existing structures and any adjacent properties.
 - (b) Statement of the need/purposes for the proposed demolition.
 - (c) In any instance where there is a claim of no other alternative to demolition, the applicant shall provide written documentation of good-faith attempts to sell the building at a reasonable and comparable amount or to offer it without charge to purchasers willing to move the building to another location and preserve, rehabilitate, relocate, or restore the building. A reasonable and comparable sales price shall be indicated by providing evidence such as recent appraisals, comparable values of properties similar to the building proposed to be demolished or other evidence the HPC deems acceptable.

- (d) Written and pictorial record of the building's history and architectural features for archival purposes, including, without limitation, the dates of original construction of the building or structure to be demolished; original documents, maps, drawings, and photographs; the square footage or dimensions of the building or structure to be demolished; a brief description of the materials, configuration and use of the existing building or structure; significant events and occupants associated with the history of the building or property; architectural features; and a description of the building through photographs, plans, and maps.
- (e) Archaeological study of the property before and/or during demolition if the property falls within the area demonstrated to have a medium or high probability to contain archaeological resources.
- (f) Preservation or salvage of architectural elements and photographic documentation. The Planning Office will provide applicants with local service directories of centers.

§ 347-139. Commission review of applications for certificates of appropriateness.

- A. The Commission shall review applications for certificates of appropriateness at a public hearing. The applicant(s) shall be required to appear or to be represented at any meeting of the Commission at which the Commission will consider his or her (their) application for a certificate of appropriateness, regardless of the ultimate findings and report of the Commission.
- B. As soon as possible, but no later than 45 days after the administrative officer has referred the application to the Commission, the Commission shall return to the administrative officer its written report granting or denying the application, which report may be stated in resolution form. The Commission shall file said report with the administrative officer, together with the certificate of appropriateness if granted, within 10 days of the Commission's decision on the application and, on the same date, shall forward a copy of the report and the certificate of appropriateness to the applicant by personal service or by certified mail, return receipt requested.
- C. If, within the above forty-five-day period, the Commission has denied the issuance of a certificate of appropriateness required for the issuance of a permit or recommended that conditions be met prior to the issuance of a permit, the administrative officer shall deny issuance of the permit or include the conditions in the permit, as the case may be.
- D. Failure of the Commission to report within the forty-five-day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit.
- E. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.
- F. After a certificate of appropriateness has been issued by the Commission, the administrative officer shall, from time to time, inspect the work approved by the Commission and report to the Commission any work not in accordance with such resolution of approval and the corresponding certificate of appropriateness.
- G. A certificate of appropriateness shall be valid for a period of one year from the date of its issuance unless reasonable extensions are granted by the Commission.

§ 347-140. Grant or denial of certificates of appropriateness.

- A. Purposes. The purpose of this section is the furtherance of the purposes of this article by affording the Township, interested persons and historical societies or organizations the opportunity to acquire or to arrange for the preservation of landmarks or buildings, structures, objects or sites located within historic districts.
- B. Approval. Issuance of an approval of a permit shall be deemed to be final approval pursuant to this article. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other Township ordinance to be made prior to undertaking the action requested concerning landmarks or any buildings, structures, objects or sites located in a landmark district.
- C. Denial. Denial of a certificate of appropriateness shall be deemed to preclude the applicant from undertaking the activity applied for.
- (1) Denial in applications for demolition. In the event that the Commission disapproves an application for a permit to demolish a landmark or any building, structure, object or site located within a landmark district, the owner shall, nevertheless, as a matter of right, be entitled to raze or demolish the same, provided that all of the following requirements have been fully met:
- (a) Permit procedure compliance. The owner has applied for the necessary permit and has received notice of denial of the same from the Commission and has appealed said denial to the Zoning Board of Adjustment, which has affirmed the denial.
- (b) Notice requirements. The owner has met the following notice requirements:
- [1] Notice of the proposed demolition has been posted on the premises of the building, structure, object or site throughout the notice period, set forth herein in Subsection **C(1)(b)[2]** and **[3]** of this section, in a location that it is clearly readable from the street.
- [2] The applicant has published a notice in the official newspaper of the Township within the first 10 days of the notice period, within not less than 10 nor more than 15 days prior to the expiration of the notice, and at least once each 90 days between the above first and last notifications, if the notice period is nine months or longer.
- [3] The period of time during which notice must be given in the manner herein set forth shall be known as the "notice period." It shall commence on the 10th day following the date of the notice of denial received from the Zoning Board of Adjustment after an appeal has been decided, and such notice period shall run for a period of time of nine months.
- [4] The owner has, during the notice period and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, structure, object or site and the land pertaining thereto to any person or organization, government or agency thereof or political subdivision or agency thereof which gives reasonable assurances that it is willing to preserve the building, structure, object or site and the land pertaining thereto.
- [5] The owner shall not have been a party to any bona fide contract binding upon all parties thereto for the sale of any such building, structure, object or site and the land pertaining thereto executed prior to the expiration of the notice period except a contract made in accordance with Subsection **C(1)(b)[4]** of this section.
- (2) Alternatives to demolition. During the notice period, the Commission shall consult with the Township Council, the New Jersey Department of Environmental Protection or other similarly qualified organizations to ascertain how the Township may preserve the premises to be demolished. The Commission shall be empowered to assist the owner in developing plans to

preserve the building, structure, object or site when the moving or demolition thereof would be a loss to the Township. The Commission shall be empowered to negotiate with the applicant to see if an alternative to demolition can be found and may require the applicant to prepare a financial analysis which may include any or all of the following:

- (a) Amount paid for the property, date of purchase and the name of the party from whom purchased, including a description of the relationship, whether business and/or familial, if any, between the owner and the person from whom the property was purchased.
 - (b) Assessed value of the land and improvements thereon according to the most recent assessment.
 - (c) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
 - (d) All appraisals obtained by the owner in connection with his or her purchase or financing of the property or during his or her ownership of the property.
 - (e) Bona fide offers for the property for sale or rent, price asked and offers received, if any.
 - (f) Any consideration given by the owner as to profitable, adaptive uses for the property.
- (3) Change in circumstances. The Commission may, if a significant change in circumstances occurs at any time during such notice period, approve a permit for demolition, in which event the permit shall be issued within 10 days thereafter.

§ 347-141. Effect of grants or denials of permits; appeals.

- A. Effect. Issuance of an approval of a permit shall be deemed to be a final approval pursuant to this article. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other Township ordinance to be made prior to undertaking the action requested concerning the landmark or any building, structure, object or site located within a landmark district. The denial of a permit shall be deemed to preclude the applicant from undertaking the activity applied for.
- B. Statutory rights retained. The granting or denial of a permit may be appealed to the Board of Adjustment in the same manner as an appeal is taken pursuant to the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-70a. Nothing herein shall be deemed to limit the right of judicial review of the Township action after an appeal is concluded by the Board of Adjustment. The appellant shall pay all costs for copies of any transcript(s) required for appeal.

§ 347-142. Development in historic zoning districts or sites; informational copies of applications from Planning Board or Board of Adjustment.

The Planning Board and the Board of Adjustment shall refer to the Commission every application submitted to either Board for development in historic zoning districts or on historic sites designated on the Zoning or Official Map or identified in any component element of the Master Plan. The referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Commission may provide its advice, which shall be conveyed through its delegated members or staff, who shall testify orally at the hearing and explain any written report which may have been submitted by the Commission regarding the application. The Commission shall make available to the applicant a copy of its

written report concerning said application for development.

§ 347-143. Violations and penalties; enforcement.

- A. Violations defined. Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalties herein. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Any person who shall undertake any activity without approvals required by this article shall be deemed to be in violation hereof.
- B. Notice of violations. Upon learning of the violation, the administrative officer shall personally serve upon the owner of the property whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the building, structure or site to its condition prior to the violation. If the owner cannot personally be served within the Township with said notice, a copy shall be posted on the property and a copy shall be sent to the owner at his or her last known address.
- C. Injunctive relief. In the event that the violation is not abated within 10 days of service or posting on site, whichever is earlier, the administrative officer shall cause to be instituted any appropriate action or proceeding to prevent such unlawful activity; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or site; or to prevent any illegal act, conduct, business or use in or about such premises as follows:
- (1) If any person shall undertake any activity requiring a permit and report of the Commission without first having obtained approval, he or she shall be required to immediately stop the activity, apply for approval and take any necessary measures to preserve the affected premises pending such approval. If the work is denied, he or she shall immediately restore the building, structure, object or site to its condition prior to any such activity. The administrative officer is hereby authorized to seek injunctive relief regarding a stop action or restoration in the Superior Court not less than 10 days after the delivery of notice pursuant to Subsection **B** hereof.
 - (2) In the event of the threat of imminent action for which the necessary approvals have not been granted and which action would permanently and adversely change a landmark or any building, structure, object or site located within a landmark district, the administrative officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.
- D. Penalties. In addition to the remedies provided above and notwithstanding §347-6 of this chapter, a person convicted of a violation of this Article **XVIII** before a court of competent jurisdiction shall be subject to penalties as follows:
- (1) For each day up to 10 days: not more than \$100 per day.
 - (2) For each day between 11 and 25 days: not more than \$250 per day.
 - (3) For each day beyond 25 days: not more than \$500 per day.
 - (4) For each day beyond 25 days: a jail term not to exceed 90 days may be imposed.

§ 347-144. Preventive maintenance; notice of violations.

- A. Priority. Recognizing the need for preventive maintenance to ensure the continued useful life of historic buildings, structures, objects and sites, the Township Council hereby declares that code enforcement for such designated properties is a high municipal priority.

- B. Notice of violation. In the event that any landmark or any building, structure, object or site located within a landmark district deteriorates to the point that, in the best estimate of the administrative officer, the cost of correcting the outstanding code violations equals more than 25% of the cost of replacing the entire building, structure, object or site on which the violation occurs, the administrative officer shall serve personally or by certified mail, return receipt requested, a notice on the owner of the property listing the violations, the estimate for their abatement and the replacement cost of the improvements and stating that, if the owner does not take all necessary remedial action within 60 days, or such extensions as the administrative officer shall grant for good cause, the Township of Montclair's designated official may, at the expiration of said 60 days, enter upon the property and abate such violations and cause the cost thereof to become a lien on the property.
- C. Hearing. Upon receipt of such notice, the owner may, within 20 days after such receipt, notify the administrative officer of his or her intentions to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the Commission and shall, so far as possible, be a formal adversary proceeding in which the administrative officer shall establish the matters alleged in the notice by a preponderance of the evidence. If a hearing is requested, the administrative officer will, within 10 days following the hearing, serve on the owner an opinion, in writing, setting forth his or her conclusions and the reasons therefor.
- D. Action without a hearing. If the owner does not request a hearing, the findings of the administrative officer set forth in the notice issued in § 347-143B shall be binding, and the administrative officer may take such necessary action as granted by the provisions of this article.
- E. Right of abatement. If the owner does not comply with the findings of the administrative officer, the administrative officer may enter onto the premises and, by use of municipal labor or outside contractors, or both, perform such work as is necessary to abate all violations.
- F. Costs. The administrative officer shall then certify to the Township Council the cost of such work performed, plus all administrative, clerical and legal costs and overhead attributable thereto, and shall present the same to the Township Council.
- G. Lien. The Township Council may, by resolution, vote to cause the sum so certified to become a lien upon the property, payable with the next quarter's property taxes and, if not then paid, bearing interest at the same rate as delinquent taxes.

§ 347-145. Municipal responsibility.

It shall be the duty of all municipal officials of the Township of Montclair reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a permit and, if it should be, to inform the Secretary of the Commission, the administrative officer and the applicant of the same.

§ 347-146. Rules of interpretation.

This article shall be liberally construed in order to affect the purposes set forth herein. In the event that this article conflicts with state law, state law shall take precedence.

Article XXIV. Historic Districts

[Added 9-3-2002 by Ord. No. 02-38; amended 12-11-2012 by Ord. No. O-12-58]

§ 347-147. Standards and requirements.

Standards and requirements for the development and the review of development of properties within the Town Center Historic District, the Pine Street Historic District and the Upper Montclair Historic District shall be as specified in Article **XXIII**, Historic Preservation.

§ 347-148. Underlying zoning district regulations to remain in full force and effect.

All properties within the Town Center Historic District, the Pine Street Historic District and the Upper Montclair Historic District shall also be subject to all underlying zoning district regulations.

§ 347-148.1. Historic districts designated.

- A. The Town Center Historic District shall be designated as an historic district and shall consist of those properties, or parts thereof, designated in Ordinance No. 02-38, Ordinance No. 03-47 and Ordinance No. 05-13.
- B. The Pine Street Historic District shall be designated as an historic district and shall consist of those properties, or parts thereof, designated in Ordinance No. 05-59.
- C. The Upper Montclair Historic Business District shall be designated as an historic district and shall consist of those properties, or parts thereof, designated in Ordinance No. 06-56.
- D. The Watchung Plaza Historic Business District shall be designated and shall consist of those properties, or parts thereof, designated in Ordinance No. O-13-73.^[1]

[Added 1-28-2014 by Ord. No. O-13-73]

[1] *Editor's Note: A complete copy of the ordinance with the list of properties is on file in the Township offices.*

Article XXV. Individual Historic Landmark Overlay Zone

[Added 9-17-2002 by Ord. No. 02-44; amended 12-11-2012 by Ord. No. O-12-58]

§ 347-149. Standards and requirements.

Standards and requirements for the development and the review of development of properties within the Individual Historic Landmark Overlay Zone shall be as specified in Article **XXIII**, Historic Preservation.

§ 347-150. Underlying zoning district regulations to remain in full force and effect.

All properties within the Individual Historic Landmark Overlay Zone shall also be subject to all underlying zoning district regulations.

§ 347-150.1. Historic landmarks designated.

The following properties shall be included in the Historic Landmark Overlay Zone:

Designated as Historic

Name of Property	Location	Landmark by
Charles Schultz House	30 North Mountain Avenue, Block 1401, Lot 2	Ord. No. O-13-28
Clark House	108 Orange Road, Block 1304, Lot 11	Ord. No. 07-42
Crawford Crews building	210 Bloomfield Avenue, Block 3102, Lot 21	Ord. No. 02-44
Georgian Inn	37 North Mountain Avenue, Block 1507, Lot 20	Ord. No. 08-41
Goodwillie House	17 Wayside Place, Block 1102, Lot 49	Ord. No. 09-01
Huestis House	4 Duryea Road, Block 3602, Lot 16	Ord. No. 06-51
Israel Crane House	110 Orange Road, Block 1304, Lot 12	Ord. No. O-13-28
James Howe House	369 Claremont Avenue, Block 405, Lot 1.01	Ord. No. 07-51
Kohout House	323 Claremont Avenue, Block 1507, Lot 19	Ord. No. 08-41
Montclair Heights Reformed Church	71 Mt. Hebron Road, Block 2806, Lot 1	Ord. No. O-13-72
Nathaniel Crane House	110 Orange Road, Block 1304, Lot 12	Ord. No. O-13-28
Sigler Farm House	109 Alexander Avenue, Block 3802, Lot 20	Ord. No. 07-11
Van-Reyner Bond House	848 Valley Road, Block 1005, Lot 8	Ord. No. 07-42
Welsh House	24 Upper Mountain Avenue, Block 405, Lot 1	Ord. No. 07-14

Article XXVI. Inclusionary Zoning

[Added 4-25-2006 by Ord. No. 05-62; amended 9-22-2009 by Ord. No. O-054-09]

[1] *Editor's Note: See also Ch. 65, Affordable Housing.*

§ 347-151. Title.

This article shall be known and may be referred to as the "Inclusionary Zoning Ordinance of the Township of Montclair."

§ 347-152. Definitions.

The following definitions shall apply to the interpretation and construction of this article:

AFFORDABLE HOUSING FUND

A fund established for the receipt and management of cash-in-lieu contributions received by the Township in accordance with the provisions of this article. The affordable housing fund shall be utilized solely for the rehabilitation, construction, acquisition and maintenance of affordable housing and for the cost of administering programs consistent with the purposes of this article.

AFFORDABLE UNIT

A unit (as defined below) that is pledged to remain affordable in perpetuity to eligible households (as defined below).

COAH

The New Jersey Council on Affordable Housing.

DEVELOPER

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT

The division of a parcel of land into two or more parcels or the construction of any residential building within the Township, including, without limitation, a planned unit development or approved subdivision.

ELIGIBLE HOUSEHOLD

Any household whose total income does not exceed the designated percentage of the median income for households as determined in accordance with COAH regulations and guidelines.

HOUSING DEVELOPER

Any person who seeks a permit or approval for the construction of a development which includes one or more residential dwelling units.

§ 347-153. Scope.

- A. To ensure the sufficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, this article shall apply to all residential development that generates an additional growth share affordable housing obligation under COAH regulations set forth in N.J.A.C. 5:94-1 et seq. located in those zones which permit a minimum residential density of eight units per acre, specifically the R-3, OR-3, R-4, OR-4, N-C, C-1 and C-2 zones, and in any other zone where a particular development yields eight units per acre.
- B. This article shall not apply to residential expansions, renovations, replacement residences or other residential development that does not result in a net increase in the number of dwelling units. Furthermore, it shall not apply to developments containing four or fewer dwelling units. All subdivision and site plan approvals of qualifying residential developments in the aforementioned zones shall be conditioned upon compliance with this article. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, this article shall apply only if the net number of dwelling units is five or more.

§ 347-154. Certificates of occupancy.

No certificate of occupancy will be issued for any housing unit, whether market-rate or affordable, within the development unless the following items have been completed and submitted to the Township:

- A. A description of the number of affordable units in the development, the number of bedrooms per unit, the location of all affordable units, and the projected sales prices or rents of each affordable unit.
- B. A deed restriction in a form approved by the Township Attorney executed and recorded in the Essex County Registrar's office. For ownership units, the deed restriction shall include a covenant in favor of the Township limiting the initial sale and subsequent resale of affordable units to eligible households. For rental units, the deed restriction shall include a covenant limiting the rental of affordable units to eligible households.

§ 347-155. Restrictions on affordable units.

No person shall sell, lease or rent an affordable unit except to eligible households.

§ 347-156. Developments of five or more dwelling units.

- A. Any development containing five or more dwelling units is required to include at least 20% or one in five of the total number of units within the development as affordable units.
- (1) The following criteria apply:
- (a) At least half of the affordable units within each bedroom distribution shall be low-income units, and the remainder may be moderate-income units. If there is only one affordable unit in the development, it must be a low-income unit.
- (b) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
- [1] The combined number of efficiency and one-bedroom units is no greater than 20% of the affordable units.
- [2] At least 30% of the affordable units are two-bedroom units.
- [3] At least 20% of the affordable units are three-bedroom units.
- [4] The remainder may be allocated at the discretion of the developer.
- (2) For developments containing three affordable units, two shall be two-bedroom units and one shall be a three-bedroom unit. For developments containing four affordable units, two shall be two-bedroom units and two shall be three-bedroom units. For developments containing five affordable units, one shall be a one-bedroom unit, three shall be two-bedroom units, and one shall be a three-bedroom unit.
- B. When the total number of units in the development divided by five results in a fraction, the developer shall provide an additional affordable unit on site, or an affordable unit off-site in a location approved by the Montclair Housing Commission, or a cash-in-lieu financial contribution to the Affordable Housing Trust Fund as set forth in § 347-161 to fulfill the fractional obligation. For example, if the total number of units in the development is eight, there would be an obligation to provide one affordable unit on-site and the obligation to provide an additional affordable unit on-site or off-site or a cash-in-lieu payment for the fractional obligation.

§ 347-157. Design and construction of affordable units.

Affordable units provided on-site shall be reasonably dispersed throughout the development and shall be designed and constructed to resemble as nearly as possible (from the exterior) the market-rate units being constructed within the development. All affordable units shall comply with COAH rules and guidelines pertaining to the phasing, integration, low/moderate-income split, controls on affordability, bedroom distribution, affirmative marketing, heating source and administration of the affordable units, as set forth in N.J.A.C. 5:94-4.4, 5:80-26.1 and elsewhere in COAH rules.

§ 347-158. Completion schedule.

Affordable units shall be built in accordance with the following schedule:

Percent of Market-Rate Units Completed	Minimum Percentage of Low/Moderate-Income Units Completed
25%	0%
25% + 1 unit	10%
50%	50%
75%	75%

90%

100%

§ 347-159. Townhouse units.

The first floor of all townhouse dwelling units and other multistory dwelling units shall comply with N.J.A.C. 5:97-3.14.

§ 347-160. Provision of affordable housing off-site.

If a developer is permitted to meet its obligations under this article by providing affordable units off-site, the developer may join with others to provide the units in the same ward as the development or at a reasonably comparable location (to be determined by the Montclair Housing Commission). Off-site affordable units shall be substantially similar in size and quality to on-site affordable units that otherwise would be required under this article.

§ 347-161. Cash-in-lieu contributions to Affordable Housing Fund.

Whenever this article permits a cash-in-lieu contribution, the contribution shall be calculated based on the amount of the subsidy determined by COAH to make one housing unit affordable pursuant to COAH's third round regulations for Region 2 municipalities. For the year 2009, COAH has established the required subsidy to be \$148,683. The subsidy amount may be revised periodically by COAH. Accordingly, the cash-in-lieu contribution for 2009 shall be 1/4 of \$148,683 or \$37,170 for single-family houses and townhouses. The cash-in-lieu contribution for 2009 shall be 1/8 of \$148,683 or \$18,585 for apartments or condominium units. For example, for a seven-unit townhouse development, there would be an obligation to provide one on-site affordable unit and a fractional obligation of two requiring a cash-in-lieu contribution of \$74,340 to the Affordable Housing Trust Fund.

§ 347-162. Right of first refusal on initial sale of affordable units.

Each developer shall adhere to the following provisions with respect to the initial offering of affordable units for sale:

- A. Township notification. The developer shall notify the Township Department of Planning and Community Development of the prospective availability of any affordable units at the time a building permit is issued for such units.
- B. Option. Upon receipt of the aforesaid notification, the Township shall have an exclusive option for 60 days to agree to purchase each affordable unit offered for sale by the developer unless waived or assigned.
- C. Waiver. If the Township fails to exercise its option to purchase or fails to negotiate and sign a purchase and sale agreement for the affordable units, or if the Township declares its intent not to exercise its option, the developer shall offer the units for purchase or rent to eligible households consistent with the Township's Affirmative Marketing Plan. If requested by the developer, the Township shall execute documents that may be recorded to evidence its waiver of the purchase option.
- D. Time of closing. The closing on affordable units purchased by the Township shall occur on the later of a permanent certificate of occupancy or within 60 days of the Township's exercise of its right of first

refusal. If the Township fails to close on the affordable units within the time set forth herein, the developer shall offer the units for purchase or rent to eligible households consistent with the Township's Affirmative Marketing Plan.

- E. Transfer of portion. The Township may assign its option under this section to any not-for-profit corporation, in which event it shall notify the developer of the name of the assignee and thereafter the assignee shall deal directly with the developer, and shall have all of the rights of the Township as provided under this section.

§ 347-163. Purchasers of permanently affordable units.

A purchaser of an affordable unit shall occupy the purchased unit as his or her primary residence.

§ 347-164. Resale restrictions applicable to affordable units.

All ownership affordable units developed under this article shall be subject to the following resale restrictions:

- A. Approved purchasers for resale of permanently affordable units. All purchasers of affordable units shall be eligible households. A seller of a permanently affordable unit must select an eligible household purchaser by a method that complies with the marketing and selection process approved by the Department of Planning and Community Development and any applicable COAH rules or guidelines.
- B. Resale price for affordable units. The resale price of any affordable unit shall be determined in accordance with N.J.A.C. 5:80-26.6 and any other applicable COAH rules or guidelines.

§ 347-165. Continuing requirements.

All affordable units shall be subject to the following requirements to ensure the continued affordability of affordable units provided under this article:

- A. Rent increases. Rent increases for affordable units shall be determined in accordance with N.J.A.C. 5:80-26.12 and any other applicable COAH rules or guidelines.
- B. Continuing purchase options. The Township or its designee shall have an exclusive option to purchase any affordable unit offered for resale in accordance with **§ 347-162**.

§ 347-166. Administrative regulations.

To the extent the Department of Planning and Community Development deems necessary, and to keep current and compliant with COAH regulations, rules pertaining to this article will be developed, maintained and enforced in order to implement the goals and objectives of this article.

§ 347-167. Monitoring.

- A. At the conclusion of each calendar year, the Department of Planning and Community Development will present sufficient information to the Township Council so that it can effectively review the operation of this article and determine whether any of the provisions of this article should be amended, modified or deleted.

- B. Such information should be sufficient to enable the Township Council to fairly evaluate the following:
- (1) The effectiveness of this article in contributing to the goals and objectives sought to be advanced by the ordinance;
 - (2) Any demographic trends affecting housing affordability which indicate the need for amendments or modifications to this article; and
 - (3) The level of integration of the provisions of this article with other tools utilized by the Township as part of a comprehensive approach toward attaining the goals of this article.

§ 347-168. Developer's fee credit.

A developer who complies with its obligations under this article by providing the required number of affordable units on-site or off-site and pays any required cash-in-lieu contribution shall be exempt from payment of the developer's fee provided in Montclair Code §§ **202-41** and **202-42**.

§ 347-169. Severability.

If any provision of this article is determined to be invalid by a court of competent jurisdiction, then such provisions shall be severed and the remaining provisions of this article shall continue to be valid.^[1]

[1] *Editor's Note: Former Art. XXVII, Upper Montclair Historic District, which immediately followed, added 12-19-2006 by Ord. No. 06-72, was repealed 12-11-2012 by Ord. No. O-12-58.*

Former Art. XXVIII, Demolition Review for Potentially Historic Buildings and Structures, added 1-8-2008 by Ord. No. 07-60, was repealed 3-12-2013 by Ord. No. O-13-09.