

O-19-030

**AN ORDINANCE TO AMEND SECTION 347 ZONING OF THE CODE OF THE TOWNSHIP OF MONTCLAIR, NEW JERSEY**

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**August 20, 2019  
(date of introduction)**

**WHEREAS**, the Montclair Township Planning Board adopted amendments to the Unified Land Use and Circulation Plan Element of the Master Plan on April 24, 2017 and adopted a Reexamination Report on December 14, 2016 which recommended changes to the Township’s zoning ordinance; and

**WHEREAS**, the 2019 Annual Report from the Board of Adjustment included recommended changes to the Township’s zoning ordinance; and

**WHEREAS**, the Montclair Township Planning Board recommends that the changes included in the proposed ordinance will advance the goals and objectives of the Township’s Master Plan; and

**NOW, THEREFORE BE IT ORDAINED** by the Council of the Township of Montclair, in the County of Essex, State of New Jersey that it hereby amends Chapter 347 of the Montclair Code as follows:

**1. Montclair Code §347-2. Definition of terms.**

Whenever a term is used in this chapter which is defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., such term is intended to have the meaning set forth in the definition of such term found in said statute, unless a contrary intention is clearly expressed from the context of this chapter. The following definitions shall be used in the interpretation and construction of this chapter:

**ADMINISTRATIVE OFFICER**

The Zoning Officer.

**AVERAGE FRONT YARD SETBACK**

The average setback shall be calculated using the front yard setbacks of the nearest principal structures on the same street and within 1,000 feet of the subject property, and within the same block and zoning district. For corner lots, the average front yard setback shall be calculated using the front yard setbacks of the two nearest principal structure on each street. Adjacent principal structures that have a front yard setback of more than twice the average front yard setback of other adjacent properties should be disregarded.

**BASEMENT**

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

**BOARD**

The Planning Board or the Board of Adjustment of the Township. Where permitted by the Municipal Land Use Law, P.L. 1975, c. 291, the Board of Adjustment may exercise those functions herein delegated to the Planning Board.

**BREW PUB**

A restaurant with a Restricted Brewery License from the State of New Jersey that prepares handcrafted beer intended for consumption on the premises as an accessory use and sells beer directly to consumers and wholesalers.

**BREWERY, LIMITED**

A commercial facility which brews any malt alcoholic beverage in quantities for which it is licensed by the Alcoholic Beverage Commission pursuant to N.J.S.A. 33:1-10.

**BUILDING, PRINCIPAL**

A building in which is conducted the principal use of the lot on which it is located.

**CEMETERY**

Property used for the interment of the dead.

**EATING AND DRINKING PLACES**

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.

**FITNESS CENTER**

An enclosed building or structure containing facilities for conducting recreational activities such as aerobic exercises, running and jogging, exercise equipment, sports courts and swimming facilities. This use also includes establishments for group fitness instruction such as yoga, Pilates, karate and dance studios, as well as boxing gyms. This use may include accessory saunas, showers, massage rooms and lockers, snack bars providing non-alcoholic drinks and pre-packaged snacks not prepared on the premises, and sports equipment and clothing shops.

**FUNERAL HOME**

A building used for the preparation of the deceased for burial or cremation and the display of the deceased and rituals connected therewith before burial or cremation.

**GROSS FLOOR AREA**

The sum of the areas of all enclosed floors of a building, including cellars, basements, mezzanines, habitable penthouses, corridors and lobbies, from the

exterior face of exterior walls, or from the centerline of a common wall separating two buildings or two uses, but excluding any area with a floor-to-ceiling height of less than six feet.

**HARDWARE STORE**

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

**HEIGHT OF A FENCE, WALL OR RETAINING WALL**

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

**HELIPORT**

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.

**HELISPOT**

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.

**HOUSE OF WORSHIP**

A building that is designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

**IMPERVIOUS COVERAGE**

That part of a lot that is covered by impervious surfaces.

**IMPERVIOUS SURFACE**

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including buildings, structures, sidewalks, pavement and other land improvements which prevent or are likely to prevent normal absorption of stormwater directly into the ground.

**LOT FRONTAGE**

The length of the front lot line measured at the street right of way line.

**LOT WIDTH**

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

**LOT LINE**

Any boundary line of a lot that divides one lot from another lot or from a public or private street or any other public space.

**MOTOR VEHICLE 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 or charging of electric vehicles and including, as an accessory use, minor repairs and the sale of and installation of lubricants, tires, batteries and similar accessories.

**PENTHOUSE**

A structure on or above the roof of any part of a building. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof-mounted antennas and plumbing vent stacks shall not be considered as penthouses.

**PENTHOUSE HABITABLE SPACE**

Space within a penthouse other than penthouse mechanical space. The term penthouse habitable space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms and lavatories.

**PENTHOUSE MECHANICAL SPACE**

Space within a penthouse devoted to mechanical equipment for the building, elevator over-rides or stair towers.

**PERMITTED WIDTH OF A PRINCIPAL STRUCTURE**

The maximum width of a structure as measured to the width of the lot at the building line. 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.

**ROOMING HOUSE**

A building in which lodgers rent one or more rooms without cooking or kitchen facilities for one or more nights, and sometimes for extended periods of time.

**SENIOR CITIZEN HOUSING**

Housing designed for, and occupied by, at least one person fifty-five years of age or older per dwelling unit, and which has significant facilities and services specifically designed to meet the physical or social needs of older persons.

**STORY**

That part of any building comprised between any floor and the floor or roof next above and including basements if at least 50 percent of the basement height is at least six feet above the mean adjoining grade. Where parking is contained either within or underneath a building, each parking level above grade shall be considered to be a story.

## **STORY, HALF**

A space under a sloping roof that has the line of intersection of the roof surface and the wall face not more than three feet above the floor level and in which space the possible floor area with headroom of five feet or less occupies at least 40 percent of the total floor area of the story directly beneath.

## **STREET**

Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway; or a street or way shown upon a plat heretofore approved pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.); or a street or way on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats; and an accessway shown on the current Municipal Tax Maps. "Street" includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines.

## **YARD, FRONT**

A yard situated between the principal building nearest the street line and the street line, extending for the full width of the lot. Corner lots shall have one front yard along each street frontage. Through lots shall have two front yards along each street frontage.

## **YARD, SIDE**

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.

## **YARD, REAR**

A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. For corner lots, the rear yard shall be opposite the street frontage of least dimension.

## **2. Montclair Code §347-18. Formation of New Lots.**

**D.** The minimum lot frontage required indicated on the Montclair Township Zoning Map, as amended, establishes the minimum lot frontage for properties in the R-O, R-O(A), R-1 and R-2 zone districts. Existing lots of record under separate ownership with lesser frontages at the time this ordinance is adopted are permitted.

## **3. Attachment 1 – Standards for Lot Widths** at the end of this chapter is deleted.

#### **4. Montclair Code § 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 in all zones, except not more than 15% in the R-O and R-O(a) zones.
- 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.
- E. When any structure is attached to the principal building, it shall be considered a part of such building and as such shall comply with all regulations applicable to the principal building. Any accessory structure located within 4-feet of the principal building shall be considered part of such building. Accessory buildings less than 100 square feet in size are exempt.
- F. The maximum building footprint for accessory buildings may not exceed 24 feet in any one direction. In the R-O and R-O(a) zones, the maximum building footprint may not exceed 36 feet in any one direction.
- G. A maximum of two accessory buildings are permitted per lot, excluding accessory buildings less than 100 square feet in area

#### **5. Montclair Code §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.
- B. Rooftop mechanical equipment shall comply with the following:
  - 1) All rooftop mechanical equipment other than skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof-mounted antennas and plumbing vent stacks shall be enclosed in a penthouse.
  - 2) Maximum penthouse space shall not exceed 10 percent of the total rooftop.
  - 3) The maximum height of a penthouse shall be ten feet above the height of the roof.
  - 4) Habitable penthouse space is considered a story and is not exempt from the maximum height required in the zone.
  - 5) All penthouses shall be designed to harmonize with the main structure in architectural character, material and color; except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure.

- 6) When roof levels vary by one floor or more or when separate elevator penthouses are required, there may be one enclosure for each elevator penthouse at each roof level.
- 7) Enclosing walls of the penthouse shall be of equal, uniform height as measured from the roof level except that:
  - a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space.
  - b) For a penthouse containing no habitable space, enclosing walls for an elevator override may be of a separate uniform height;
  - c) Required screening walls around uncovered mechanical equipment may be of a single, different uniform height.
  - d) Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises and any guard rail on a roof shall be set back from the edge of the roof upon which it is located a distance equal to two feet from the building wall of the roof for every one foot of height of the penthouse above the roof surface or top of the parapet.
- 8) No mechanical equipment may be placed on the roof of a penthouse.

## **6. Montclair Code §347-33. Requirements for principal structures.**

### **B. Front yard setback.**

- (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.
- (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.

F. An attached garage with no habitable space above shall not extend beyond the front building line established by the rest of the principal structure.

## **7. Montclair Code §347-39. Requirements for principal structures.**

### **B. Front yard setback.**

- (3) 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.
- (4) 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.

F. An attached garage with no habitable space above shall not extend beyond the front building line established by the rest of the principal structure.

#### **8. Montclair Code §347-45. Requirements for principal structures.**

B. Front yard setback.

(5) 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.

(6) 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.

F. An attached garage with no habitable space above shall not extend beyond the front building line established by the rest of the principal structure.

#### **9. Montclair Code §347-79. Center and community areas; parking.**

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. All required parking shall be provided onsite.

#### **10. Montclair Code §347-82. Permitted accessory uses.**

The following uses shall be permitted 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. Parking below buildings in the C-1 Zone District is only permitted if it is fully screened or enclosed so as not to be visible from any public area and is accessed via a side street or parking lot, not Bloomfield Avenue or Glenridge Avenue